

**PROPOSED AMENDMENTS TO
HOUSE BILL 2571**

1 On page 1 of the printed bill, delete line 3 and insert “41.910, 135.805,
2 136.295, 165.540 and 192.501; and declaring an emergency.”.

3 In line 6, before “storage” insert “use,”.

4 Delete lines 9 and 10 and insert:

5 “(b) The policies and procedures described in paragraph (a) of this sub-
6 section must include:

7 “(A) A requirement that a recording be retained for at least 180 days but
8 no more than 30 months for a recording not related to a court proceeding,
9 or for the same period of time that evidence is retained in the normal course
10 of the court’s business for a recording related to a court proceeding.

11 “(B) A requirement that a camera worn upon a law enforcement officer’s
12 person be set to record continuously, beginning when the officer develops
13 reasonable suspicion or probable cause to believe that a crime or violation
14 has occurred, is occurring or will occur and the law enforcement officer be-
15 gins to make contact with the person suspected of committing the offense.
16 The policies and procedures must also require that the camera may subse-
17 quently cease recording no sooner than the termination of the officer’s par-
18 ticipation in the contact.

19 “(C) A requirement that in any contract with a third party vendor for
20 data storage, recordings from the camera are the property of the law
21 enforcement agency, are not owned by the vendor and cannot be used by the
22 vendor for any purpose inconsistent with the policies and procedures of the

1 law enforcement agency.

2 “(D) A prohibition on the use of facial recognition or other biometric
3 matching technology to analyze recordings obtained through the use of the
4 camera.

5 “(E) A prohibition on the use of any recordings obtained from the camera
6 for any purpose other than a legitimate law enforcement purpose.

7 “(c) Notwithstanding paragraph (b)(B) of this subsection, a law enforce-
8 ment agency may in its policies and procedures provide for exceptions to the
9 recording requirements of paragraph (b)(B) of this subsection, provided that
10 the exceptions are based on reasonable privacy concerns, exigent circum-
11 stances or the safety of law enforcement officers or other persons.”.

12 On page 2, line 36, after “unless” insert a colon and delete the rest of the
13 line and lines 37 and 38 and insert:

14 “(i) The officer has an opportunity to announce at the beginning of the
15 interaction that the conversation is being obtained; and

16 “(ii) The announcement can be accomplished without causing jeopardy to
17 the officer or any other person and without unreasonably impairing a crim-
18 inal investigation; or”.

19 On page 3, delete lines 19 through 45 and delete pages 4 through 10 and
20 insert:

21 **“SECTION 3.** ORS 41.910 is amended to read:

22 “41.910. Evidence of the contents of any wire or oral communication in-
23 tercepted:

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

30 “(2) Under ORS 165.540 (2)(a) shall not be admissible in any court of this

1 state unless:

2 “(a) The communication was intercepted by a public official in charge of
3 and at a jail, police premises, sheriff’s office, Department of Corrections in-
4 stitution or other penal or correctional institution; and

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

8 **“SECTION 4.** ORS 135.805 is amended to read:

9 “135.805. (1) The provisions of ORS 135.805 to 135.873 are applicable to
10 all criminal prosecutions in which the charging instrument has been brought
11 in a court of record.

12 “(2) As used in ORS 135.805 to 135.873, ‘disclose’ means to afford the ad-
13 verse party an opportunity to inspect or copy the material **or to provide the**
14 **adverse party with secure access to digitally stored material in a**
15 **manner that provides the adverse party an opportunity to completely**
16 **review and download a copy of the material.**

17 **“SECTION 5.** ORS 136.295 is amended to read:

18 “136.295. (1) ORS 136.290 does not apply to persons charged with crimes
19 that are not releasable offenses under ORS 135.240 or to persons charged
20 with conspiracy to commit murder, or charged with attempted murder, or to
21 prisoners serving sentences resulting from prior convictions.

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

29 “(b) For purposes of this subsection, an extradition is presumed to have
30 been conducted with all practicable speed if it has been conducted within 90

1 days after the date the defendant has been delivered to an agent of this state.

2 “(3) Any reasonable delay resulting from examination or hearing regard-
3 ing the defendant’s mental condition or competency to stand trial, or re-
4 sulting from other motion or appeal by the defendant, shall not be included
5 in the 60-day period.

