

B-Engrossed
House Bill 2571

Ordered by the Senate June 9
Including House Amendments dated April 28 and Senate Amendments
dated June 9

Sponsored by Representative WILLIAMSON, Senator BURDICK, Representatives HUFFMAN, FREDERICK; Representatives BARKER, DOHERTY, GALLEGOS, GORSEK, GREENLICK, HEARD, KENY-GUYER, KOTEK, LININGER, LIVELY, MCLAIN, NOSSE, PARRISH, PILUSO, REARDON, SMITH WARNER, VEGA PEDERSON, Senators BOQUIST, PROZANSKI, ROBLAN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires law enforcement agency to establish policies and procedures for use and retention of recordings from cameras worn upon police officer's person to record officer's interactions with members of public. Specifies content of policies and procedures.

Authorizes admission of evidence created in violation of prohibition on obtaining contents of communication if evidence created by camera worn upon police officer's person in certain circumstances.

Provides that defendant's receipt of video evidence from camera worn upon police officer's person constitutes good cause for requesting extension of 60-day time period within which trial must occur.

Provides exemption from required disclosure under public records law of recordings made of law enforcement officer's interactions with public unless public interest requires disclosure. Requires that images of faces in disclosed recording be rendered unidentifiable.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to video cameras worn upon police officer's person; creating new provisions; amending ORS
3 41.910, 136.295, 165.540 and 192.501; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1)(a) A law enforcement agency shall establish policies and procedures for**
6 **the use, storage and retention of video and audio recordings resulting from the operation of**
7 **video cameras worn upon a law enforcement officer's person that record the officer's inter-**
8 **actions with members of the public while the officer is on duty.**

9 **(b) The policies and procedures described in paragraph (a) of this subsection must in-**
10 **clude:**

11 **(A) A requirement that a recording be retained for at least 180 days but no more than**
12 **30 months for a recording not related to a court proceeding or ongoing criminal investi-**
13 **gation, or for the same period of time that evidence is retained in the normal course of the**
14 **court's business for a recording related to a court proceeding.**

15 **(B) A requirement that a camera worn upon a law enforcement officer's person be set**
16 **to record continuously, beginning when the officer develops reasonable suspicion or probable**
17 **cause to believe that a crime or violation has occurred, is occurring or will occur and the law**
18 **enforcement officer begins to make contact with the person suspected of committing the**
19 **offense. The policies and procedures must also require that the camera may subsequently**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **cease recording no sooner than the termination of the officer's participation in the contact.**

2 **(C) A requirement that in any contract with a third party vendor for data storage, re-**
3 **cordings from the camera are the property of the law enforcement agency, are not owned**
4 **by the vendor and cannot be used by the vendor for any purpose inconsistent with the poli-**
5 **cies and procedures of the law enforcement agency.**

6 **(D) A prohibition on the use of facial recognition or other biometric matching technology**
7 **to analyze recordings obtained through the use of the camera.**

8 **(E) A prohibition on the use of any recordings obtained from the camera for any purpose**
9 **other than a legitimate law enforcement purpose.**

10 **(c) Notwithstanding paragraph (b)(B) of this subsection, a law enforcement agency may**
11 **in its policies and procedures provide for exceptions to the recording requirements of para-**
12 **graph (b)(B) of this subsection, provided that the exceptions are based on reasonable privacy**
13 **concerns, exigent circumstances or the safety of law enforcement officers or other persons.**

14 **(2) As used in this section:**

15 **(a) "Law enforcement agency" means an agency employing law enforcement officers to**
16 **enforce criminal laws.**

17 **(b) "Law enforcement officer" means an officer employed to enforce criminal laws by:**

18 **(A) This state or a municipal government within this state;**

19 **(B) A political subdivision, agency, department or bureau of the governments described**
20 **in subparagraph (A) of this paragraph; or**

21 **(C) A police department established by a university under ORS 352.383 or 353.125.**

22 **SECTION 2. ORS 165.540 is amended to read:**

23 **165.540. (1) Except as otherwise provided in ORS 133.724 or 133.726 or subsections (2) to (7) of**
24 **this section, a person may not:**

25 **(a) Obtain or attempt to obtain the whole or any part of a telecommunication or a radio com-**
26 **munication to which the person is not a participant, by means of any device, contrivance, machine**
27 **or apparatus, whether electrical, mechanical, manual or otherwise, unless consent is given by at**
28 **least one participant.**

