

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2313

By COMMITTEE ON JUDICIARY

June 5

1 On page 1 of the printed A-engrossed bill, line 2, after the second semicolon delete the rest of
2 the line and insert “amending ORS 419A.257;”.

3 Delete lines 5 through 22 and delete page 2 and insert:

4 “**SECTION 1.** ORS 419A.257 is amended to read:

5 “419A.257. (1) Reports and other materials relating to a child, ward, youth or youth offender’s
6 history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority
7 or the juvenile department are privileged and, except with the consent of the child, ward, youth or
8 youth offender or with the authorization of the court, shall be withheld from public inspection.

9 “(2) The Oregon Youth Authority and the juvenile department may disclose and provide copies
10 of reports and other materials relating to the child, ward, youth or youth offender’s history and
11 prognosis, if the disclosure is reasonably necessary to perform official duties relating to the in-
12 volvement of the child, ward, youth or youth offender with the juvenile court or the juvenile de-
13 partment, to the following:

14 “(a) Each other;

15 “(b) The court;

16 “(c) Service providers in the case;

17 “(d) School superintendents and their designees in cases under ORS 419C.005;

18 “(e) Attorneys of record for the child, ward, youth or youth offender;

19 “(f) Attorneys representing a party in the case;

20 “(g) The district attorney or assistant attorney general representing a party in the case;

21 “(h) The Department of Human Services;

22 “(i) The court appointed special advocate; and

23 “(j) The Psychiatric Security Review Board.

24 “(3)(a) **The Oregon Youth Authority and county juvenile departments established under**
25 **ORS 419A.010 to 419A.020 may disclose and provide copies of reports and other materials re-**
26 **lating to the child, ward, youth or youth offender’s history and prognosis to the Department**
27 **of Corrections for the purpose of enabling the Department of Corrections to perform its of-**
28 **ficial duties relating to the exercise of custody or supervision of a person committed to the**
29 **legal and physical custody of the Department of Corrections.**

30 “(b) **The Department of Corrections shall limit the use of reports and other materials**
31 **disclosed and provided to the department under this section to reports and other materials**
32 **that relate to the history and prognosis of a youth or youth offender as these pertain to:**

33 “(A) **A person who was transferred to the physical custody of the authority under ORS**
34 **137.124 and is subsequently transferred to the physical custody of the Department of Cor-**
35 **rections under ORS 137.124 or 420.011 or any other statute; or**

1 “(B) A person committed to the legal and physical custody of the Department of Cor-
2 rections while the person is under the jurisdiction of the juvenile court under ORS 419C.005,
3 including but not limited to a person in the legal custody of the authority.

4 “[(3)] (4) A person that obtains copies of reports or other materials under this section is re-
5 sponsible for preserving the confidentiality of the reports or other materials. A service provider,
6 school superintendent or superintendent’s designee who obtains copies of reports or other materials
7 under this section shall destroy the copies upon the conclusion of involvement in the case.

8 “[(4)(a)] (5)(a) Information appearing in reports or other materials relating to the child, ward,
9 youth or youth offender’s history or prognosis may not be disclosed directly or indirectly to any
10 person not described in subsection (2) of this section unless the consent of the child, ward, youth
11 or youth offender or the authorization of the court has been obtained, except for purposes of eval-
12 uating the child, ward, youth or youth offender’s eligibility for special education as provided in ORS
13 chapter 343.

14 “(b) Information appearing in reports or other materials may not be used in evidence in any
15 proceeding to establish criminal or civil liability against the child, ward, youth or youth offender,
16 whether the proceeding occurs after the child, ward, youth or youth offender has reached 18 years
17 of age or otherwise, except for the following purposes:

18 “(A) In connection with a presentence investigation after guilt has been admitted or established
19 in a criminal court.

20 “(B) In connection with a proceeding in another juvenile court concerning the child, ward, youth
21 or youth offender or an appeal from an order or judgment of the juvenile court.

22 “[(5)(a)] (6)(a) Information contained in reports and other materials relating to a child, ward,
23 youth or youth offender’s history and prognosis that, in the professional judgment of the Oregon
24 Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or
25 superintendent’s designee, teacher or detention worker to whom the information contained in the
26 reports and other materials has been provided, indicates a clear and immediate danger to another
27 person or to society, shall be disclosed to the appropriate authority and the person or entity that
28 is in danger from the child, ward, youth or youth offender.

29 “(b) An agency or a person that discloses information under paragraph (a) of this subsection has
30 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for
31 making the disclosure.

32 “(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
33 and 419B.045.

34 “[(6)] (7) The disclosure of information under this section does not make the information ad-
35 missible in any court or administrative proceeding if it is not otherwise admissible.

