

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2313**

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

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

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

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

11 “(2) The Oregon Youth Authority and the juvenile department may dis-
12 close and provide copies of reports and other materials relating to the child,
13 ward, youth or youth offender’s history and prognosis, if the disclosure is
14 reasonably necessary to perform official duties relating to the involvement
15 of the child, ward, youth or youth offender with the juvenile court or the
16 juvenile department, to the following:

17 “(a) Each other;

18 “(b) The court;

19 “(c) Service providers in the case;

20 “(d) School superintendents and their designees in cases under ORS
21 419C.005;

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

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

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

4 “(h) The Department of Human Services;

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

6 “(j) The Psychiatric Security Review Board.

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

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

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

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

27 **“[(3)] (4) A person that obtains copies of reports or other materials under**
28 **this section is responsible for preserving the confidentiality of the reports**
29 **or other materials. A service provider, school superintendent or**
30 **superintendent’s designee who obtains copies of reports or other materials**

1 under this section shall destroy the copies upon the conclusion of involve-
2 ment in the case.

3 “[~~(4)(a)~~] **(5)(a)** Information appearing in reports or other materials relat-
4 ing to the child, ward, youth or youth offender’s history or prognosis may
5 not be disclosed directly or indirectly to any person not described in sub-
6 section (2) of this section unless the consent of the child, ward, youth or
7 youth offender or the authorization of the court has been obtained, except
8 for purposes of evaluating the child, ward, youth or youth offender’s eligi-
9 bility for special education as provided in ORS chapter 343.

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

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

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

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

29 “(b) An agency or a person that discloses information under paragraph (a)
30 of this subsection has immunity from any liability, civil or criminal, that

1 might otherwise be incurred or imposed for making the disclosure.

2 “(c) Nothing in this subsection affects the provisions of ORS 146.750,
3 146.760, 419B.035, 419B.040 and 419B.045.

4 “[~~(6)~~] (7) The disclosure of information under this section does not make
5 the information admissible in any court or administrative proceeding if it is
6 not otherwise admissible.

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

9 “419A.257. (1) Reports and other materials relating to a child, ward, youth
10 or youth offender’s history and prognosis that are created or maintained by
11 or on behalf of the Oregon Youth Authority or the juvenile department are
12 privileged and, except with the consent of the child, ward, youth or youth
13 offender or with the authorization of the court, shall be withheld from public
14 inspection.

15 “(2) The Oregon Youth Authority and the juvenile department may dis-
16 close and provide copies of reports and other materials relating to the child,
17 ward, youth or youth offender’s history and prognosis, if the disclosure is
18 reasonably necessary to perform official duties relating to the involvement
19 of the child, ward, youth or youth offender with the juvenile court or the
20 juvenile department, to the following:

21 “(a) Each other;

22 “(b) The court;

23 “(c) Service providers in the case;

24 “(d) School superintendents and their designees in cases under ORS
25 419C.005;

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

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

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

30 “(h) The Department of Human Services;

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

2 “(j) The Psychiatric Security Review Board.

3 “[~~(3)~~(a) *The Oregon Youth Authority and county juvenile departments es-*
4 *tablished under ORS 419A.010 to 419A.020 may disclose and provide copies*
5 *of reports and other materials relating to the child, ward, youth or youth*
6 *offender’s history and prognosis to the Department of Corrections for the pur-*
7 *pose of enabling the Department of Corrections to perform its official duties*
8 *relating to the exercise of custody or supervision of a person committed to the*
9 *legal and physical custody of the Department of Corrections.]*

10 “[~~(b)~~ *The Department of Corrections shall limit the use of reports and other*
11 *materials disclosed and provided to the department under this section to re-*
12 *ports and other materials that relate to the history and prognosis of a youth*
13 *or youth offender as these pertain to:]*

14 “[~~(A)~~ *A person who was transferred to the physical custody of the authority*
15 *under ORS 137.124 and is subsequently transferred to the physical custody of*
16 *the Department of Corrections under ORS 137.124 or 420.011 or any other*
17 *statute; or]*

18 “[~~(B)~~ *A person committed to the legal and physical custody of the Depart-*
19 *ment of Corrections while the person is under the jurisdiction of the juvenile*
20 *court under ORS 419C.005, including but not limited to a person in the legal*
21 *custody of the authority.]*

22 “[~~(4)~~ **(3)** A person that obtains copies of reports or other materials under
23 this section is responsible for preserving the confidentiality of the reports
24 or other materials. A service provider, school superintendent or
25 superintendent’s designee who obtains copies of reports or other materials
26 under this section shall destroy the copies upon the conclusion of involve-
27 ment in the case.

28 “[~~(5)~~(a)] **(4)(a)** Information appearing in reports or other materials relat-
29 ing to the child, ward, youth or youth offender’s history or prognosis may
30 not be disclosed directly or indirectly to any person not described in sub-

1 section (2) of this section unless the consent of the child, ward, youth or
2 youth offender or the authorization of the court has been obtained, except
3 for purposes of evaluating the child, ward, youth or youth offender's eligi-
4 bility for special education as provided in ORS chapter 343.

5 “(b) Information appearing in reports or other materials may not be used
6 in evidence in any proceeding to establish criminal or civil liability against
7 the child, ward, youth or youth offender, whether the proceeding occurs after
8 the child, ward, youth or youth offender has reached 18 years of age or oth-
9 erwise, except for the following purposes:

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

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

15 “[~~(6)(a)~~] **(5)(a)** Information contained in reports and other materials re-
16 lating to a child, ward, youth or youth offender's history and prognosis that,
17 in the professional judgment of the Oregon Youth Authority, juvenile de-
18 partment, juvenile counselor, caseworker, school superintendent or
19 superintendent's designee, teacher or detention worker to whom the infor-
20 mation contained in the reports and other materials has been provided, in-
21 dicates a clear and immediate danger to another person or to society, shall
22 be disclosed to the appropriate authority and the person or entity that is in
23 danger from the child, ward, youth or youth offender.

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

27 “(c) Nothing in this subsection affects the provisions of ORS 146.750,
28 146.760, 419B.035, 419B.040 and 419B.045.

29 “[~~(7)~~] **(6)** The disclosure of information under this section does not make
30 the information admissible in any court or administrative proceeding if it is

1 not otherwise admissible.

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

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

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