

B-Engrossed
House Bill 4074

Ordered by the Senate February 24
Including House Amendments dated February 11 and Senate Amendments
dated February 24

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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 person adjudicated or found responsible except for insanity by juvenile court for act that, if committed by adult, would constitute felony sex crime to report as sex offender if juvenile court or Psychiatric Security Review Board jurisdiction over person ended prior to August 12, 2015, if jurisdiction ended after August 12, 2015, and before the effective date of Act or if ordered by court after hearing.

Directs Oregon Youth Authority or county juvenile department to register certain youth offenders or young persons if youth offender or young person is authorized to report to authority or department.

Directs person required to register as sex offender for adjudication from another United States court to report to Department of State Police, city police department or county sheriff's office, in county of person's residence, instead of department in Marion County.

Modifies court hearing process to determine if person must report as sex offender if person was adjudicated on or after August 12, 2015, or if person was adjudicated prior to August 12, 2015, but juvenile court or board jurisdiction will end after effective date of Act. Provides that person may waive hearing. Modifies timing of records and materials submitted to court for consideration.

Creates notice and hearing procedures for persons who were still under jurisdiction of juvenile court or board on August 12, 2015, but for whom jurisdiction ended after August 12, 2015, and before effective date of Act, to determine whether person must continue to report as sex offender. Requires person to begin reporting no later than 120 days after effective date of Act.

Modifies law regarding inspection or copying of record of case or supplemental confidential file in juvenile court proceeding. Provides procedure for certain persons or entities not authorized to inspect or copy record or file to obtain court order allowing inspection or copying. Applies to juvenile court proceedings pending or commenced before, on or after September 30, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to juveniles; creating new provisions; amending ORS 163A.010, 163A.025, 163A.030,
3 163A.040, 163A.130, 163A.135 and 419A.255; and declaring an emergency.

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

5 **SECTION 1.** ORS 163A.025 is amended to read:

6 163A.025. (1) [*Unless the juvenile court enters an order under ORS 163A.130 or 163A.135 relieving*
7 *a person of the obligation to report as a sex offender, subsections (2) to (4) of this section apply to a*
8 *person*] **A person found to be within the jurisdiction of the juvenile court under ORS 419C.005,**
9 **or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for**
10 **having committed an act that, if committed by an adult, would constitute a felony sex crime**
11 **shall report as a sex offender as described in subsections (2) to (4) of this section, unless the**
12 **juvenile court enters an order under ORS 163A.130 or 163A.135 relieving the person of the**
13 **obligation to report, if:**

14 (a) [*Who*] **The person** has been ordered under ORS 163A.030 to report as a sex offender; [*or*]

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 **(b) The person was adjudicated, and the jurisdiction of the juvenile court or the Psychi-**
2 **atric Security Review Board over the person ended, prior to August 12, 2015;**

3 **(c) The person was adjudicated prior to August 12, 2015, and the jurisdiction of the juve-**
4 **venile court or the Psychiatric Security Review Board over the person ended after August 12,**
5 **2015, and before the effective date of this 2016 Act; or**

6 **[(b)] (d) [Who] The person** has been found in a juvenile adjudication in another United States
7 court to have committed an act while the person was under 18 years of age that would constitute
8 a felony sex crime if committed in this state by an adult.

9 (2) A person described in subsection (1)(a) or (d) of this section, or a person described in
10 subsection (1)(c) of this section who did not make an initial report prior to the effective date
11 of this 2016 Act, who resides in this state shall make an initial report, in person, to the Department
12 of State Police, a city police department or a county sheriff's office as follows:

13 (a) The person shall report no later than 10 days after the date of the [*termination of juvenile*
14 *court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric*
15 *Security Review Board, no later than 10 days after the date the person is discharged from the juris-*
16 *isdiction of the board; or]* **court order requiring the person to report under ORS 163A.030;**

17 (b) If the person is adjudicated for the act giving rise to the obligation to report in another
18 United States court and the person is found to have committed an act that if committed by an adult
19 in this state would constitute:

20 (A) A Class A or Class B felony sex crime:

21 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
22 make the initial report to the Department of State Police [*in Marion County, Oregon,*], **a city police**
23 **department or a county sheriff's office, in the county of the person's residence**, no later than
24 10 days after the date the person moves into this state; or

25 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
26 the initial report to the Department of State Police [*in Marion County, Oregon,*], **a city police de-**
27 **partment or a county sheriff's office, in the county of the person's residence**, no later than
28 10 days after the date the person is discharged, released or placed on probation or any other form
29 of supervised or conditional release by the other United States court or, if the person is confined
30 in a correctional facility by the other United States court, no later than 10 days after the date the
31 person is discharged or otherwise released from the facility.

32 (B) A Class C felony sex crime:

33 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
34 make the initial report to the Department of State Police [*in Marion County, Oregon,*], **a city police**
35 **department or a county sheriff's office, in the county of the person's residence**, no later than
36 six months after the date the person moves into this state; or

37 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
38 the initial report to the Department of State Police [*in Marion County, Oregon,*], **a city police de-**
39 **partment or a county sheriff's office, in the county of the person's residence**, no later than
40 10 days after the date the person is discharged, released or placed on probation or any other form
41 of supervised or conditional release by the other United States court or, if the person is confined
42 in a correctional facility by the other United States court, no later than 10 days after the date the
43 person is discharged or otherwise released from the facility[.]; or

44 **(c) For persons described in subsection (1)(c) of this section who did not make an initial**
45 **report prior to the effective date of this 2016 Act, the person shall report no later than 120**

1 **days after the effective date of this 2016 Act.**

2 (3) After making the initial report described in subsection (2) of this section[,] **or, for a person**
3 **described in subsection (1)(c) of this section who made an initial report prior to the effective**
4 **date of this 2016 Act or a person described in subsection (1)(b) of this section, beginning after**
5 **the effective date of this 2016 Act,** the person shall report, in person, to the Department of State
6 Police, a city police department or a county sheriff's office, in the county of the person's last re-
7 ported residence:

8 (a) Within 10 days of a change of residence;

9 (b) Once each year within 10 days of the person's birth date, regardless of whether the person
10 changed residence;

11 (c) Within 10 days of the first day the person works at, carries on a vocation at or attends an
12 institution of higher education; and

13 (d) Within 10 days of a change in work, vocation or attendance status at an institution of higher
14 education.

15 (4) When a person described in subsection (1) of this section attends school or works in this
16 state, resides in another state and is not otherwise required to report as a sex offender under this
17 section or ORS 163A.010, 163A.015 or 163A.020, the person shall report, in person, to the Depart-
18 ment of State Police, a city police department or a county sheriff's office, in the county in which the
19 person attends school or works, no later than 10 days after:

20 (a) The first day of school attendance or the 14th day of employment in this state; and

21 (b) A change in school enrollment or employment.

22 (5) The agency to which a person reports under this section shall complete a sex offender reg-
23 istration form concerning the person when the person reports under this section.

24 (6) As part of the registration and reporting requirements of this section:

25 (a) The person required to report shall:

26 (A) Provide the information necessary to complete the sex offender registration form and sign
27 the form as required; and

28 (B) Submit to the requirements described in paragraph (b) of this subsection.