29 **(b) Tamper with the wires, connections, boxes, fuses, circuits, lines or any other equipment or**
30 **facilities of a telecommunication or radio communication company over which messages are trans-**
31 **mitted, with the intent to obtain unlawfully the contents of a telecommunication or radio communi-**
32 **cation to which the person is not a participant.**

33 **(c) Obtain or attempt to obtain the whole or any part of a conversation by means of any device,**
34 **contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, if not all**
35 **participants in the conversation are specifically informed that their conversation is being obtained.**

36 **(d) Obtain the whole or any part of a conversation, telecommunication or radio communication**
37 **from any person, while knowing or having good reason to believe that the conversation, telecom-**
38 **munication or radio communication was initially obtained in a manner prohibited by this section.**

39 **(e) Use or attempt to use, or divulge to others, any conversation, telecommunication or radio**
40 **communication obtained by any means prohibited by this section.**

41 **(2)(a) The prohibitions in subsection (1)(a), (b) and (c) of this section do not apply to:**

42 **(A) Officers, employees or agents of a telecommunication or radio communication company who**
43 **perform the acts prohibited by subsection (1)(a), (b) and (c) of this section for the purpose of con-**
44 **struction, maintenance or conducting of their telecommunication or radio communication service,**
45 **facilities or equipment.**

1 (B) Public officials in charge of and at jails, police premises, sheriffs' offices, Department of
2 Corrections institutions and other penal or correctional institutions, except as to communications
3 or conversations between an attorney and the client of the attorney.

4 (b) Officers, employees or agents of a telecommunication or radio communication company who
5 obtain information under paragraph (a) of this subsection may not use or attempt to use, or divulge
6 to others, the information except for the purpose of construction, maintenance, or conducting of
7 their telecommunication or radio communication service, facilities or equipment.

8 (3) The prohibitions in subsection (1)(a), (b) or (c) of this section do not apply to subscribers or
9 members of their family who perform the acts prohibited in subsection (1) of this section in their
10 homes.

11 (4) The prohibitions in subsection (1)(a) of this section do not apply to the receiving or obtaining
12 of the contents of any radio or television broadcast transmitted for the use of the general public.

13 (5) The prohibitions in subsection (1)(c) of this section do not apply to:

14 (a) A person who records a conversation during a felony that endangers human life;

15 (b) A person who, pursuant to ORS 133.400, records an interview conducted by a peace officer
16 in a law enforcement facility;

17 (c) A law enforcement officer who is in uniform and displaying a badge and who is operating:

18 (A) A vehicle-mounted video camera that records the scene in front of, within or surrounding
19 a police vehicle, unless the officer has reasonable opportunity to inform participants in the conver-
20 sation that the conversation is being obtained; or

21 (B) **A video camera worn upon the officer's person that records the officer's interactions**
22 **with members of the public while the officer is on duty, unless:**

23 (i) **The officer has an opportunity to announce at the beginning of the interaction that**
24 **the conversation is being obtained; and**

25 (ii) **The announcement can be accomplished without causing jeopardy to the officer or**
26 **any other person and without unreasonably impairing a criminal investigation; or**

27 (d) A law enforcement officer who, acting in the officer's official capacity, deploys an Electro-
28 Muscular Disruption Technology device that contains a built-in monitoring system capable of re-
29 cording audio or video, for the duration of that deployment.

30 (6) The prohibitions in subsection (1)(c) of this section do not apply to persons who intercept
31 or attempt to intercept with an unconcealed recording device the oral communications that are part
32 of any of the following proceedings:

33 (a) Public or semipublic meetings such as hearings before governmental or quasi-governmental
34 bodies, trials, press conferences, public speeches, rallies and sporting or other events;

35 (b) Regularly scheduled classes or similar educational activities in public or private institutions;
36 or

37 (c) Private meetings or conferences if all others involved knew or reasonably should have known
38 that the recording was being made.

39 (7) The prohibitions in subsection (1)(a), (c), (d) and (e) of this section do not apply to any:

40 (a) Radio communication that is transmitted by a station operating on an authorized frequency
41 within the amateur or citizens bands; or

42 (b) Person who intercepts a radio communication that is transmitted by any governmental, law
43 enforcement, civil defense or public safety communications system, including police and fire, readily
44 accessible to the general public provided that the interception is not for purposes of illegal activity.

45 (8) Violation of subsection (1) or (2)(b) of this section is a Class A misdemeanor.

1 (9) As used in this section:

2 (a) “Electro-Muscular Disruption Technology device” means a device that uses a high-voltage,
3 low power charge of electricity to induce involuntary muscle contractions intended to cause tem-
4 porary incapacitation. “Electro-Muscular Disruption Technology device” includes devices commonly
5 known as tasers.

