

Senate Bill 386

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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 **as introduced**.

Eliminates sunset date on conditional exemption from disclosure of public records that set forth name, home address or professional location of person engaged in, or providing goods and services for, medical research at Oregon Health and Science University that is conducted using animals other than rodents.

A BILL FOR AN ACT

1
2 Relating to the exemption from disclosure of public records that identify persons involved in re-
3 search using animals at Oregon Health and Science University; amending ORS 146.035 and
4 192.501; and repealing section 4, chapter 455, Oregon Laws 2005.

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

6 **SECTION 1. Section 4, chapter 455, Oregon Laws 2005, as amended by section 1, chapter**
7 **719, Oregon Laws 2009, section 8, chapter 9, Oregon Laws 2011, section 1, chapter 160, Oregon**
8 **Laws 2011, and section 8, chapter 1, Oregon Laws 2013, is repealed.**

9 **SECTION 2.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
10 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48,
11 Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws
12 2009, section 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009, section
13 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws 2011, section 69, chapter 637,
14 Oregon Laws 2011, section 2, chapter 325, Oregon Laws 2013, section 108, chapter 768, Oregon Laws
15 2013, section 2, chapter 37, Oregon Laws 2014, and section 2, chapter 64, Oregon Laws 2014, is
16 amended to read:

17 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
18 unless the public interest requires disclosure in the particular instance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
37 663.180.

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

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

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

1 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
2 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
3 cies.

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

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

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

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

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

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

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

20 (18) Specific operational plans in connection with an anticipated threat to individual or public
21 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
22 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
23 law enforcement activity.

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

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

36 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
37 247.967.

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

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

42 (b) Credit reports;

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

- 1 (d) Market studies and analyses;
- 2 (e) Articles of incorporation, partnership agreements and operating agreements;
- 3 (f) Commitment letters;
- 4 (g) Project pro forma statements;
- 5 (h) Project cost certifications and cost data;
- 6 (i) Audits;
- 7 (j) Project tenant correspondence requested to be confidential;
- 8 (k) Tenant files relating to certification; and
- 9 (L) Housing assistance payment requests.
- 10 (22) Records or information that, if disclosed, would allow a person to:
- 11 (a) Gain unauthorized access to buildings or other property;
- 12 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
- 13 disruption to, or interference with, services; or
- 14 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
- 15 cessing, communication or telecommunication systems, including the information contained in the
- 16 systems, that are used or operated by a public body.
- 17 (23) Records or information that would reveal or otherwise identify security measures, or
- 18 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
- 19 protect:
- 20 (a) An individual;
- 21 (b) Buildings or other property;
- 22 (c) Information processing, communication or telecommunication systems, including the infor-
- 23 mation contained in the systems; or
- 24 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
- 25 evaluation under ORS 461.180 (6).
- 26 (24) Personal information held by or under the direction of officials of the Oregon Health and
- 27 Science University, a public university listed in ORS 352.002 or the Oregon University System about
- 28 a person who has or who is interested in donating money or property to the Oregon Health and
- 29 Science University, the system or a public university, if the information is related to the family of
- 30 the person, personal assets of the person or is incidental information not related to the donation.
- 31 (25) The home address, professional address and telephone number of a person who has or who
- 32 is interested in donating money or property to the Oregon University System or a public university
- 33 listed in ORS 352.002.
- 34 (26) Records of the name and address of a person who files a report with or pays an assessment
- 35 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
- 36 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.
- 37 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
- 38 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
- 39 card expiration date, password, financial institution account number and financial institution routing
- 40 number.
- 41 (28) Social Security numbers as provided in ORS 107.840.
- 42 (29) The electronic mail address of a student who attends a public university listed in ORS
- 43 352.002 or Oregon Health and Science University.
- 44 **(30) The name, home address, professional address or location of a person that is engaged**
- 45 **in, or that provides goods or services for, medical research at Oregon Health and Science**

1 **University that is conducted using animals other than rodents. This subsection does not ap-**
 2 **ply to Oregon Health and Science University press releases, websites or other publications**
 3 **circulated to the general public.**

4 [(30)] (31) If requested by a public safety officer, as defined in ORS 181.610:

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

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

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

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

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

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

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

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

21 [(31)] (32) Unless the public records request is made by a financial institution, as defined in ORS
 22 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
 23 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
 24 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
 25 by an individual described in paragraph (b) of this subsection using the procedure described in par-
 26 agraph (c) of this subsection:

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

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

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

33 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
 34 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
 35 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
 36 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
 37 in the prosecution of criminal matters.

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

44 [(32)] (33) The following voluntary conservation agreements and reports:

45 (a) Land management plans required for voluntary stewardship agreements entered into under

1 ORS 541.423; and

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

4 [(33)] **(34)** Sensitive business records or financial or commercial information of the State Acci-
5 dent Insurance Fund Corporation that is not customarily provided to business competitors. This ex-
6 emption does not:

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

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

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

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

16 [(34)] **(35)** Records of the Department of Public Safety Standards and Training relating to in-
17 vestigations conducted under ORS 181.662 or 181.878 (6), until the department issues the report de-
18 scribed in ORS 181.662 or 181.878.

19 [(35)] **(36)** A medical examiner's report, autopsy report or laboratory test report ordered by a
20 medical examiner under ORS 146.117.

21 [(36)] **(37)** Any document or other information related to an audit of a public body, as defined
22 in ORS 174.109, that is in the custody of an auditor or audit organization operating under nationally
23 recognized government auditing standards, until the auditor or audit organization issues a final au-
24 dit report in accordance with those standards or the audit is abandoned. This exemption does not
25 prohibit disclosure of a draft audit report that is provided to the audited entity for the entity's re-
26 sponse to the audit findings.

27 [(37)(a)] **(38)(a)** Personally identifiable information collected as part of an electronic fare col-
28 lection system of a mass transit system.

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

33 (c) As used in this subsection:

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

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

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

43 (i) Customer account information, date of birth, telephone number, physical address, electronic
44 mail address, credit or debit card information, bank account information, Social Security or taxpayer
45 identification number or other identification number, transit pass or fare payment medium balances

1 or history, or similar personal information; or

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

4 **SECTION 3.** ORS 146.035, as amended by section 7, chapter 1, Oregon Laws 2013, is amended
5 to read:

6 146.035. (1) There is established within the Department of State Police the State Medical
7 Examiner's office for the purpose of directing and supporting the state death investigation program.

8 (2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's pro-
9 gram.

10 (3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or
11 discharge other personnel of the State Medical Examiner's office.

12 (4) The State Medical Examiner's office shall:

13 (a) File and maintain appropriate reports on all deaths requiring investigation.

14 (b) Maintain an accurate list of all active district medical examiners, assistant district medical
15 examiners and designated pathologists.

16 (c) Transmit monthly to the Department of Transportation a report for the preceding calendar
17 month of all information obtained under ORS 146.113.

18 (5) Notwithstanding ORS 192.501 [(35)] (36):

19 (a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person
20 who may be criminally or civilly liable for the death, or their authorized representatives respec-
21 tively, may examine and obtain copies of any medical examiner's report, autopsy report or labora-
22 tory test report ordered by a medical examiner under ORS 146.117.

23 (b) The system described in ORS 192.517 (1) shall have access to reports described in this sub-
24 section as provided in ORS 192.517.

25