29 (b) The Department of State Police, Oregon Youth Authority, county juvenile department, city
30 police department or county sheriff's office:

31 (A) Shall photograph the person when the person initially reports under this section and each
32 time the person reports annually under this section;

33 (B) May photograph the person or any identifying scars, marks or tattoos located on the person
34 when the person reports under any of the circumstances described in this section; and

35 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
36 of the Department of State Police.

37 (7) The obligation to report under this section is terminated if the adjudication that gave rise
38 to the obligation is reversed or vacated.

39 (8) Notwithstanding subsections (2) and (3) of this section:

40 (a) The Oregon Youth Authority may [*register*] **authorize** a youth offender committed to its
41 custody and supervision by order of the juvenile court, or a person placed in its physical custody
42 under ORS 137.124 or any other provision of law, **to report to the authority regardless of the**
43 **youth offender's or the person's last reported residence.**

44 (b) A county juvenile department may [*register*] **authorize** a youth offender or young person, as
45 those terms are defined in ORS 419A.004, **to report to the department, regardless of the county**

1 of the youth offender's or the young person's last reported residence.

2 (c) In the event that a person reports to the authority or the department under this
3 subsection, the authority or the department shall register the person.

4 **SECTION 2.** ORS 163A.030 is amended to read:

5 163A.030. (1)(a) **Except as provided in subsection (6) of this section,** the juvenile court shall
6 hold a hearing on the issue of reporting as a sex offender by a person who has been found to be
7 within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to
8 be responsible except for insanity under ORS 419C.411, for having committed an act that if com-
9 mitted by an adult would constitute a felony sex crime **if:**

10 (A) **The person was adjudicated on or after August 12, 2015; or**

11 (B) **The person was adjudicated before August 12, 2015, and was still under the jurisdic-**
12 **tion of the juvenile court or the Psychiatric Security Review Board on the effective date of**
13 **this 2016 Act.**

14 (b) **Unless the court continues the hearing described in this section for good cause,** the
15 hearing [*described in paragraph (a) of this subsection*] must be held [*during the six-month period be-*
16 *fore*]:

17 (A) **During the six-month period before** the termination of juvenile court jurisdiction over the
18 person; or

19 (B) [*The person is discharged from the jurisdiction of*] **During the six-month period after the**
20 **court receives the notice described in subsection (2) of this section from** the Psychiatric Se-
21 curity Review Board, if the person was placed under the jurisdiction of the board.

22 (c) The court shall notify the person of the person's right to a hearing under this section upon
23 finding the person within the jurisdiction of the juvenile court under ORS 419C.005.

24 [(d)] (2)(a) The county or state agency responsible for supervising the person shall notify the
25 person **and the juvenile court** when the agency determines that termination of jurisdiction [*will*]
26 **is likely to** occur within six months.

27 [(e) *A petition requesting a hearing may be filed under this section by the person within six months*
28 *of the termination date if the date has been set by the court, or within six months of the projected ter-*
29 *mination date provided to the person by the supervising agency.*]

30 (b) **If the Psychiatric Security Review Board discharges a person prior to the end of the**
31 **board's jurisdiction over the person, the board shall notify the juvenile court within three**
32 **business days after the discharge date.**

33 (3) **Upon receipt of the notice described in subsection (2) of this section, the court shall:**

34 (a) **Appoint an attorney for the person as described in subsection (4) of this section;**

35 (b) **Set an initial hearing date; and**

36 (c) **Notify the parties and the juvenile department or the Psychiatric Security Review**
37 **Board, if the department or board is supervising or has jurisdiction over the person, of the**
38 **hearing at least 60 days before the hearing date.**

39 (4)(a) **A person who is the subject of a hearing under this section has the right to be**
40 **represented by a suitable attorney possessing skills and experience commensurate with the**
41 **nature and complexity of the case, to consult with the attorney prior to the hearing and, if**
42 **financially eligible, to have a suitable attorney appointed at state expense.**

43 (b) **In order to comply with the right to counsel under paragraph (a) of this subsection,**
44 **the court may:**

45 (A) **Continue the appointment of the attorney appointed under ORS 419C.200 at the time**

1 **of disposition;**

2 **(B) Set a date prior to the hearing under this section in order to reappoint the attorney**
3 **appointed under ORS 419C.200; or**

4 **(C) Appoint or reappoint an attorney at any time in response to a request by the person**
5 **who is the subject of a hearing under this section.**

6 [(2)] **(5)(a)** The district attorney shall notify the victim prior to the hearing of the right to ap-
7 pear and the right to be heard under ORS 419C.273.

8 **(b) If the person is under the jurisdiction of the Psychiatric Security Review Board, the**
9 **board shall notify the following of the hearing:**

10 **(A) The mental health agency providing services to the person, if any;**

11 **(B) The person's board defense attorney; and**

12 **(C) The assistant attorney general representing the state at board hearings.**

13 **(6)(a) A person may waive the right to the hearing described in this section after con-**
14 **sultation with the person's attorney. If the court finds that the person has knowingly waived**
15 **the right to a hearing, the court shall enter an order requiring the person to report as a sex**
16 **offender under ORS 163A.025.**

17 **(b) If a person fails to appear at a hearing described in this section, the court may enter**
18 **an order requiring the person to report as a sex offender under ORS 163A.025.**

19 [(3)] **(7)** At the hearing described in subsection (1) of this section:

20 (a) The district attorney, the victim, the person and the juvenile [*court counselor*] **department**
21 or a representative of the Oregon Youth Authority shall have an opportunity to be heard.

22 (b) The person who is the subject of the hearing has the burden of proving by clear and con-
23 vincing evidence that the person is rehabilitated and does not pose a threat to the safety of the
24 public. If the court finds that the person has not met the burden of proof, the court shall enter an
25 order requiring the person to report as a sex offender under ORS 163A.025.

26 [(4)] **(8)** In determining whether the person has met the burden of proof, the juvenile court may
27 consider but need not be limited to considering:

28 (a) The extent and impact of any physical or emotional injury to the victim;

29 (b) The nature of the act that subjected the person to the duty of reporting as a sex offender;

30 (c) Whether the person used or threatened to use force in committing the act;

31 (d) Whether the act was premeditated;

32 (e) Whether the person took advantage of a position of authority or trust in committing the act;

33 (f) The age of any victim at the time of the act, the age difference between any victim and the
34 person and the number of victims;

35 (g) The vulnerability of the victim;

36 (h) Other acts committed by the person that would be crimes if committed by an adult and
37 criminal activities engaged in by the person before and after the adjudication;

38 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
39 the victim;

40 (j) The person's willingness to accept personal responsibility for the act and personal account-
41 ability for the consequences of the act;

42 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
43 trauma-related expenses or other efforts to mitigate the effects of the act;

44 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
45 program or any other intervention, and if so the juvenile court may also consider:

- 1 (A) The availability, duration and extent of the treatment activities;
- 2 (B) Reports and recommendations from the providers of the treatment;
- 3 (C) The person's compliance with court, board or supervision requirements regarding treatment;
- 4 and
- 5 (D) The quality and thoroughness of the treatment program;
- 6 (m) The person's academic and employment history;
- 7 (n) The person's use of drugs or alcohol before and after the adjudication;
- 8 (o) The person's history of public or private indecency;
- 9 (p) The person's compliance with and success in completing the terms of supervision;
- 10 (q) The results of psychological examinations of the person;
- 11 (r) The protection afforded the public by *[the continued existence of the]* records **of sex offender**
- 12 **registration**; and
- 13 (s) Any other relevant factors.