6 (b) “Law enforcement officer” has the meaning given that term in ORS 133.726.

7 **SECTION 3.** ORS 41.910 is amended to read:

8 41.910. Evidence of the contents of any wire or oral communication intercepted:

9 (1) In violation of ORS 165.540 shall not be admissible in any court of this state, except as evi-
10 dence of unlawful interception **or when the evidence was created by the use of a video camera**
11 **worn upon a law enforcement officer’s person and the officer either substantially complied**
12 **with or attempted in good faith to comply with ORS 165.540 (5)(c)(B).**

13 (2) Under ORS 165.540 (2)(a) shall not be admissible in any court of this state unless:

14 (a) The communication was intercepted by a public official in charge of and at a jail, police
15 premises, sheriff’s office, Department of Corrections institution or other penal or correctional insti-
16 tution; and

17 (b) The participant in the communication, against whom the evidence is being offered, had actual
18 notice that the communication was being monitored or recorded.

19 **SECTION 4.** ORS 136.295 is amended to read:

20 136.295. (1) ORS 136.290 does not apply to persons charged with crimes that are not releasable
21 offenses under ORS 135.240 or to persons charged with conspiracy to commit murder, or charged
22 with attempted murder, or to prisoners serving sentences resulting from prior convictions.

23 (2)(a) If the defendant is extradited from another jurisdiction, the 60-day period shall not com-
24 mence until the defendant enters the State of Oregon, provided that law enforcement authorities
25 from the other jurisdiction and this state have conducted the extradition with all practicable speed.
26 The original 60-day period shall not be extended more than an additional 60 days, except where
27 delay has been caused by the defendant in opposing the extradition.

28 (b) For purposes of this subsection, an extradition is presumed to have been conducted with all
29 practicable speed if it has been conducted within 90 days after the date the defendant has been de-
30 livered to an agent of this state.

31 (3) Any reasonable delay resulting from examination or hearing regarding the defendant’s mental
32 condition or competency to stand trial, or resulting from other motion or appeal by the defendant,
33 shall not be included in the 60-day period.

34 (4)(a) If a victim or witness to the crime in question is unable to testify within the original
35 60-day period because of injuries received at the time the alleged crime was committed or upon a
36 showing of good cause, the court may order an extension of custody and postponement of the date
37 of the trial of not more than 60 additional days. The court, for the same reason, may order a second
38 extension of custody and postponement of the date of the trial of not more than 60 days, but in no
39 event shall the defendant be held in custody before trial for more than a total of 180 days. A court
40 may grant an extension based upon good cause as described in paragraph (b)(C), (D) or (E) of this
41 subsection only if requested by the defendant or defense counsel or by the court on its own motion.

42 (b) As used in this subsection, “good cause” means situations in which:

43 (A) The court failed to comply with ORS 136.145 and the victim is unable to attend the trial;

44 (B) The victim or an essential witness for either the state or the defense is unable to testify at
45 the trial because of circumstances beyond the control of the victim or witness;

1 (C) The attorney for the defendant cannot reasonably be expected to try the case within the
2 60-day period;

3 (D) The attorney for the defendant has recently been appointed and cannot be ready to try the
4 case within the 60-day period;

5 (E) The attorney for the defendant is unable to try the case within the 60-day period because
6 of conflicting schedules;

7 (F) Scientific evidence is necessary and because of the complexity of the procedures it would
8 be unreasonable to have the procedures completed within the 60-day period;

9 (G) The defendant has filed notice under ORS 161.309 of the defendant's intention to rely upon
10 a defense of insanity, partial responsibility or diminished capacity;

11 (H) The defendant has filed any notice of an affirmative defense within the last 20 days of the
12 60-day period; *[or]*

13 (I) A claim under ORS 147.515, or a motion under ORS 147.522, relating to victims' rights is
14 pending, the court has considered the factors described in ORS 147.525 and the court has determined
15 that the trial date should be rescheduled subject to the time limit provided in ORS 147.525[.]; **or**

16 **(J) The defendant has received discovery of digital video evidence from a video camera**
17 **worn upon a law enforcement officer's person and, though discovery has occurred in a rea-**
18 **sonably timely manner, editing of the digital video evidence is necessary.**

19 (5) Any period following defendant's arrest in which the defendant is not actually in custody
20 shall not be included in the 60-day computation.