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

17 “(b) As used in this subsection, ‘good cause’ means situations in which:

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

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

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

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

27 “(E) The attorney for the defendant is unable to try the case within the
28 60-day period because of conflicting schedules;

29 “(F) Scientific evidence is necessary and because of the complexity of the
30 procedures it would be unreasonable to have the procedures completed

1 within the 60-day period;

2 “(G) The defendant has filed notice under ORS 161.309 of the defendant’s
3 intention to rely upon a defense of insanity, partial responsibility or dimin-
4 ished capacity;

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

7 “(I) A claim under ORS 147.515, or a motion under ORS 147.522, relating
8 to victims’ rights is pending, the court has considered the factors described
9 in ORS 147.525 and the court has determined that the trial date should be
10 rescheduled subject to the time limit provided in ORS 147.525[.]; or

11 **“(J) The defendant has received discovery of digital video evidence**
12 **from a video camera worn upon a law enforcement officer’s person**
13 **and, though discovery has occurred in a reasonably timely manner,**
14 **editing of the digital video evidence is necessary.**

15 “(5) Any period following defendant’s arrest in which the defendant is not
16 actually in custody shall not be included in the 60-day computation.

17 **“SECTION 6.** ORS 192.501, as amended by section 1, chapter 37, Oregon
18 Laws 2014, and section 1, chapter 64, Oregon Laws 2014, is amended to read:

19 “192.501. The following public records are exempt from disclosure under
20 ORS 192.410 to 192.505 unless the public interest requires disclosure in the
21 particular instance:

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

29 “(2) Trade secrets. ‘Trade secrets,’ as used in this section, may include,
30 but are not limited to, any formula, plan, pattern, process, tool, mechanism,

1 compound, procedure, production data, or compilation of information which
2 is not patented, which is known only to certain individuals within an or-
3 ganization and which is used in a business it conducts, having actual or
4 potential commercial value, and which gives its user an opportunity to ob-
5 tain a business advantage over competitors who do not know or use it.

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

14 “(a) The arrested person’s name, age, residence, employment, marital sta-
15 tus and similar biographical information;

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

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

18 “(d) The identity of and biographical information concerning both com-
19 plaining party and victim;

20 “(e) The identity of the investigating and arresting agency and the length
21 of the investigation;

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

24 “(g) Such information as may be necessary to enlist public assistance in
25 apprehending fugitives from justice.

26 “(4) Test questions, scoring keys, and other data used to administer a li-
27 censing examination, employment, academic or other examination or testing
28 procedure before the examination is given and if the examination is to be
29 used again. Records establishing procedures for and instructing persons ad-
30 ministering, grading or evaluating an examination or testing procedure are

1 included in this exemption, to the extent that disclosure would create a risk
2 that the result might be affected.

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

15 “(6) Information relating to the appraisal of real estate prior to its ac-
16 quisition.

17 “(7) The names and signatures of employees who sign authorization cards
18 or petitions for the purpose of requesting representation or decertification
19 elections.

20 “(8) Investigatory information relating to any complaint filed under ORS
21 659A.820 or 659A.825, until such time as the complaint is resolved under ORS
22 659A.835, or a final order is issued under ORS 659A.850.

23 “(9) Investigatory information relating to any complaint or charge filed
24 under ORS 243.676 and 663.180.

25 “(10) Records, reports and other information received or compiled by the
26 Director of the Department of Consumer and Business Services under ORS
27 697.732.

28 “(11) Information concerning the location of archaeological sites or ob-
29 jects as those terms are defined in ORS 358.905, except if the governing body
30 of an Indian tribe requests the information and the need for the information

1 is related to that Indian tribe's cultural or religious activities. This ex-
2 emption does not include information relating to a site that is all or part
3 of an existing, commonly known and publicized tourist facility or attraction.

4 “(12) A personnel discipline action, or materials or documents supporting
5 that action.

6 “(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026
7 or ORS 496.192 and 564.100, regarding the habitat, location or population of
8 any threatened species or endangered species.

9 “(14) Writings prepared by or under the direction of faculty of public ed-
10 ucational institutions, in connection with research, until publicly released,
11 copyrighted or patented.