14 [(5)] **(9)** In a hearing under this section, the juvenile court may receive testimony, reports and
15 other evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210
16 and 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings
17 required under this section. As used in this subsection, "relevant evidence" has the meaning given
18 that term in ORS 40.150.

19 [(6)(a)] **(10)(a)** In a hearing under this section, *[the juvenile court shall review]* **the Oregon**
20 **Youth Authority or the juvenile department, if either agency is supervising the person, or**
21 **the Psychiatric Security Review Board, if the board has jurisdiction over the person, shall**
22 **file with the juvenile court the following records and materials in the possession of the**
23 **agency or board at least 45 days prior to the hearing unless good cause is shown:**

24 (A) Evaluations and treatment records concerning the person conducted by a clinician or pro-
25 gram operating under the standards of practice for the evaluation and treatment of juvenile sex
26 offenders adopted by the Sex Offender Treatment Board under ORS 675.400, and recommendations
27 contained therein regarding the need for the person to register in order to protect the public from
28 future sex crimes; *[and]*

29 (B) All examination preparation material and examination records from polygraph examinations
30 conducted by or for the treatment provider, juvenile department or Oregon Youth Authority[.]; **and**

31 **(C) The Psychiatric Security Review Board exhibit file.**

32 (b) Any records and materials *[to be reviewed by]* **filed with** the court under this subsection shall
33 be *[released and disclosed to the court, district attorney, person's attorney and to the Oregon Youth*
34 *Authority or juvenile department that is responsible for the supervision of the person,]* **made available**
35 *[no less than 15 days prior to any hearing held under this section]* **to the parties in accordance**
36 **with ORS 419A.255.**

37 [(7)] **(11)** When the juvenile court enters an order described in subsection [(3)(b)] **(7)(b)** of this
38 section, the court shall ensure that the person completes a form that documents the person's obli-
39 gation to report under ORS 163A.025. No later than three business days after the person completes
40 the form required by this subsection, the court shall ensure that the form is sent to the Department
41 of State Police.

42 [(8)(a)] *A person who is the subject of a hearing under this section has the right to be represented*
43 *by suitable legal counsel possessing skills and experience commensurate with the nature and complexity*
44 *of the case, to consult with counsel prior to the hearing and, if financially eligible, to have suitable*
45 *counsel appointed at state expense.]*

1 *[(b) In order to comply with the right to counsel under paragraph (a) of this subsection, the court*
2 *may:]*

3 *[(A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of dis-*
4 *position;]*

5 *[(B) Set a date prior to the hearing under this section in order to reappoint the attorney appointed*
6 *under ORS 419C.200; or]*

7 *[(C) Appoint or reappoint an attorney at any time in response to a request by the person who is*
8 *the subject of a hearing under this section.]*

9 [(9)] (12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdiction
10 over a person for purposes of this section.

11 (13) As used in this section, “parties” means the person, the state as represented by the
12 district attorney or the juvenile department, and the Oregon Youth Authority or other child
13 care agency, if the person is temporarily committed to the authority or agency.

14 **SECTION 3.** (1) A person found to be within the jurisdiction of the juvenile court under
15 ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS
16 419C.411, for having committed an act that, if committed by an adult, would constitute a
17 felony sex crime, who was adjudicated before August 12, 2015, and was still under the juris-
18 diction of the juvenile court on August 12, 2015, and who ceased to be under the jurisdiction
19 of the juvenile court before the effective date of this 2016 Act, is entitled to a hearing on the
20 issue of reporting as a sex offender as described in this section.

21 (2)(a) A county or state agency that was responsible for supervising or that had juris-
22 diction over a person described in subsection (1) of this section while the person was under
23 juvenile court or Psychiatric Security Review Board jurisdiction shall, within 90 days of the
24 effective date of this 2016 Act:

25 (A) Send written notice of the right to a hearing to the last-known address of the person
26 and to the person’s most recent attorney of record, if available. The notice shall inform the
27 person that, in order to have a hearing, the person must file a written request for the
28 hearing with the juvenile court. The notice must also inform the person that the person shall
29 report as required under ORS 163A.025 beginning 120 days after the effective date of this 2016
30 Act.

31 (B) Send written notice to the juvenile court identifying the person.

32 (b) Upon receiving the notice described in paragraph (a) of this subsection, the court
33 shall appoint an attorney for the person for the limited purpose of assisting the person to
34 decide whether to file, and to file, a request for a hearing under this section.

35 (3) Upon receiving a written request from a person for a hearing under this section, and
36 after confirming the person’s eligibility for the hearing, the court shall:

37 (a) Appoint an attorney for the person in accordance with ORS 163A.030 (4);

38 (b) Set an initial hearing date within six months after receiving the request; and

39 (c) Notify the parties and the juvenile department or the Psychiatric Security Review
40 Board, if the department or board supervised or had jurisdiction over the person, of the
41 hearing date.

42 (4)(a) The district attorney shall notify the victim prior to a hearing under this section
43 of the right to appear and the right to be heard under ORS 419C.273.

44 (b) If the person was under the jurisdiction of the Psychiatric Security Review Board, the
45 board shall notify the following of the hearing:

1 (A) The mental health agency providing services to the person, if any;

2 (B) The person's board defense attorney; and

3 (C) The assistant attorney general representing the state at board hearings.

4 (5) A person may waive the right to the hearing described in this section after consul-
5 tation with the person's attorney. If the court finds that the person has knowingly waived
6 the right to a hearing, the court shall enter an order requiring the person to report as a sex
7 offender as required under ORS 163A.025 and shall send a certified copy of the order to the
8 Department of State Police.

9 (6) At the hearing described in subsection (1) of this section:

10 (a) The district attorney, the victim, the person and the juvenile department or a repre-
11 sentative of the Oregon Youth Authority shall have an opportunity to be heard.

12 (b) The person who is the subject of the hearing has the burden of proving by clear and
13 convincing evidence that the person is rehabilitated and does not pose a threat to the safety
14 of the public. If the court finds that the person has not met the burden of proof, the court
15 shall enter an order requiring the person to report as a sex offender as required under ORS
16 163A.025.