21 **SECTION 5.** ORS 192.501, as amended by section 1, chapter 37, Oregon Laws 2014, and section
22 1, chapter 64, Oregon Laws 2014, is amended to read:

23 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
24 unless the public interest requires disclosure in the particular instance:

25 (1) Records of a public body pertaining to litigation to which the public body is a party if the
26 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
27 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
28 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
29 or deposition statutes to a party to litigation or potential litigation.

30 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
31 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
32 compilation of information which is not patented, which is known only to certain individuals within
33 an organization and which is used in a business it conducts, having actual or potential commercial
34 value, and which gives its user an opportunity to obtain a business advantage over competitors who
35 do not know or use it.

36 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
37 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
38 disclosure in the course of a specific investigation, including the need to protect the complaining
39 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
40 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
41 record of an arrest or the report of a crime includes, but is not limited to:

42 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
43 ographical information;

44 (b) The offense with which the arrested person is charged;

45 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

1 (d) The identity of and biographical information concerning both complaining party and victim;
2 (e) The identity of the investigating and arresting agency and the length of the investigation;
3 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
4 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
5 from justice.

6 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
7 employment, academic or other examination or testing procedure before the examination is given
8 and if the examination is to be used again. Records establishing procedures for and instructing
9 persons administering, grading or evaluating an examination or testing procedure are included in
10 this exemption, to the extent that disclosure would create a risk that the result might be affected.

11 (5) Information consisting of production records, sale or purchase records or catch records, or
12 similar business records of a private concern or enterprise, required by law to be submitted to or
13 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
14 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
15 that such information is in a form which would permit identification of the individual concern or
16 enterprise. This exemption does not include records submitted by long term care facilities as defined
17 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
18 tient care. Nothing in this subsection shall limit the use which can be made of such information for
19 regulatory purposes or its admissibility in any enforcement proceeding.

20 (6) Information relating to the appraisal of real estate prior to its acquisition.

21 (7) The names and signatures of employees who sign authorization cards or petitions for the
22 purpose of requesting representation or decertification elections.

23 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
24 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
25 ORS 659A.850.

26 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
27 663.180.

28 (10) Records, reports and other information received or compiled by the Director of the De-
29 partment of Consumer and Business Services under ORS 697.732.

30 (11) Information concerning the location of archaeological sites or objects as those terms are
31 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
32 the need for the information is related to that Indian tribe's cultural or religious activities. This
33 exemption does not include information relating to a site that is all or part of an existing, commonly
34 known and publicized tourist facility or attraction.

35 (12) A personnel discipline action, or materials or documents supporting that action.

36 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
37 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
38 cies.

39 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
40 connection with research, until publicly released, copyrighted or patented.

41 (15) Computer programs developed or purchased by or for any public body for its own use. As
42 used in this subsection, "computer program" means a series of instructions or statements which
43 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
44 manipulation of data from such computer system, and any associated documentation and source
45 material that explain how to operate the computer program. "Computer program" does not include:

- 1 (a) The original data, including but not limited to numbers, text, voice, graphics and images;
- 2 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
- 3 the program; or
- 4 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
- 5 the original data were to be produced manually.
- 6 (16) Data and information provided by participants to mediation under ORS 36.256.
- 7 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
- 8 until a final administrative determination is made or, if a citation is issued, until an employer re-
- 9 ceives notice of any citation.
- 10 (18) Specific operational plans in connection with an anticipated threat to individual or public
- 11 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
- 12 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
- 13 law enforcement activity.
- 14 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
- 15 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
- 16 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
- 17 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
- 18 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
- 19 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
- 20 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
- 21 audit of a cost study that would be discoverable in a contested case proceeding and that is not
- 22 subject to a protective order; and
- 23 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
- 24 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
- 25 with a telecommunications carrier, as defined in ORS 133.721.
- 26 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
- 27 247.967.
- 28 (21) The following records, communications and information submitted to a housing authority
- 29 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
- 30 for and recipients of loans, grants and tax credits:
 - 31 (a) Personal and corporate financial statements and information, including tax returns;
 - 32 (b) Credit reports;
 - 33 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
 - 34 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
 - 35 of as part of the project, but only after the transactions have closed and are concluded;
 - 36 (d) Market studies and analyses;
 - 37 (e) Articles of incorporation, partnership agreements and operating agreements;
 - 38 (f) Commitment letters;
 - 39 (g) Project pro forma statements;
 - 40 (h) Project cost certifications and cost data;
 - 41 (i) Audits;
 - 42 (j) Project tenant correspondence requested to be confidential;
 - 43 (k) Tenant files relating to certification; and
 - 44 (L) Housing assistance payment requests.
- 45 (22) Records or information that, if disclosed, would allow a person to:

