

# House Bill 4074

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 **as introduced**.

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, or if ordered by court.

Modifies court hearing process to determine if person must report as sex offender if juvenile court or board jurisdiction over person ended on or after August 12, 2015. Provides that person may waive hearing. Modifies timing of records and materials submitted to court for consideration.

Creates hearing procedures for persons who were still under jurisdiction of juvenile court or board on August 12, 2015, but who are no longer under jurisdiction.

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.025, 163A.030, 163A.130,  
3 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]*

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

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

20 (2) A person described in subsection (1) of this section who resides in this state shall make an  
21 initial report, in person, to the Department of State Police, a city police department or a county  
22 sheriff's office as follows:

23 (a) The person shall report no later than 10 days after the date of the *[termination of juvenile*  
24 *court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric*

**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 *Security Review Board, no later than 10 days after the date the person is discharged from the juris-*  
 2 *isdiction of the board; or] court order requiring the person to report under ORS 163A.030;*

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

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

7 (i) If the person is not a resident of this state at the time of the adjudication, the person shall  
 8 make the initial report to the Department of State Police in Marion County, Oregon, no later than  
 9 10 days after the date the person moves into this state; or

10 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make  
 11 the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days  
 12 after the date the person is discharged, released or placed on probation or any other form of  
 13 supervised or conditional release by the other United States court or, if the person is confined in  
 14 a correctional facility by the other United States court, no later than 10 days after the date the  
 15 person is discharged or otherwise released from the facility.

16 (B) A Class C felony sex crime:

17 (i) If the person is not a resident of this state at the time of the adjudication, the person shall  
 18 make the initial report to the Department of State Police in Marion County, Oregon, no later than  
 19 six months after the date the person moves into this state; or

20 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make  
 21 the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days  
 22 after the date the person is discharged, released or placed on probation or any other form of  
 23 supervised or conditional release by the other United States court or, if the person is confined in  
 24 a correctional facility by the other United States court, no later than 10 days after the date the  
 25 person is discharged or otherwise released from the facility[.]; **or**

26 **(c) Within 10 days after the legal obligation to report as a sex offender arises.**

27 (3) After making the initial report described in subsection (2) of this section, the person shall  
 28 report, in person, to the Department of State Police, a city police department or a county sheriff's  
 29 office, in the county of the person's last reported residence:

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

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

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

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

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

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

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

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

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

(a) The person required to report shall:

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

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

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

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

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

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

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

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

(a) The Oregon Youth Authority may register a youth offender committed to its custody and supervision by order of the juvenile court or a person placed in its physical custody under ORS 137.124 or any other provision of law.

(b) A county juvenile department may register a youth offender or young person, as those terms are defined in ORS 419A.004.

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

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

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

**(B) The person was adjudicated before August 12, 2015, but was still under the jurisdiction of the juvenile court or the Psychiatric Security Review Board on August 12, 2015.**

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

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

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

**(C) Within six months after receiving a written request for a hearing under section 3 of this 2016 Act, if the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person ended prior to the effective date of this 2016 Act.**

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

[(d)] **(2)(a)** The county or state agency responsible for supervising the person shall notify the person **and the juvenile court** when the agency determines that termination of jurisdiction [*will*]

1 **is likely to** occur within six months.

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

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

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

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

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

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

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

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

20 **(A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time**  
 21 **of disposition;**

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

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

26 *[(2)] (5)(a) The district attorney shall notify the victim prior to the hearing of the right to ap-*  
 27 *pear and the right to be heard under ORS 419C.273.*

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

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

31 **(B) The person’s board defense attorney; and**

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

33 **(6) A person may waive the right to the hearing described in this section after consul-**  
 34 **tation with the person’s attorney. If the court finds that the person has knowingly waived**  
 35 **the right to a hearing, the court shall enter an order requiring the person to report as a sex**  
 36 **offender under ORS 163A.025.**

37 *[(3)] (7) At the hearing described in subsection (1) of this section:*

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

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

44 *[(4)] (8) In determining whether the person has met the burden of proof, the juvenile court may*  
 45 *consider but need not be limited to considering:*