17 (7) In determining whether the person has met the burden of proof, the juvenile court
18 may consider but need not be limited to considering:

19 (a) The extent and impact of any physical or emotional injury to the victim;

20 (b) The nature of the act that subjected the person to the duty of reporting as a sex
21 offender;

22 (c) Whether the person used or threatened to use force in committing the act;

23 (d) Whether the act was premeditated;

24 (e) Whether the person took advantage of a position of authority or trust in committing
25 the act;

26 (f) The age of any victim at the time of the act, the age difference between any victim
27 and the person, and the number of victims;

28 (g) The vulnerability of the victim;

29 (h) Other acts committed by the person that would be crimes if committed by an adult
30 and criminal activities engaged in by the person before and after the adjudication;

31 (i) Statements, documents and recommendations by or on behalf of the victim or the
32 parents of the victim;

33 (j) The person's willingness to accept personal responsibility for the act and personal
34 accountability for the consequences of the act;

35 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
36 trauma-related expenses or other efforts to mitigate the effects of the act;

37 (L) Whether the person has participated in and satisfactorily completed a sex offender
38 treatment program or any other intervention and, if so, the juvenile court may also consider:

39 (A) The availability, duration and extent of the treatment activities;

40 (B) Reports and recommendations from the providers of the treatment;

41 (C) The person's compliance with court, board or supervision requirements regarding
42 treatment; and

43 (D) The quality and thoroughness of the treatment program;

44 (m) The person's academic and employment history;

45 (n) The person's use of drugs or alcohol before and after the adjudication;

- 1 (o) The person's history of public or private indecency;
- 2 (p) The person's compliance with and success in completing the terms of supervision;
- 3 (q) The results of psychological examinations of the person;
- 4 (r) The protection afforded the public by records of sex offender registration; and
- 5 (s) Any other relevant factors.

6 (8) In a hearing under this section, the juvenile court may receive testimony, reports and
7 other evidence, without regard to whether the evidence is admissible under ORS 40.010 to
8 40.210 and 40.310 to 40.585, if the evidence is relevant evidence, as defined in ORS 40.150, re-
9 lated to the determination and findings required under this section.

10 (9)(a) In a hearing under this section, the Oregon Youth Authority or the juvenile de-
11 partment, if either agency supervised the person, or the Psychiatric Security Review Board,
12 if the board had jurisdiction over the person, shall file with the juvenile court the following
13 records and materials in the possession of the agency or board at least 45 days prior to the
14 hearing unless good cause is shown:

15 (A) Evaluations and treatment records concerning the person conducted or maintained
16 by a clinician or program operating under the standards of practice for the evaluation and
17 treatment of juvenile sex offenders adopted by the Sex Offender Treatment Board under ORS
18 675.400, and recommendations contained in the evaluations and treatment records regarding
19 the need for the person to register in order to protect the public from future sex crimes;

20 (B) All examination preparation material and examination records from polygraph ex-
21 aminations conducted by or for the treatment provider, juvenile department or Oregon
22 Youth Authority; and

23 (C) The Psychiatric Security Review Board exhibit file.

24 (b) Any records and materials filed with the court under this subsection shall be made
25 available to the parties in accordance with ORS 419A.255.

26 (10) When the juvenile court enters an order described in subsection (5) or (6)(b) of this
27 section, the court shall ensure that the person completes a form that documents the
28 person's obligation to report under ORS 163A.025. No later than three business days after the
29 person completes the form required by this subsection, the court shall ensure that the form
30 is sent to the Department of State Police.

31 (11) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdic-
32 tion over a person for purposes of this section.

33 (12) If the court finds that the person has met the burden of proof as described in sub-
34 section (6)(b) of this section, the court shall enter an order that the person is not required
35 to report as a sex offender and shall send a certified copy of the order to the Department
36 of State Police.

37 (13) If the court has not received a written request for a hearing prior to July 1, 2018,
38 the person may not request a hearing under this section.

39 (14) As used in this section, "parties" means the person, the state as represented by the
40 district attorney or the juvenile department, and the Oregon Youth Authority or other child
41 care agency, if the person was committed to the authority or agency.

42 **SECTION 4.** ORS 163A.010 is amended to read:

43 163A.010. (1) The agency to which a person reports under subsection (3) of this section shall
44 complete a sex offender registration form concerning the person when the person reports under
45 subsection (3) of this section.

1 (2) Subsection (3) of this section applies to a person who:

2 (a) Is discharged, paroled or released on any form of supervised or conditional release from a
3 jail, prison or other correctional facility or detention facility in this state at which the person was
4 confined as a result of:

5 (A) Conviction of a sex crime or a crime for which the person would have to register as a sex
6 offender under federal law; or

7 (B) Having been found guilty except for insanity of a sex crime;

8 (b) Is paroled to this state under ORS 144.610 after being convicted in another United States
9 court of a crime:

10 (A) That would constitute a sex crime if committed in this state; or

11 (B) For which the person would have to register as a sex offender in that court's jurisdiction,
12 or as required under federal law, regardless of whether the crime would constitute a sex crime in
13 this state; or

14 (c) Is discharged by the court under ORS 161.329 after having been found guilty except for in-
15 sanity of a sex crime.

16 (3)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-
17 ment of State Police, a city police department or a county sheriff's office, in the county to which the
18 person was discharged, paroled or released or in which the person was otherwise placed:

19 (A) Within 10 days following discharge, release on parole, post-prison supervision or other
20 supervised or conditional release;

21 (B) Within 10 days of a change of residence;

22 (C) Once each year within 10 days of the person's birth date, regardless of whether the person
23 changed residence;

24 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
25 institution of higher education; and

26 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
27 education.

28 (b) If a person required to report under this subsection has complied with the initial reporting
29 requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in per-
30 son, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the De-
31 partment of State Police, a city police department or a county sheriff's office, in the county of the
32 person's last reported residence.

33 (c) Notwithstanding paragraphs (a) and (b) of this subsection, during the period of supervision
34 or custody authorized by law, the Oregon Youth Authority may [*register*] **authorize** a youth offender
35 committed to its supervision and custody by order of the juvenile court or a person placed in its
36 physical custody under ORS 137.124 or any other provision of law **to report to the authority re-
37 gardless of the youth offender's or the person's last reported residence.**

38 **(d) In the event that a person reports to the authority under this subsection, the au-
39 thority shall register the person.**

40 [*d*] (e) The obligation to report under this subsection terminates if the conviction or adjudi-
41 cation that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

42 (4) As part of the registration and reporting requirements of this section:

43 (a) The person required to report shall:

44 (A) Provide the information necessary to complete the sex offender registration form and sign
45 the form as required; and

1 (B) Submit to the requirements described in paragraph (b) of this subsection.

2 (b) The Department of State Police, Oregon Youth Authority, city police department or county
3 sheriff's office:

4 (A) Shall photograph the person when the person initially reports under this section and each
5 time the person reports annually under this section;

6 (B) May photograph the person or any identifying scars, marks or tattoos located on the person
7 when the person reports under any of the circumstances described in this section; and

8 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
9 of the Department of State Police.

10 **SECTION 4a.** ORS 163A.040 is amended to read:

11 163A.040. (1) A person who is required to report as a sex offender in accordance with the ap-
12 plicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025 and who has knowledge of the
13 reporting requirement commits the crime of failure to report as a sex offender if the person:

14 (a) Fails to make the initial report to an agency;

15 (b) Fails to report when the person works at, carries on a vocation at or attends an institution
16 of higher education;

17 (c) Fails to report following a change of school enrollment or employment status, including en-
18 rollment, employment or vocation status at an institution of higher education;

19 (d) Moves to a new residence and fails to report the move and the person's new address;

20 (e) Fails to make an annual report;

21 (f) Fails to provide complete and accurate information;

22 (g) Fails to sign the sex offender registration form as required;

23 (h) Fails or refuses to participate in a sex offender risk assessment as directed by the State
24 Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health
25 Authority or supervisory authority; or

26 (i) Fails to submit to fingerprinting or to having a photograph taken of the person's face, iden-
27 tifying scars, marks or tattoos.