- 1 (a) Gain unauthorized access to buildings or other property;
- 2 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
3 disruption to, or interference with, services; or
- 4 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
5 cessing, communication or telecommunication systems, including the information contained in the
6 systems, that are used or operated by a public body.
- 7 (23) Records or information that would reveal or otherwise identify security measures, or
8 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
9 protect:
- 10 (a) An individual;
- 11 (b) Buildings or other property;
- 12 (c) Information processing, communication or telecommunication systems, including the infor-
13 mation contained in the systems; or
- 14 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
15 evaluation under ORS 461.180 (6).
- 16 (24) Personal information held by or under the direction of officials of the Oregon Health and
17 Science University, a public university listed in ORS 352.002 or the Oregon University System about
18 a person who has or who is interested in donating money or property to the Oregon Health and
19 Science University, the system or a public university, if the information is related to the family of
20 the person, personal assets of the person or is incidental information not related to the donation.
- 21 (25) The home address, professional address and telephone number of a person who has or who
22 is interested in donating money or property to the Oregon University System or a public university
23 listed in ORS 352.002.
- 24 (26) Records of the name and address of a person who files a report with or pays an assessment
25 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
26 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.
- 27 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
28 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
29 card expiration date, password, financial institution account number and financial institution routing
30 number.
- 31 (28) Social Security numbers as provided in ORS 107.840.
- 32 (29) The electronic mail address of a student who attends a public university listed in ORS
33 352.002 or Oregon Health and Science University.
- 34 (30) The name, home address, professional address or location of a person that is engaged in,
35 or that provides goods or services for, medical research at Oregon Health and Science University
36 that is conducted using animals other than rodents. This subsection does not apply to Oregon Health
37 and Science University press releases, websites or other publications circulated to the general pub-
38 lic.
- 39 (31) If requested by a public safety officer, as defined in ORS 181.610:
- 40 (a) The home address and home telephone number of the public safety officer contained in the
41 voter registration records for the public safety officer.
- 42 (b) The home address and home telephone number of the public safety officer contained in re-
43 cords of the Department of Public Safety Standards and Training.
- 44 (c) The name of the public safety officer contained in county real property assessment or taxa-
45 tion records. This exemption:

1 (A) Applies only to the name of the public safety officer and any other owner of the property
2 in connection with a specific property identified by the officer in a request for exemption from dis-
3 closure;

4 (B) Applies only to records that may be made immediately available to the public upon request
5 in person, by telephone or using the Internet;

6 (C) Applies until the public safety officer requests termination of the exemption;

7 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
8 governmental purposes; and

9 (E) May not result in liability for the county if the name of the public safety officer is disclosed
10 after a request for exemption from disclosure is made under this subsection.

11 (32) Unless the public records request is made by a financial institution, as defined in ORS
12 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
13 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
14 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
15 by an individual described in paragraph (b) of this subsection using the procedure described in par-
16 agraph (c) of this subsection:

17 (a) The home address, home or cellular telephone number or personal electronic mail address
18 contained in the records of any public body that has received the request that is set forth in:

19 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
20 substitution of trustee, easement, dog license, marriage license or military discharge record that is
21 in the possession of the county clerk; or

22 (B) Any public record of a public body other than the county clerk.

23 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
24 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
25 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
26 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
27 in the prosecution of criminal matters.

28 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
29 writing with the public body for which the exemption from disclosure is being claimed on a form
30 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
31 list the public records in the possession of the public body to which the exemption applies. The ex-
32 emption applies until the individual claiming the exemption requests termination of the exemption
33 or ceases to qualify for the exemption.

34 (33) The following voluntary conservation agreements and reports:

35 (a) Land management plans required for voluntary stewardship agreements entered into under
36 ORS 541.423; and

37 (b) Written agreements relating to the conservation of greater sage grouse entered into volun-
38 tarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

39 (34) Sensitive business records or financial or commercial information of the State Accident In-
40 surance Fund Corporation that is not customarily provided to business competitors. This exemption
41 does not:

42 (a) Apply to the formulas for determining dividends to be paid to employers insured by the State
43 Accident Insurance Fund Corporation;

44 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
45 lated to the formation of such contracts;

1 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
2 tracts, except that employer account records shall remain exempt from disclosure as provided in
3 ORS 192.502 (35); or

4 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
5 plicable rules of civil procedure.

6 (35) Records of the Department of Public Safety Standards and Training relating to investi-
7 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described
8 in ORS 181.662 or 181.878.

9 (36) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
10 examiner under ORS 146.117.