12 “(15) Computer programs developed or purchased by or for any public
13 body for its own use. As used in this subsection, ‘computer program’ means
14 a series of instructions or statements which permit the functioning of a
15 computer system in a manner designed to provide storage, retrieval and ma-
16 nipulation of data from such computer system, and any associated documen-
17 tation and source material that explain how to operate the computer
18 program. ‘Computer program’ does not include:

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

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

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

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

27 “(17) Investigatory information relating to any complaint or charge filed
28 under ORS chapter 654, until a final administrative determination is made
29 or, if a citation is issued, until an employer receives notice of any citation.

30 “(18) Specific operational plans in connection with an anticipated threat

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

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

16 “(b) Financial statements. As used in this paragraph, ‘financial
17 statement’ means a financial statement of a nonregulated corporation having
18 an affiliated interest, as defined in ORS 759.390, with a telecommunications
19 carrier, as defined in ORS 133.721.

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

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

26 “(a) Personal and corporate financial statements and information, in-
27 cluding tax returns;

28 “(b) Credit reports;

29 “(c) Project appraisals, excluding appraisals obtained in the course of
30 transactions involving an interest in real estate that is acquired, leased,

1 rented, exchanged, transferred or otherwise disposed of as part of the project,
2 but only after the transactions have closed and are concluded;

3 “(d) Market studies and analyses;

4 “(e) Articles of incorporation, partnership agreements and operating
5 agreements;

6 “(f) Commitment letters;

7 “(g) Project pro forma statements;

8 “(h) Project cost certifications and cost data;

9 “(i) Audits;

10 “(j) Project tenant correspondence requested to be confidential;

11 “(k) Tenant files relating to certification; and

12 “(L) Housing assistance payment requests.

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

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

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

17 “(c) Disrupt, interfere with or gain unauthorized access to public funds
18 or to information processing, communication or telecommunication systems,
19 including the information contained in the systems, that are used or operated
20 by a public body.

21 “(23) Records or information that would reveal or otherwise identify se-
22 curity measures, or weaknesses or potential weaknesses in security measures,
23 taken or recommended to be taken to protect:

24 “(a) An individual;

25 “(b) Buildings or other property;

26 “(c) Information processing, communication or telecommunication sys-
27 tems, including the information contained in the systems; or

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

30 “(24) Personal information held by or under the direction of officials of

1 the Oregon Health and Science University, a public university listed in ORS
2 352.002 or the Oregon University System about a person who has or who is
3 interested in donating money or property to the Oregon Health and Science
4 University, the system or a public university, if the information is related
5 to the family of the person, personal assets of the person or is incidental
6 information not related to the donation.

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

10 “(26) Records of the name and address of a person who files a report with
11 or pays an assessment to a commodity commission established under ORS
12 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the
13 Oregon Wheat Commission created under ORS 578.030.

14 “(27) Information provided to, obtained by or used by a public body to
15 authorize, originate, receive or authenticate a transfer of funds, including
16 but not limited to a credit card number, payment card expiration date,
17 password, financial institution account number and financial institution
18 routing number.

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

20 “(29) The electronic mail address of a student who attends a public uni-
21 versity listed in ORS 352.002 or Oregon Health and Science University.

22 “(30) The name, home address, professional address or location of a person
23 that is engaged in, or that provides goods or services for, medical research
24 at Oregon Health and Science University that is conducted using animals
25 other than rodents. This subsection does not apply to Oregon Health and
26 Science University press releases, websites or other publications circulated
27 to the general public.

28 “(31) If requested by a public safety officer, as defined in ORS 181.610:

29 “(a) The home address and home telephone number of the public safety
30 officer contained in the voter registration records for the public safety offi-

1 cer.

2 “(b) The home address and home telephone number of the public safety
3 officer contained in records of the Department of Public Safety Standards
4 and Training.