28 (2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this
29 section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025
30 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department
31 of State Police, a city police department or a county sheriff's office, in the county of the person's
32 new residence, if the person otherwise complied with all reporting requirements.

33 (b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this
34 section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in
35 person, to the Department of State Police[, *a city police department or a county sheriff's office, in the*
36 *county of the person's new residence*] **in Marion County, Oregon**, within 10 days of moving into this
37 state.

38 (c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this
39 section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in
40 person, to the Department of State Police[, *a city police department or a county sheriff's office, in the*
41 *county of the person's new residence*] **in Marion County, Oregon**, within six months of moving into
42 this state.

43 (d) It is an affirmative defense to a charge of failure to report under subsection (1) of this sec-
44 tion by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) [*or (3)*] that the person
45 reported, in person, to the Department of State Police[, *a city police department or a county sheriff's*

1 *office, in the county of the person's residence]* **in Marion County, Oregon**, if the person otherwise
2 complied with all reporting requirements.

3 **(e) It is an affirmative defense to a charge of failure to report under subsection (1) of this**
4 **section by a person required to report under ORS 163A.025 (3) that the person reported, in**
5 **person, to the Department of State Police, a city police department or a county sheriff's of-**
6 **ice, in the county of the person's residence, if the person otherwise complied with all re-**
7 **porting requirements.**

8 [(e)] **(f)** It is an affirmative defense to a charge of failure to report under subsection (1) of this
9 section by a person required to report under ORS 163A.010 (3) that the person reported to the
10 Oregon Youth Authority if the person establishes that the authority registered the person under
11 ORS 163A.010 (3)(c).

12 [(f)] **(g)** It is an affirmative defense to a charge of failure to report under subsection (1) of this
13 section by a person required to report under ORS 163A.025 (2) or (3) that the person reported to the
14 Oregon Youth Authority or a county juvenile department if the person establishes that the authority
15 or department registered the person under ORS 163A.025 (8).

16 (3)(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report as a sex
17 offender is a Class A misdemeanor.

18 (b) Failure to report as a sex offender is a Class C felony if the person violates:

19 (A) Subsection (1)(a) of this section; or

20 (B) Subsection (1)(b), (c), (d) or (g) of this section and the crime for which the person is required
21 to report is a felony.

22 (4) A person who fails to sign and return an address verification form as required by ORS
23 163A.035 (4) commits a violation.

24 **SECTION 5.** ORS 163A.130 is amended to read:

25 163A.130. (1) A person required to report as a sex offender under ORS 163A.025 (1)(a), **(b) or**
26 **(c)**, or required to report as a sex offender under the laws of another state as a result of an adju-
27 dication in an Oregon juvenile court, may file a petition for an order relieving the person of the
28 obligation to report. The person must pay the filing fee established under ORS 21.135. If the person
29 resides:

30 (a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be
31 filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

32 (b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed
33 in the juvenile court in the county in which the person attends school or works.

34 (c) In another state and is required to report under the laws of the other state, the petition must
35 be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

36 (2) If the act giving rise to the obligation to report would constitute:

37 (a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed
38 no sooner than two years after the termination of juvenile court jurisdiction over the person or, if
39 the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than
40 two years after the person is discharged from the jurisdiction of the board.

41 (b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than
42 30 days before the termination of juvenile court jurisdiction over the person or, if the person is
43 placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days be-
44 fore the person is discharged from the jurisdiction of the board.

45 (3)(a) The juvenile court in which a petition under this section is filed may transfer the matter

1 to the juvenile court of the county that last supervised the person if the court determines that the
2 convenience of the parties, the victim and witnesses require the transfer.

3 (b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

4 (c) The person, the district attorney and the juvenile department are parties to a hearing on a
5 petition filed under this section.

6 (4) The person filing the petition has the burden of proving by clear and convincing evidence
7 that the person is rehabilitated and does not pose a threat to the safety of the public. In determining
8 whether the person has met the burden of proof, the juvenile court may consider but need not be
9 limited to considering:

10 (a) The extent and impact of any physical or emotional injury to the victim;

11 (b) The nature of the act that subjected the person to the obligation of reporting as a sex
12 offender;

13 (c) Whether the person used or threatened to use force in committing the act;

14 (d) Whether the act was premeditated;

15 (e) Whether the person took advantage of a position of authority or trust in committing the act;

16 (f) The age of any victim at the time of the act, the age difference between any victim and the
17 person and the number of victims;

18 (g) The vulnerability of the victim;

19 (h) Other acts committed by the person that would be crimes if committed by an adult and
20 criminal activities engaged in by the person before and after the adjudication;

21 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
22 the victim;

23 (j) The person's willingness to accept personal responsibility for the act and personal account-
24 ability for the consequences of the act;

25 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
26 trauma-related expenses or other efforts to mitigate the effects of the act;

27 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
28 program or any other intervention, and if so the juvenile court may also consider:

29 (A) The availability, duration and extent of the treatment activities;

30 (B) Reports and recommendations from the providers of the treatment;

31 (C) The person's compliance with court, board or supervision requirements regarding treatment;
32 and

33 (D) The quality and thoroughness of the treatment program;

34 (m) The person's academic and employment history;

35 (n) The person's use of drugs or alcohol before and after the adjudication;

36 (o) The person's history of public or private indecency;

37 (p) The person's compliance with and success in completing the terms of supervision;

38 (q) The results of psychological examinations of the person;

39 (r) The protection afforded the public by the continued existence of the records; and

40 (s) Any other relevant factors.

41 (5) In a hearing under this section, the juvenile court may receive testimony, reports and other
42 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and
43 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this
44 section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS
45 40.150.

1 (6) When a petition is filed under this section, the state has the right to have a psychosexual
2 evaluation of the person conducted. The state shall file notice with the juvenile court of its intention
3 to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile
4 court for good cause shown may direct the state to select a different evaluator.

5 (7) As soon as practicable after a petition has been filed under this section, the district attorney
6 or juvenile department shall make a reasonable effort to notify the victim of the crime that the
7 person has filed a petition seeking relief under this section and, if the victim has requested, to in-
8 form the victim of the date, time and place of a hearing on the petition in advance of the hearing.

9 (8)(a) When a petition filed under this section is filed:

10 (A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security
11 Review Board or less than three years after the date the jurisdiction is terminated, the court shall
12 hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

13 (B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the
14 court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

15 (b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court
16 may extend the period of time in which a hearing on the petition must be held.

17 (9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated
18 and does not pose a threat to the safety of the public, the court shall grant the petition.

19 (b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed
20 under this section before the date the juvenile court or board jurisdiction over the person is termi-
21 nated.

22 (10) When a juvenile court enters an order relieving a person of the requirement to report under
23 ORS 163A.025, the person shall send a certified copy of the juvenile court order to the Department
24 of State Police.