11 (37) Any document or other information related to an audit of a public body, as defined in ORS
12 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
13 cognized government auditing standards, until the auditor or audit organization issues a final audit
14 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
15 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response
16 to the audit findings.

17 (38)(a) Personally identifiable information collected as part of an electronic fare collection sys-
18 tem of a mass transit system.

19 (b) The exemption from disclosure in paragraph (a) of this subsection does not apply to public
20 records that have attributes of anonymity that are sufficient, or that are aggregated into groupings
21 that are broad enough, to ensure that persons cannot be identified by disclosure of the public re-
22 cords.

23 (c) As used in this subsection:

24 (A) "Electronic fare collection system" means the software and hardware used for, associated
25 with or relating to the collection of transit fares for a mass transit system, including but not limited
26 to computers, radio communication systems, personal mobile devices, wearable technology, fare in-
27 struments, information technology, data storage or collection equipment, or other equipment or im-
28 provements.

29 (B) "Mass transit system" has the meaning given that term in ORS 267.010.

30 (C) "Personally identifiable information" means all information relating to a person that ac-
31 quires or uses a transit pass or other fare payment medium in connection with an electronic fare
32 collection system, including but not limited to:

33 (i) Customer account information, date of birth, telephone number, physical address, electronic
34 mail address, credit or debit card information, bank account information, Social Security or taxpayer
35 identification number or other identification number, transit pass or fare payment medium balances
36 or history, or similar personal information; or

37 (ii) Travel dates, travel times, frequency of use, travel locations, service types or vehicle use,
38 or similar travel information.

39 **(39) Audio or video recordings, whether digital or analog, resulting from a law enforce-**
40 **ment officer's operation of a video camera worn upon the officer's person that records the**
41 **officer's interactions with members of the public while the officer is on duty. When a re-**
42 **ording described in this subsection is subject to disclosure, the following apply:**

43 **(a) Recordings that have been sealed in a court's record of a court proceeding or other-**
44 **wise ordered by a court not to be disclosed may not be disclosed.**

45 **(b) A request for disclosure under this subsection must identify the approximate date and**

1 **time of an incident for which the recordings are requested and be reasonably tailored to in-**
2 **clude only that material for which a public interest requires disclosure.**

3 **(c) A video recording disclosed under this subsection must, prior to disclosure, be edited**
4 **in a manner as to render the faces of all persons within the recording unidentifiable.**

5 **SECTION 6.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
6 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48,
7 Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws
8 2009, section 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009, section
9 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws 2011, section 69, chapter 637,
10 Oregon Laws 2011, section 2, chapter 325, Oregon Laws 2013, section 108, chapter 768, Oregon Laws
11 2013, section 2, chapter 37, Oregon Laws 2014, and section 2, chapter 64, Oregon Laws 2014, is
12 amended to read:

13 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
14 unless the public interest requires disclosure in the particular instance:

15 (1) Records of a public body pertaining to litigation to which the public body is a party if the
16 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
17 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
18 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
19 or deposition statutes to a party to litigation or potential litigation.

20 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
21 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
22 compilation of information which is not patented, which is known only to certain individuals within
23 an organization and which is used in a business it conducts, having actual or potential commercial
24 value, and which gives its user an opportunity to obtain a business advantage over competitors who
25 do not know or use it.

26 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
27 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
28 disclosure in the course of a specific investigation, including the need to protect the complaining
29 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
30 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
31 record of an arrest or the report of a crime includes, but is not limited to:

32 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
33 ographical information;

34 (b) The offense with which the arrested person is charged;

35 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

36 (d) The identity of and biographical information concerning both complaining party and victim;

37 (e) The identity of the investigating and arresting agency and the length of the investigation;

38 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

39 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
40 from justice.

41 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
42 employment, academic or other examination or testing procedure before the examination is given
43 and if the examination is to be used again. Records establishing procedures for and instructing
44 persons administering, grading or evaluating an examination or testing procedure are included in
45 this exemption, to the extent that disclosure would create a risk that the result might be affected.

1 (5) Information consisting of production records, sale or purchase records or catch records, or
2 similar business records of a private concern or enterprise, required by law to be submitted to or
3 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
4 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
5 that such information is in a form which would permit identification of the individual concern or
6 enterprise. This exemption does not include records submitted by long term care facilities as defined
7 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
8 tient care. Nothing in this subsection shall limit the use which can be made of such information for
9 regulatory purposes or its admissibility in any enforcement proceeding.

10 (6) Information relating to the appraisal of real estate prior to its acquisition.