5 “(c) The name of the public safety officer contained in county real prop-
6 erty assessment or taxation records. This exemption:

7 “(A) Applies only to the name of the public safety officer and any other
8 owner of the property in connection with a specific property identified by the
9 officer in a request for exemption from disclosure;

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

12 “(C) Applies until the public safety officer requests termination of the
13 exemption;

14 “(D) Does not apply to disclosure of records among public bodies as de-
15 fined in ORS 174.109 for governmental purposes; and

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

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

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

29 “(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance,
30 release, satisfaction, substitution of trustee, easement, dog license, marriage

1 license or military discharge record that is in the possession of the county
2 clerk; or

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

4 “(b) The individual claiming the exemption from disclosure must be a
5 district attorney, a deputy district attorney, the Attorney General or an as-
6 sistant attorney general, the United States Attorney for the District of
7 Oregon or an assistant United States attorney for the District of Oregon, a
8 city attorney who engages in the prosecution of criminal matters or a deputy
9 city attorney who engages in the prosecution of criminal matters.

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

17 “(33) The following voluntary conservation agreements and reports:

18 “(a) Land management plans required for voluntary stewardship agree-
19 ments entered into under ORS 541.423; and

20 “(b) Written agreements relating to the conservation of greater sage
21 grouse entered into voluntarily by owners or occupiers of land with a soil
22 and water conservation district under ORS 568.550.

23 “(34) Sensitive business records or financial or commercial information
24 of the State Accident Insurance Fund Corporation that is not customarily
25 provided to business competitors. This exemption does not:

26 “(a) Apply to the formulas for determining dividends to be paid to em-
27 ployers insured by the State Accident Insurance Fund Corporation;

28 “(b) Apply to contracts for advertising, public relations or lobbying ser-
29 vices or to documents related to the formation of such contracts;

30 “(c) Apply to group insurance contracts or to documents relating to the

1 formation of such contracts, except that employer account records shall re-
2 main exempt from disclosure as provided in ORS 192.502 (35); or

3 “(d) Provide the basis for opposing the discovery of documents in liti-
4 gation pursuant to the applicable rules of civil procedure.

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

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

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

17 “(38)(a) Personally identifiable information collected as part of an elec-
18 tronic fare collection system of a mass transit system.

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

23 “(c) As used in this subsection:

24 “(A) ‘Electronic fare collection system’ means the software and hardware
25 used for, associated with or relating to the collection of transit fares for a
26 mass transit system, including but not limited to computers, radio commu-
27 nication systems, personal mobile devices, wearable technology, fare instru-
28 ments, information technology, data storage or collection equipment, or other
29 equipment or improvements.

30 “(B) ‘Mass transit system’ has the meaning given that term in ORS

1 267.010.

2 “(C) ‘Personally identifiable information’ means all information relating
3 to a person that acquires or uses a transit pass or other fare payment me-
4 dium in connection with an electronic fare collection system, including but
5 not limited to:

6 “(i) Customer account information, date of birth, telephone number,
7 physical address, electronic mail address, credit or debit card information,
8 bank account information, Social Security or taxpayer identification number
9 or other identification number, transit pass or fare payment medium balances
10 or history, or similar personal information; or

11 “(ii) Travel dates, travel times, frequency of use, travel locations, service
12 types or vehicle use, or similar travel information.

13 **“(39) Audio or video recordings, whether digital or analog, resulting**
14 **from a law enforcement officer’s operation of a video camera worn**
15 **upon the officer’s person that records the officer’s interactions with**
16 **members of the public while the officer is on duty. When a recording**
17 **described in this subsection is subject to disclosure, the following ap-**
18 **ply:**

19 **“(a) Recordings that have been sealed in a court’s record of a court**
20 **proceeding or otherwise ordered by a court not to be disclosed may**
21 **not be disclosed.**

22 **“(b) A request for disclosure under this subsection must identify the**
23 **approximate date and time of an incident for which the recordings are**
24 **requested and be reasonably tailored to include only that material for**
25 **which a public interest requires disclosure.**

26 **“SECTION 7.** ORS 192.501, as amended by section 3, chapter 455, Oregon
27 Laws 2005, section 7, chapter 608, Oregon Laws 2007, section 2, chapter 687,
28 Oregon Laws 2007, section 2, chapter 48, Oregon Laws 2008, section 3, chap-
29 ter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws 2009, section
30 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009,