36 “**SECTION 2.** ORS 419A.257, as amended by section 1 of this 2015 Act, is amended to read:

37 “419A.257. (1) Reports and other materials relating to a child, ward, youth or youth offender’s
38 history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority
39 or the juvenile department are privileged and, except with the consent of the child, ward, youth or
40 youth offender or with the authorization of the court, shall be withheld from public inspection.

41 “(2) The Oregon Youth Authority and the juvenile department may disclose and provide copies
42 of reports and other materials relating to the child, ward, youth or youth offender’s history and
43 prognosis, if the disclosure is reasonably necessary to perform official duties relating to the in-
44 volvement of the child, ward, youth or youth offender with the juvenile court or the juvenile de-
45 partment, to the following:

- 1 “(a) Each other;
- 2 “(b) The court;
- 3 “(c) Service providers in the case;
- 4 “(d) School superintendents and their designees in cases under ORS 419C.005;
- 5 “(e) Attorneys of record for the child, ward, youth or youth offender;
- 6 “(f) Attorneys representing a party in the case;
- 7 “(g) The district attorney or assistant attorney general representing a party in the case;
- 8 “(h) The Department of Human Services;
- 9 “(i) The court appointed special advocate; and
- 10 “(j) The Psychiatric Security Review Board.

11 “[(3)(a) *The Oregon Youth Authority and county juvenile departments established under ORS*
12 *419A.010 to 419A.020 may disclose and provide copies of reports and other materials relating to the*
13 *child, ward, youth or youth offender’s history and prognosis to the Department of Corrections for the*
14 *purpose of enabling the Department of Corrections to perform its official duties relating to the exercise*
15 *of custody or supervision of a person committed to the legal and physical custody of the Department*
16 *of Corrections.*]

17 “[(b) *The Department of Corrections shall limit the use of reports and other materials disclosed and*
18 *provided to the department under this section to reports and other materials that relate to the history*
19 *and prognosis of a youth or youth offender as these pertain to:*]

20 “[(A) *A person who was transferred to the physical custody of the authority under ORS 137.124*
21 *and is subsequently transferred to the physical custody of the Department of Corrections under ORS*
22 *137.124 or 420.011 or any other statute; or]*

23 “[(B) *A person committed to the legal and physical custody of the Department of Corrections while*
24 *the person is under the jurisdiction of the juvenile court under ORS 419C.005, including but not limited*
25 *to a person in the legal custody of the authority.*]

26 “[(4)] **(3)** A person that obtains copies of reports or other materials under this section is re-
27 sponsible for preserving the confidentiality of the reports or other materials. A service provider,
28 school superintendent or superintendent’s designee who obtains copies of reports or other materials
29 under this section shall destroy the copies upon the conclusion of involvement in the case.

30 “[(5)(a)] **(4)(a)** Information appearing in reports or other materials relating to the child, ward,
31 youth or youth offender’s history or prognosis may not be disclosed directly or indirectly to any
32 person not described in subsection (2) of this section unless the consent of the child, ward, youth
33 or youth offender or the authorization of the court has been obtained, except for purposes of eval-
34 uating the child, ward, youth or youth offender’s eligibility for special education as provided in ORS
35 chapter 343.

36 “(b) Information appearing in reports or other materials may not be used in evidence in any
37 proceeding to establish criminal or civil liability against the child, ward, youth or youth offender,
38 whether the proceeding occurs after the child, ward, youth or youth offender has reached 18 years
39 of age or otherwise, except for the following purposes:

40 “(A) In connection with a presentence investigation after guilt has been admitted or established
41 in a criminal court.

42 “(B) In connection with a proceeding in another juvenile court concerning the child, ward, youth
43 or youth offender or an appeal from an order or judgment of the juvenile court.

44 “[(6)(a)] **(5)(a)** Information contained in reports and other materials relating to a child, ward,
45 youth or youth offender’s history and prognosis that, in the professional judgment of the Oregon

1 Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or
2 superintendent's designee, teacher or detention worker to whom the information contained in the
3 reports and other materials has been provided, indicates a clear and immediate danger to another
4 person or to society, shall be disclosed to the appropriate authority and the person or entity that
5 is in danger from the child, ward, youth or youth offender.

6 “(b) An agency or a person that discloses information under paragraph (a) of this subsection has
7 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for
8 making the disclosure.

9 “(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
10 and 419B.045.

11 “[7] (6) The disclosure of information under this section does not make the information ad-
12 missible in any court or administrative proceeding if it is not otherwise admissible.

13 **“SECTION 3. The amendments to ORS 419A.257 by section 2 of this 2015 Act become op-
14 erative on June 30, 2017.**

15 **“SECTION 4. This 2015 Act being necessary for the immediate preservation of the public
16 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
17 on its passage.”.**