11 (7) The names and signatures of employees who sign authorization cards or petitions for the
12 purpose of requesting representation or decertification elections.

13 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
14 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
15 ORS 659A.850.

16 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
17 663.180.

18 (10) Records, reports and other information received or compiled by the Director of the De-
19 partment of Consumer and Business Services under ORS 697.732.

20 (11) Information concerning the location of archaeological sites or objects as those terms are
21 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
22 the need for the information is related to that Indian tribe's cultural or religious activities. This
23 exemption does not include information relating to a site that is all or part of an existing, commonly
24 known and publicized tourist facility or attraction.

25 (12) A personnel discipline action, or materials or documents supporting that action.

26 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
27 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
28 cies.

29 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
30 connection with research, until publicly released, copyrighted or patented.

31 (15) Computer programs developed or purchased by or for any public body for its own use. As
32 used in this subsection, "computer program" means a series of instructions or statements which
33 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
34 manipulation of data from such computer system, and any associated documentation and source
35 material that explain how to operate the computer program. "Computer program" does not include:

36 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

37 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
38 the program; or

39 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
40 the original data were to be produced manually.

41 (16) Data and information provided by participants to mediation under ORS 36.256.

42 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
43 until a final administrative determination is made or, if a citation is issued, until an employer re-
44 ceives notice of any citation.

45 (18) Specific operational plans in connection with an anticipated threat to individual or public

1 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
2 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
3 law enforcement activity.

4 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
5 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
6 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
7 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
8 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
9 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
10 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
11 audit of a cost study that would be discoverable in a contested case proceeding and that is not
12 subject to a protective order; and

13 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
14 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
15 with a telecommunications carrier, as defined in ORS 133.721.

16 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
17 247.967.

18 (21) The following records, communications and information submitted to a housing authority
19 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
20 for and recipients of loans, grants and tax credits:

21 (a) Personal and corporate financial statements and information, including tax returns;

22 (b) Credit reports;

23 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
24 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
25 of as part of the project, but only after the transactions have closed and are concluded;

26 (d) Market studies and analyses;

27 (e) Articles of incorporation, partnership agreements and operating agreements;

28 (f) Commitment letters;

29 (g) Project pro forma statements;

30 (h) Project cost certifications and cost data;

31 (i) Audits;

32 (j) Project tenant correspondence requested to be confidential;

33 (k) Tenant files relating to certification; and

34 (L) Housing assistance payment requests.

35 (22) Records or information that, if disclosed, would allow a person to:

36 (a) Gain unauthorized access to buildings or other property;

37 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
38 disruption to, or interference with, services; or

39 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
40 cessing, communication or telecommunication systems, including the information contained in the
41 systems, that are used or operated by a public body.

42 (23) Records or information that would reveal or otherwise identify security measures, or
43 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
44 protect:

45 (a) An individual;

1 (b) Buildings or other property;

2 (c) Information processing, communication or telecommunication systems, including the infor-
3 mation contained in the systems; or

4 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
5 evaluation under ORS 461.180 (6).

6 (24) Personal information held by or under the direction of officials of the Oregon Health and
7 Science University, a public university listed in ORS 352.002 or the Oregon University System about
8 a person who has or who is interested in donating money or property to the Oregon Health and
9 Science University, the system or a public university, if the information is related to the family of
10 the person, personal assets of the person or is incidental information not related to the donation.

11 (25) The home address, professional address and telephone number of a person who has or who
12 is interested in donating money or property to the Oregon University System or a public university
13 listed in ORS 352.002.

14 (26) Records of the name and address of a person who files a report with or pays an assessment
15 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
16 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

17 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
18 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
19 card expiration date, password, financial institution account number and financial institution routing
20 number.

21 (28) Social Security numbers as provided in ORS 107.840.

22 (29) The electronic mail address of a student who attends a public university listed in ORS
23 352.002 or Oregon Health and Science University.

24 (30) If requested by a public safety officer, as defined in ORS 181.610:

25 (a) The home address and home telephone number of the public safety officer contained in the
26 voter registration records for the public safety officer.

27 (b) The home address and home telephone number of the public safety officer contained in re-
28 cords of the Department of Public Safety Standards and Training.

29 (c) The name of the public safety officer contained in county real property assessment or taxa-
30 tion records. This exemption:

31 (A) Applies only to the name of the public safety officer and any other owner of the property
32 in connection with a specific property identified by the officer in a request for exemption from dis-
33 closure;

34 (B) Applies only to records that may be made immediately available to the public upon request
35 in person, by telephone or using the Internet;

36 (C) Applies until the public safety officer requests termination of the exemption;

37 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
38 governmental purposes; and

39 (E) May not result in liability for the county if the name of the public safety officer is disclosed
40 after a request for exemption from disclosure is made under this subsection.