1 section 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws
2 2011, section 69, chapter 637, Oregon Laws 2011, section 2, chapter 325,
3 Oregon Laws 2013, section 108, chapter 768, Oregon Laws 2013, section 2,
4 chapter 37, Oregon Laws 2014, and section 2, chapter 64, Oregon Laws 2014,
5 is amended to read:

6 “192.501. The following public records are exempt from disclosure under
7 ORS 192.410 to 192.505 unless the public interest requires disclosure in the
8 particular instance:

9 “(1) Records of a public body pertaining to litigation to which the public
10 body is a party if the complaint has been filed, or if the complaint has not
11 been filed, if the public body shows that such litigation is reasonably likely
12 to occur. This exemption does not apply to litigation which has been con-
13 cluded, and nothing in this subsection shall limit any right or opportunity
14 granted by discovery or deposition statutes to a party to litigation or po-
15 tential litigation.

16 “(2) Trade secrets. ‘Trade secrets,’ as used in this section, may include,
17 but are not limited to, any formula, plan, pattern, process, tool, mechanism,
18 compound, procedure, production data, or compilation of information which
19 is not patented, which is known only to certain individuals within an or-
20 ganization and which is used in a business it conducts, having actual or
21 potential commercial value, and which gives its user an opportunity to ob-
22 tain a business advantage over competitors who do not know or use it.

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

1 “(a) The arrested person’s name, age, residence, employment, marital sta-
2 tus and similar biographical information;

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

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

5 “(d) The identity of and biographical information concerning both com-
6 plaining party and victim;

7 “(e) The identity of the investigating and arresting agency and the length
8 of the investigation;

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

11 “(g) Such information as may be necessary to enlist public assistance in
12 apprehending fugitives from justice.

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14 censing examination, employment, academic or other examination or testing
15 procedure before the examination is given and if the examination is to be
16 used again. Records establishing procedures for and instructing persons ad-
17 ministering, grading or evaluating an examination or testing procedure are
18 included in this exemption, to the extent that disclosure would create a risk
19 that the result might be affected.

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

1 in any enforcement proceeding.

2 “(6) Information relating to the appraisal of real estate prior to its ac-
3 quisition.

4 “(7) The names and signatures of employees who sign authorization cards
5 or petitions for the purpose of requesting representation or decertification
6 elections.

7 “(8) Investigatory information relating to any complaint filed under ORS
8 659A.820 or 659A.825, until such time as the complaint is resolved under ORS
9 659A.835, or a final order is issued under ORS 659A.850.

10 “(9) Investigatory information relating to any complaint or charge filed
11 under ORS 243.676 and 663.180.

12 “(10) Records, reports and other information received or compiled by the
13 Director of the Department of Consumer and Business Services under ORS
14 697.732.

15 “(11) Information concerning the location of archaeological sites or ob-
16 jects as those terms are defined in ORS 358.905, except if the governing body
17 of an Indian tribe requests the information and the need for the information
18 is related to that Indian tribe’s cultural or religious activities. This ex-
19 emption does not include information relating to a site that is all or part
20 of an existing, commonly known and publicized tourist facility or attraction.

21 “(12) A personnel discipline action, or materials or documents supporting
22 that action.

23 “(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026
24 or ORS 496.192 and 564.100, regarding the habitat, location or population of
25 any threatened species or endangered species.

26 “(14) Writings prepared by or under the direction of faculty of public ed-
27 ucational institutions, in connection with research, until publicly released,
28 copyrighted or patented.

29 “(15) Computer programs developed or purchased by or for any public
30 body for its own use. As used in this subsection, ‘computer program’ means

1 a series of instructions or statements which permit the functioning of a
2 computer system in a manner designed to provide storage, retrieval and ma-
3 nipulation of data from such computer system, and any associated documen-
4 tation and source material that explain how to operate the computer
5 program. ‘Computer program’ does not include:

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

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

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

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

14 “(17) Investigatory information relating to any complaint or charge filed
15 under ORS chapter 654, until a final administrative determination is made
16 or, if a citation is issued, until an employer receives notice of any citation.