25 (11) If a person commits an act that could be charged as a sex crime listed in ORS 137.707 and
26 the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person
27 may stipulate that the person may not petition for relief under this section as part of an agreement
28 that the person be subject to the jurisdiction of the juvenile court rather than being prosecuted as
29 an adult under ORS 137.707.

30 (12) When a petition is filed under subsection (2)(b) of this section before the termination of ju-
31 venile court or board jurisdiction, if the person, or the parent or guardian of the person if the person
32 is less than 18 years of age, requests counsel and is without sufficient financial means to employ
33 suitable counsel to represent the person, for purposes of the petition described in this section, the
34 court shall appoint suitable counsel to represent the person. Appointment of counsel under this
35 subsection is subject to ORS 419C.200, 419C.203, 419C.206 and 419C.209.

36 **SECTION 6.** ORS 163A.135 is amended to read:

37 163A.135. (1) Except as provided in subsection (7) of this section, a person required to report
38 under ORS 163A.025 [(1)(b)] (1)(d) may file a petition in the juvenile court for an order relieving the
39 person of the duty to report. The person must pay the filing fee established under ORS 21.135. If the
40 person resides:

41 (a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be
42 filed in the juvenile court of the county in which the person resides.

43 (b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed
44 in the juvenile court of the county in which the person attends school or works.

45 (2) If the act giving rise to the obligation to report would constitute:

1 (a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition
2 may be filed no sooner than two years after the termination of the other United States court's ju-
3 risdiction over the person.

4 (b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed
5 no sooner than 30 days before the termination of the other United States court's jurisdiction over
6 the person.

7 (3) The person filing the petition must submit with the petition all releases and waivers neces-
8 sary to allow the district attorney for the county in which the petition is filed to obtain the fol-
9 lowing documents from the jurisdiction in which the person was adjudicated for the act for which
10 reporting is required:

11 (a) The juvenile court petition;

12 (b) The dispositional report to the court;

13 (c) The order of adjudication or jurisdiction;

14 (d) Any other relevant court documents;

15 (e) The police report relating to the act for which reporting is required;

16 (f) The order terminating jurisdiction for the act for which reporting is required; and

17 (g) The evaluation and treatment records or reports of the person that are related to the act for
18 which reporting is required.

19 (4) A person filing a petition under this section has the burden of proving by clear and con-
20 vincing evidence that the person is rehabilitated and does not pose a threat to the safety of the
21 public.

22 (5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the
23 petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

24 (6) If a person who files a petition under this section is required to report as a sex offender for
25 having committed an act that if committed in this state could have subjected the person to prose-
26 cution as an adult under ORS 137.707, the court may not grant the petition notwithstanding the fact
27 that the person has met the burden of proof established in subsection (4) of this section unless the
28 court determines that to do so is in the interest of public safety.

29 (7) This section does not apply to a person who is required to register as a sex offender for life
30 in the jurisdiction in which the offense occurred.

31 (8) In a hearing under this section, the court may receive testimony, reports and other evidence
32 without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to
33 40.585 if the evidence is relevant to the determination and findings required under this section. As
34 used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

35 (9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and
36 that the person does not pose a threat to the safety of the public, the court shall enter an order
37 relieving the person of the duty to report. When the court enters an order under this subsection, the
38 person shall send a certified copy of the court order to the Department of State Police.

39 **SECTION 7.** ORS 419A.255, as amended by section 11, chapter 417, Oregon Laws 2013, section
40 8, chapter 439, Oregon Laws 2013, section 3, chapter 71, Oregon Laws 2014, and section 2, chapter
41 293, Oregon Laws 2015, is amended to read:

42 419A.255. (1)(a) The clerk of the court shall maintain a record of each case and a supplemental
43 confidential file for each case, except as otherwise provided in ORS 7.120.

44 (b) The record of the case shall be withheld from public inspection but is open to inspection by
45 the following:

- 1 (A) The judge of the juvenile court and those acting under the judge's direction;
2 (B) The child;
3 (C) The ward;
4 (D) The youth;
5 (E) The youth offender;
6 (F) The parent or guardian of the child, ward, youth or youth offender;
7 (G) The guardian ad litem for the parent;
8 (H) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
9 offender;
10 (I) The court appointed special advocate, and a representative of a CASA Volunteer Program
11 as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court
12 appointed special advocates;
13 (J) The attorneys or prospective appellate attorneys for any of the persons listed in subpara-
14 graphs (B) to (I) of this paragraph;
15 (K) The surrogate;
16 (L) Service providers in the case;
17 (M) The district attorney or assistant attorney general representing a party in the case;
18 (N) The juvenile department;
19 (O) The Department of Human Services;
20 (P) The Oregon Youth Authority; and
21 (Q) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act**.
22 (c) The following are entitled to copies of the record of the case:
23 (A) The judge of the juvenile court and those acting under the judge's direction;
24 (B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);
25 (C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under
26 ORS 419B.875 (2) or 419C.285 (2);
27 (D) Persons listed in paragraph (b)(J) to (P) of this subsection; and
28 (E) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act**.
29 (2)(a) Reports and other material relating to the child, ward, youth or youth offender's history
30 and prognosis in the record of the case or the supplemental confidential file are privileged and, ex-
31 cept at the request of the child, ward, youth or youth offender, shall be withheld from public in-
32 spection except that inspection is permitted as set forth in subsection (1)(b) of this section and
33 paragraph (b) of this subsection. The offer or admission of reports and other material in the record
34 of the case or the supplemental confidential file as exhibits in a hearing or trial does not waive or
35 otherwise change the privileged status of the reports and other material, except for purposes of the
36 hearing or trial in which the reports and other material are offered or admitted. Once offered as
37 an exhibit, reports and other material relating to the child, ward, youth or youth offender's history
38 and prognosis that were maintained in the supplemental confidential file become part of the record
39 of the case but are subject to paragraph (e) of this subsection.
40 (b) A supplemental confidential file is open to inspection by the following:
41 (A) The judge of the juvenile court and those acting under the judge's direction;
42 (B) The parent or guardian of the child or ward in a dependency case;
43 (C) The guardian ad litem for the parent of a child or ward in a dependency case;
44 (D) The parent or guardian of the youth or youth offender in a delinquency case if the youth
45 or youth offender consents to, or the court authorizes, inspection;

1 (E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if
2 the youth or youth offender consents to, or the court authorizes, inspection;

3 (F) A person allowed to intervene in a proceeding involving the child, ward, youth or youth
4 offender;

5 (G) The court appointed special advocate, and a representative of a CASA Volunteer Program
6 as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court
7 appointed special advocates;

8 (H) The surrogate;

9 (I) Service providers in the case;

10 (J) The attorneys or prospective appellate attorneys for:

11 (i) The child;

12 (ii) The ward;

13 (iii) The youth;

14 (iv) The youth offender;

15 (v) The parent or guardian of the child, ward, youth or youth offender;

16 (vi) The guardian ad litem for the parent;

17 (vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency
18 case; or

19 (viii) The court appointed special advocate and a representative of a CASA Volunteer Program
20 as defined in ORS 458.580;

21 (K) The district attorney or assistant attorney general representing a party in the case;

22 (L) The juvenile department;

23 (M) The Department of Human Services;

24 (N) The Oregon Youth Authority; and

25 (O) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act**.