41 (31) Unless the public records request is made by a financial institution, as defined in ORS
42 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
43 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
44 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
45 by an individual described in paragraph (b) of this subsection using the procedure described in par-

1 agraph (c) of this subsection:

2 (a) The home address, home or cellular telephone number or personal electronic mail address
3 contained in the records of any public body that has received the request that is set forth in:

4 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
5 substitution of trustee, easement, dog license, marriage license or military discharge record that is
6 in the possession of the county clerk; or

7 (B) Any public record of a public body other than the county clerk.

8 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
9 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
10 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
11 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
12 in the prosecution of criminal matters.

13 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
14 writing with the public body for which the exemption from disclosure is being claimed on a form
15 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
16 list the public records in the possession of the public body to which the exemption applies. The ex-
17 emption applies until the individual claiming the exemption requests termination of the exemption
18 or ceases to qualify for the exemption.

19 (32) The following voluntary conservation agreements and reports:

20 (a) Land management plans required for voluntary stewardship agreements entered into under
21 ORS 541.423; and

22 (b) Written agreements relating to the conservation of greater sage grouse entered into volun-
23 tarily by owners or occupiers of land with a soil and water conservation district under ORS 568.550.

24 (33) Sensitive business records or financial or commercial information of the State Accident In-
25 surance Fund Corporation that is not customarily provided to business competitors. This exemption
26 does not:

27 (a) Apply to the formulas for determining dividends to be paid to employers insured by the State
28 Accident Insurance Fund Corporation;

29 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
30 lated to the formation of such contracts;

31 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
32 tracts, except that employer account records shall remain exempt from disclosure as provided in
33 ORS 192.502 (35); or

34 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
35 plicable rules of civil procedure.

36 (34) Records of the Department of Public Safety Standards and Training relating to investi-
37 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described
38 in ORS 181.662 or 181.878.

39 (35) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
40 examiner under ORS 146.117.

41 (36) Any document or other information related to an audit of a public body, as defined in ORS
42 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
43 cognized government auditing standards, until the auditor or audit organization issues a final audit
44 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
45 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response

1 to the audit findings.

2 (37)(a) Personally identifiable information collected as part of an electronic fare collection sys-
3 tem of a mass transit system.

4 (b) The exemption from disclosure in paragraph (a) of this subsection does not apply to public
5 records that have attributes of anonymity that are sufficient, or that are aggregated into groupings
6 that are broad enough, to ensure that persons cannot be identified by disclosure of the public re-
7 cords.

8 (c) As used in this subsection:

9 (A) "Electronic fare collection system" means the software and hardware used for, associated
10 with or relating to the collection of transit fares for a mass transit system, including but not limited
11 to computers, radio communication systems, personal mobile devices, wearable technology, fare in-
12 struments, information technology, data storage or collection equipment, or other equipment or im-
13 provements.

14 (B) "Mass transit system" has the meaning given that term in ORS 267.010.

15 (C) "Personally identifiable information" means all information relating to a person that ac-
16 quires or uses a transit pass or other fare payment medium in connection with an electronic fare
17 collection system, including but not limited to:

18 (i) Customer account information, date of birth, telephone number, physical address, electronic
19 mail address, credit or debit card information, bank account information, Social Security or taxpayer
20 identification number or other identification number, transit pass or fare payment medium balances
21 or history, or similar personal information; or

22 (ii) Travel dates, travel times, frequency of use, travel locations, service types or vehicle use,
23 or similar travel information.

24 **(38) Audio or video recordings, whether digital or analog, resulting from a law enforce-**
25 **ment officer's operation of a video camera worn upon the officer's person that records the**
26 **officer's interactions with members of the public while the officer is on duty. When a re-**
27 **recording described in this subsection is subject to disclosure, the following apply:**

28 (a) Recordings that have been sealed in a court's record of a court proceeding or other-
29 wise ordered by a court not to be disclosed may not be disclosed.

30 (b) A request for disclosure under this subsection must identify the approximate date and
31 time of an incident for which the recordings are requested and be reasonably tailored to in-
32 clude only that material for which a public interest requires disclosure.

33 (c) A video recording disclosed under this subsection must, prior to disclosure, be edited
34 in a manner as to render the faces of all persons within the recording unidentifiable.

35 **SECTION 7. This 2015 Act being necessary for the immediate preservation of the public**
36 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
37 **on its passage.**

38