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

22 “(19)(a) Audits or audit reports required of a telecommunications carrier.
23 As used in this paragraph, ‘audit or audit report’ means any external or
24 internal audit or audit report pertaining to a telecommunications carrier, as
25 defined in ORS 133.721, or pertaining to a corporation having an affiliated
26 interest, as defined in ORS 759.390, with a telecommunications carrier that
27 is intended to make the operations of the entity more efficient, accurate or
28 compliant with applicable rules, procedures or standards, that may include
29 self-criticism and that has been filed by the telecommunications carrier or
30 affiliate under compulsion of state law. ‘Audit or audit report’ does not mean

1 an audit of a cost study that would be discoverable in a contested case pro-
2 ceeding and that is not subject to a protective order; and

3 “(b) Financial statements. As used in this paragraph, ‘financial
4 statement’ means a financial statement of a nonregulated corporation having
5 an affiliated interest, as defined in ORS 759.390, with a telecommunications
6 carrier, as defined in ORS 133.721.

7 “(20) The residence address of an elector if authorized under ORS 247.965
8 and subject to ORS 247.967.

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

13 “(a) Personal and corporate financial statements and information, in-
14 cluding tax returns;

15 “(b) Credit reports;

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

20 “(d) Market studies and analyses;

21 “(e) Articles of incorporation, partnership agreements and operating
22 agreements;

23 “(f) Commitment letters;

24 “(g) Project pro forma statements;

25 “(h) Project cost certifications and cost data;

26 “(i) Audits;

27 “(j) Project tenant correspondence requested to be confidential;

28 “(k) Tenant files relating to certification; and

29 “(L) Housing assistance payment requests.

30 “(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
3 would permit unlawful disruption to, or interference with, services; or

4 “(c) Disrupt, interfere with or gain unauthorized access to public funds
5 or to information processing, communication or telecommunication systems,
6 including the information contained in the systems, that are used or operated
7 by a public body.

8 “(23) Records or information that would reveal or otherwise identify se-
9 curity measures, or weaknesses or potential weaknesses in security measures,
10 taken or recommended to be taken to protect:

11 “(a) An individual;

12 “(b) Buildings or other property;

13 “(c) Information processing, communication or telecommunication sys-
14 tems, including the information contained in the systems; or

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

17 “(24) Personal information held by or under the direction of officials of
18 the Oregon Health and Science University, a public university listed in ORS
19 352.002 or the Oregon University System about a person who has or who is
20 interested in donating money or property to the Oregon Health and Science
21 University, the system or a public university, if the information is related
22 to the family of the person, personal assets of the person or is incidental
23 information not related to the donation.

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

27 “(26) Records of the name and address of a person who files a report with
28 or pays an assessment to a commodity commission established under ORS
29 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the
30 Oregon Wheat Commission created under ORS 578.030.

1 “(27) Information provided to, obtained by or used by a public body to
2 authorize, originate, receive or authenticate a transfer of funds, including
3 but not limited to a credit card number, payment card expiration date,
4 password, financial institution account number and financial institution
5 routing number.

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

7 “(29) The electronic mail address of a student who attends a public uni-
8 versity listed in ORS 352.002 or Oregon Health and Science University.

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

10 “(a) The home address and home telephone number of the public safety
11 officer contained in the voter registration records for the public safety offi-
12 cer.

13 “(b) The home address and home telephone number of the public safety
14 officer contained in records of the Department of Public Safety Standards
15 and Training.

16 “(c) The name of the public safety officer contained in county real prop-
17 erty assessment or taxation records. This exemption:

18 “(A) Applies only to the name of the public safety officer and any other
19 owner of the property in connection with a specific property identified by the
20 officer in a request for exemption from disclosure;

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

23 “(C) Applies until the public safety officer requests termination of the
24 exemption;

25 “(D) Does not apply to disclosure of records among public bodies as de-
26 fined in ORS 174.109 for governmental purposes; and

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

30 “(31) Unless the public records request is made by a financial institution,

1 as defined in ORS 706.008, consumer finance company licensed under ORS
2 chapter 725, mortgage banker or mortgage broker licensed under ORS
3 86A.095 to 86A.198, or title company for business purposes, records described
4 in paragraph (a) of this subsection, if the exemption from disclosure of the
5 records is sought by an individual described in paragraph (b) of this sub-
6 section using the procedure described in paragraph (c) of this subsection:

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

10 “(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance,
11 release, satisfaction, substitution of trustee, easement, dog license, marriage
12 license or military discharge record that is in the possession of the county
13 clerk; or

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

15 “(b) The individual claiming the exemption from disclosure must be a
16 district attorney, a deputy district attorney, the Attorney General or an as-
17 sistant attorney general, the United States Attorney for the District of
18 Oregon or an assistant United States attorney for the District of Oregon, a
19 city attorney who engages in the prosecution of criminal matters or a deputy
20 city attorney who engages in the prosecution of criminal matters.