26 (c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the su-
27 perintendent of the school district in which the youth offender resides or the superintendent's
28 designee.

29 (d) The following are entitled to copies of material maintained in the supplemental confidential
30 file:

31 (A) The judge of the juvenile court and those acting under the judge's direction;

32 (B) Service providers in the case;

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

34 (D) Attorneys designated under subsection (2)(b)(J) of this section;

35 (E) The district attorney or assistant attorney general representing a party in the case;

36 (F) The juvenile department;

37 (G) The Department of Human Services;

38 (H) The Oregon Youth Authority;

39 (I) The court appointed special advocate, and a representative of a CASA Volunteer Program
40 as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court
41 appointed special advocates; and

42 (J) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act**.

43 (e) A person that obtains copies of material in the supplemental confidential file pursuant to
44 paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in
45 the supplemental confidential file. A service provider, school superintendent or superintendent's

1 designee who obtains copies of such material shall destroy the copies upon the conclusion of in-
2 volvement in the case.

3 (3) Except as otherwise provided in subsection (5) of this section, no information appearing in
4 the record of the case or in the supplemental confidential file may be disclosed to any person not
5 described in subsections (1)(b) and (2)(b) of this section, respectively, without the consent of the
6 court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for
7 special education as provided in ORS chapter 343, and no such information may be used in evidence
8 in any proceeding to establish criminal or civil liability against the child, ward, youth or youth
9 offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached
10 18 years of age or otherwise, except for the following purposes:

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

13 (b) In connection with a proceeding in another juvenile court concerning the child, ward, youth
14 or youth offender or an appeal from the juvenile court.

15 (4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or
16 obtains copies of reports, materials or documents under this subsection or under subsection (1) or
17 (2) of this section, the person may not use or disclose the reports, materials or documents, except:

18 (A) As provided in this subsection or under subsection (1) or (2) of this section;

19 (B) In the juvenile court proceeding for which the reports, materials or documents were sought
20 or disclosed;

21 (C) With the consent of the court; or

22 (D) As provided in ORS 419A.253.

23 (b) Nothing in this section prohibits the district attorney or assistant attorney general repre-
24 senting a party in a juvenile court proceeding, the juvenile department, the Department of Human
25 Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from
26 disclosing to each other reports, materials or documents described in subsections (1) and (2) of this
27 section if the disclosure is reasonably necessary to perform official duties related to the involvement
28 of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A
29 person to whom reports, materials or documents are disclosed under this subsection is subject to
30 subsection (3) of this section.

31 (5)(a) Information contained in the supplemental confidential file that, in the professional judg-
32 ment of the juvenile counselor, caseworker, school superintendent or superintendent's designee,
33 teacher or detention worker to whom the information in the supplemental confidential file has been
34 provided, indicates a clear and immediate danger to another person or to society shall be disclosed
35 to the appropriate authority and the person who is in danger from the child, ward, youth or youth
36 offender.

37 (b) A person that discloses information under paragraph (a) of this subsection has immunity from
38 any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclo-
39 sure.

40 (c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
41 and 419B.045. The disclosure of information under this subsection does not make the information
42 admissible in any court or administrative proceeding if it is not otherwise admissible.

43 (6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the
44 following are not confidential and not exempt from disclosure:

45 (a) The name and date of birth of the youth or youth offender;

1 (b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

2 (c) The date, time and place of any juvenile court proceeding in which the youth or youth
3 offender is involved;

4 (d) The act alleged in the petition that if committed by an adult would constitute a crime if ju-
5 risdiction is based on ORS 419C.005;

6 (e) That portion of the juvenile court order providing for the legal disposition of the youth or
7 youth offender when jurisdiction is based on ORS 419C.005;

8 (f) The names and addresses of the youth or youth offender's parents or guardians; and

9 (g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

10 (7) Notwithstanding any other provision of law, and subject to subsection (8) of this section,
11 when a youth has been taken into custody under ORS 419C.080, the following information shall be
12 disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of
13 a specific investigation, including the need to protect the complaining party or the victim:

14 (a) The youth's name and age and whether the youth is employed or in school;

15 (b) The youth offense for which the youth was taken into custody;

16 (c) The name and age of the adult complaining party and the adult victim, unless the disclosure
17 of such information is otherwise prohibited or restricted;

18 (d) The identity of the investigating and arresting agency; and

19 (e) The time and place that the youth was taken into custody and whether there was resistance,
20 pursuit or a weapon used in taking the youth into custody.

21 (8) Except as provided in ORS 419A.300 and unless otherwise directed by the court, only the
22 juvenile court, the county juvenile department and the Oregon Youth Authority may disclose the
23 information under subsections (6) and (7) of this section if the information is subject to disclosure.
24 The youth authority may disclose only information relating to youth offenders committed to the
25 youth authority by order of the juvenile court if the information is subject to disclosure under sub-
26 section (6) or (7) of this section.

27 (9) Nothing in this section limits access to any juvenile court records by an appellate court re-
28 viewing a juvenile court order or judgment. Appellate court rules may establish procedures for ap-
29 pellate court access to juvenile records.

30 (10) Nothing in this section prohibits the court from providing to the administrator as defined
31 in ORS 25.010 the date of entry of a judgment terminating parental rights or the date of entry of a
32 judgment terminating wardship following entry of a judgment of adoption together with the names
33 and dates of birth of the parents and children subject to the judgment.

34 (11) In addition to any other provision in this section, the Judicial Department may permit
35 county or statewide access to juvenile court records or information by county juvenile departments,
36 the Department of Human Services, the Oregon Youth Authority, district attorney offices, the office
37 of the Attorney General, the office of public defense services, prospective appellate attorneys or
38 public defense providers subject to the following restrictions:

39 (a) A prospective appellate attorney or public defense provider granted access under this sub-
40 section must agree, pursuant to a written agreement with the Judicial Department, to access:

41 (A) Party information only for purposes of conflicts screening procedures; and

42 (B) Other records or information about a client only as reasonably necessary for the represen-
43 tation of that client in any juvenile case in which the client is a party, subject to applicable state
44 and federal confidentiality laws.

45 (b) Any other person or entity granted access under this subsection must agree, pursuant to a

1 written agreement with the department, to access records or information only as authorized and
2 allowed by this section, subject to applicable state and federal confidentiality laws.

3 (c) The State Court Administrator shall prescribe standards and procedures to implement the
4 provisions of this subsection.

5 (d) Any person or entity granted access to juvenile court records or information under this
6 subsection must preserve the confidentiality of that information as required under this section.

7 (12) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within
8 the jurisdiction of the court, or a motion requesting an implementation plan other than return of a
9 ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country
10 as provided under ORS 419B.851 (3).

11 (13) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from
12 disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a
13 guardian.

14 (14) The court shall cooperate in the sharing of information with a court in another state to
15 facilitate an interstate placement of a child or ward.