21 “(c) The individual claiming the exemption from disclosure must do so by
22 filing the claim in writing with the public body for which the exemption from
23 disclosure is being claimed on a form prescribed by the public body. Unless
24 the claim is filed with the county clerk, the claim form shall list the public
25 records in the possession of the public body to which the exemption applies.
26 The exemption applies until the individual claiming the exemption requests
27 termination of the exemption or ceases to qualify for the exemption.

28 “(32) The following voluntary conservation agreements and reports:

29 “(a) Land management plans required for voluntary stewardship agree-
30 ments entered into under ORS 541.423; and

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

4 “(33) Sensitive business records or financial or commercial information
5 of the State Accident Insurance Fund Corporation that is not customarily
6 provided to business competitors. This exemption does not:

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

9 “(b) Apply to contracts for advertising, public relations or lobbying ser-
10 vices or to documents related to the formation of such contracts;

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

14 “(d) Provide the basis for opposing the discovery of documents in liti-
15 gation pursuant to the applicable rules of civil procedure.

16 “(34) Records of the Department of Public Safety Standards and Training
17 relating to investigations conducted under ORS 181.662 or 181.878 (6), until
18 the department issues the report described in ORS 181.662 or 181.878.

19 “(35) A medical examiner’s report, autopsy report or laboratory test report
20 ordered by a medical examiner under ORS 146.117.

21 “(36) Any document or other information related to an audit of a public
22 body, as defined in ORS 174.109, that is in the custody of an auditor or audit
23 organization operating under nationally recognized government auditing
24 standards, until the auditor or audit organization issues a final audit report
25 in accordance with those standards or the audit is abandoned. This ex-
26 emption does not prohibit disclosure of a draft audit report that is provided
27 to the audited entity for the entity’s response to the audit findings.

28 “(37)(a) Personally identifiable information collected as part of an elec-
29 tronic fare collection system of a mass transit system.

30 “(b) The exemption from disclosure in paragraph (a) of this subsection

1 does not apply to public records that have attributes of anonymity that are
2 sufficient, or that are aggregated into groupings that are broad enough, to
3 ensure that persons cannot be identified by disclosure of the public records.

4 “(c) As used in this subsection:

5 “(A) ‘Electronic fare collection system’ means the software and hardware
6 used for, associated with or relating to the collection of transit fares for a
7 mass transit system, including but not limited to computers, radio commu-
8 nication systems, personal mobile devices, wearable technology, fare instru-
9 ments, information technology, data storage or collection equipment, or other
10 equipment or improvements.

11 “(B) ‘Mass transit system’ has the meaning given that term in ORS
12 267.010.

13 “(C) ‘Personally identifiable information’ means all information relating
14 to a person that acquires or uses a transit pass or other fare payment me-
15 dium in connection with an electronic fare collection system, including but
16 not limited to:

17 “(i) Customer account information, date of birth, telephone number,
18 physical address, electronic mail address, credit or debit card information,
19 bank account information, Social Security or taxpayer identification number
20 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
23 types or vehicle use, or similar travel information.

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

30 “(a) **Recordings that have been sealed in a court’s record of a court**

1 proceeding or otherwise ordered by a court not to be disclosed may
2 not be disclosed.

3 “(b) A request for disclosure under this subsection must identify the
4 approximate date and time of an incident for which the recordings are
5 requested and be reasonably tailored to include only that material for
6 which a public interest requires disclosure.

7 “SECTION 8. This 2015 Act being necessary for the immediate
8 preservation of the public peace, health and safety, an emergency is
9 declared to exist, and this 2015 Act takes effect on its passage.”.

10