16 (15) Nothing in this section prohibits the Chief Justice of the Supreme Court, the Chief Judge
17 of the Court of Appeals or a presiding judge from permitting access to juvenile court records, in-
18 cluding the record of the case and the supplemental confidential file in a juvenile court proceeding,
19 or audio or video recordings of a juvenile court proceeding, by researchers or evaluators for the
20 purposes of developing statistics and performing analyses or audits on the effectiveness, cost and
21 other areas of public interest regarding juvenile court programs and activities in accordance with
22 child welfare and juvenile justice state plans and programs related to Title IV-B and IV-E of the
23 Social Security Act and to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq).
24 The Chief Justice shall, by rule or order, establish standards and guidelines for the release of juve-
25 nile court information for research and evaluation purposes to ensure confidentiality consistent with
26 state and federal law and to promote consistent statewide application of this subsection. Statistics
27 and analyses released by researchers and evaluators under this subsection may not contain any in-
28 formation that identifies any individual person involved in a juvenile court proceeding.

29 **(16) Subject to subsection (11) of this section, the office of public defense services shall**
30 **be permitted access to juvenile court records for the purposes of performing the office's**
31 **duties as set forth in ORS 151.219 to audit or investigate attorney appointment or represen-**
32 **tation of a party in a juvenile court proceeding in order to ensure adequate representation**
33 **of parties in juvenile court proceedings consistent with the child welfare state plan related**
34 **to Title IV-E of the Social Security Act.**

35 **(17) Subject to subsection (11) of this section, the Oregon State Bar shall be permitted**
36 **access to juvenile court records maintained in the record of the case for the purpose of**
37 **performing the bar's duties as set forth in ORS 9.005 to 9.757 to investigate attorney repre-**
38 **sentation of a party in a juvenile court proceeding and in order to ensure adequate repre-**
39 **sentation of parties in juvenile court proceedings consistent with the child welfare state plan**
40 **related to Title IV-E of the Social Security Act.**

41 **(18)(a) A child, ward, youth or youth offender, or the parent or guardian of a child, ward,**
42 **youth or youth offender who is a party to the juvenile court proceeding, who is entitled to**
43 **inspect or copy the record of the case under subsection (1)(b) and (c) of this section main-**
44 **tains the right to inspect or copy the record of the case after jurisdiction of the court over**
45 **the child, ward, youth or youth offender terminates and after the child, ward, youth or youth**

1 offender has reached the age of majority.

2 (b) Notwithstanding ORS 419B.524, a parent of a child, ward, youth or youth offender
3 whose parental rights have been terminated maintains the right that existed under sub-
4 section (1)(b) and (c) of this section to inspect or copy the record of the case as the record
5 of the case existed up until the time of entry of the judgment terminating the parent's par-
6 ental rights and may obtain a copy of the judgment terminating the parent's parental rights.

7 (19) When inspection or copying of the record of the case or of the supplemental confi-
8 dential file is allowed pursuant to this section, and unless otherwise required by law, the
9 court that maintains the record of the case or the supplemental confidential file is not re-
10 quired to redact the names of, or information about, siblings or other persons contained in
11 the record of the case or the supplemental confidential file.

12 SECTION 8. Section 9 of this 2016 Act is added to and made a part of ORS chapter 419A.

13 SECTION 9. (1) Any person or entity not included in ORS 419A.255 as a person or entity
14 entitled to inspection or copying of the record of the case or the supplemental confidential
15 file may file a motion with the court to inspect or copy the record of the case or the sup-
16 plemental confidential file. The person or entity filing the motion shall file a sworn affidavit
17 or declaration under penalty of perjury that states all of the following:

18 (a) The reasons why the inspection or copying is sought;

19 (b) The relevancy, if any, of the inspection or copying to the juvenile court proceeding;
20 and

21 (c) How the inspection or copying will serve to balance the interests listed in subsection
22 (6) of this section.

23 (2)(a) No later than 14 days before the court considers the motion, the person or entity
24 filing the motion shall serve all parties and attorneys of record to the juvenile court pro-
25 ceeding with a copy of the motion and affidavit or declaration. Except as provided in para-
26 graph (b) of this subsection and regardless of whether the juvenile court proceeding was
27 commenced under ORS chapter 419B or 419C, service under this subsection must be con-
28 sistent with the provisions of ORS 419B.851 and 419B.854. The person or entity filing the
29 motion shall also provide all parties and attorneys of record with written notice that the
30 party has until 14 days after the date of service to file a response or objection to the motion
31 or such other time as specified by the court under paragraph (c) of this subsection.

32 (b) If the affidavit or declaration of the person or entity filing the motion states that the
33 person or entity does not know the identity or address of a party or attorney of record, the
34 court shall mail notice of the time to respond or object to the party or attorney of record
35 at the party's or attorney of record's last known address and shall note in the register the
36 date the notice was mailed. The notice must be mailed at least 14 days before the court
37 considers the motion or such other time as specified by the court under paragraph (c) of this
38 subsection.

39 (c) On its own motion or upon application of the person or entity filing the motion, and
40 for good cause shown, the court may reduce or extend the time for service of the motion
41 and affidavit or declaration.

42 (3) The court may summarily deny the motion if the requirements of subsections (1) and
43 (2) of this section have not been met.

44 (4) The court may set a hearing to consider the motion and shall send notice of the time
45 and place of the hearing to all parties.

1 **(5) Upon determination by the court that the person or entity filing the motion has met**
2 **the requirements of subsections (1) and (2) of this section, the court shall conduct an in**
3 **camera review, taking into consideration any response or objections made by a party.**

4 **(6) Following the in camera review under subsection (5) of this section, in making the**
5 **determination of whether to allow inspection or copying of the record of the case or the**
6 **supplemental confidential file, in whole or in part, the court shall weigh the following inter-**
7 **ests:**

8 **(a) The privacy interests and particular vulnerabilities of the child, ward, youth or youth**
9 **offender, or of family members, that may be affected by the inspection or copying of all or**
10 **part of the record of the case or the supplemental confidential file;**

11 **(b) The interests of the other parties to, or victims in, the juvenile court proceeding;**

12 **(c) The interests of the person or entity filing the motion; and**

13 **(d) The interests of the public.**

14 **(7) In granting a motion made under this section, the court:**

15 **(a) Shall allow inspection or copying only as necessary to serve the legitimate need of the**
16 **person or entity filing the motion, as determined by the court;**

17 **(b) May limit inspection or copying to particular parts of the record of the case or the**
18 **supplemental confidential file;**

19 **(c) May specify the timing and procedure for allowing inspection or copying; and**

20 **(d) Shall make protective orders governing use of the materials that are inspected or**
21 **copied.**

22 **SECTION 10.** **Section 3 of this 2016 Act is repealed on July 1, 2018.**

23 **SECTION 11.** **(1) Section 9 of this 2016 Act and the amendments to ORS 419A.255 by**
24 **section 7 of this 2016 Act apply to juvenile court proceedings pending or commenced before,**
25 **on or after September 30, 2016.**

26 **(2) Sections 8 and 9 of this 2016 Act and the amendments to ORS 419A.255 by section 7**
27 **of this 2016 Act become operative September 30, 2016.**

28 **SECTION 12.** **This 2016 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
30 **on its passage.**

31