- 1 (a) The extent and impact of any physical or emotional injury to the victim;
- 2 (b) The nature of the act that subjected the person to the duty of reporting as a sex offender;
- 3 (c) Whether the person used or threatened to use force in committing the act;
- 4 (d) Whether the act was premeditated;
- 5 (e) Whether the person took advantage of a position of authority or trust in committing the act;
- 6 (f) The age of any victim at the time of the act, the age difference between any victim and the
- 7 person and the number of victims;
- 8 (g) The vulnerability of the victim;
- 9 (h) Other acts committed by the person that would be crimes if committed by an adult and
- 10 criminal activities engaged in by the person before and after the adjudication;
- 11 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
- 12 the victim;
- 13 (j) The person’s willingness to accept personal responsibility for the act and personal account-
- 14 ability for the consequences of the act;
- 15 (k) The person’s ability and efforts to pay the victim’s expenses for counseling and other
- 16 trauma-related expenses or other efforts to mitigate the effects of the act;
- 17 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
- 18 program or any other intervention, and if so the juvenile court may also consider:
- 19 (A) The availability, duration and extent of the treatment activities;
- 20 (B) Reports and recommendations from the providers of the treatment;
- 21 (C) The person’s compliance with court, board or supervision requirements regarding treatment;
- 22 and
- 23 (D) The quality and thoroughness of the treatment program;
- 24 (m) The person’s academic and employment history;
- 25 (n) The person’s use of drugs or alcohol before and after the adjudication;
- 26 (o) The person’s history of public or private indecency;
- 27 (p) The person’s compliance with and success in completing the terms of supervision;
- 28 (q) The results of psychological examinations of the person;
- 29 (r) The protection afforded the public by [*the continued existence of the*] records **of sex offender**
- 30 **registration;** and
- 31 (s) Any other relevant factors.

32 [(5)] (9) In a hearing under this section, the juvenile court may receive testimony, reports and  
 33 other evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210  
 34 and 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings  
 35 required under this section. As used in this subsection, “relevant evidence” has the meaning given  
 36 that term in ORS 40.150.

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

- 42 (A) Evaluations and treatment records concerning the person conducted by a clinician or pro-
- 43 gram operating under the standards of practice for the evaluation and treatment of juvenile sex
- 44 offenders adopted by the Sex Offender Treatment Board under ORS 675.400, and recommendations
- 45 contained therein regarding the need for the person to register in order to protect the public from

1 future sex crimes; *[and]*

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

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

5 (b) Any records and materials *[to be reviewed by]* **submitted to** the court under this subsection  
6 shall be released and disclosed to the *[court,]* district attorney[,] **and the person's attorney** and to  
7 the Oregon Youth Authority or juvenile department that is responsible for the supervision of the  
8 person, no less than *[15]* **30** days prior to any hearing held under this section **unless good cause**  
9 **is shown.**

10 *[(7)]* **(11)** When the juvenile court enters an order described in subsection *[(3)(b)]* **(7)(b)** of this  
11 section, the court shall ensure that the person completes a form that documents the person's obli-  
12 gation to report under ORS 163A.025. No later than three business days after the person completes  
13 the form required by this subsection, the court shall ensure that the form is sent to the Department  
14 of State Police.

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

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

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

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

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

27 *[(9)]* **(12)** Notwithstanding ORS 419C.005 (4)(c), (d) **and** (e), the juvenile court retains jurisdiction  
28 over a person for purposes of this section.

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

32 **SECTION 3. (1) A person found to be within the jurisdiction of the juvenile court under**  
33 **ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS**  
34 **419C.411, for having committed an act that, if committed by an adult, would constitute a**  
35 **felony sex crime, who was adjudicated before August 12, 2015, and was still under the juris-**  
36 **isdiction of the juvenile court on August 12, 2015, and who ceased to be under the jurisdic-**  
37 **tion of the juvenile court before the effective date of this 2016 Act, is entitled to a hearing on the**  
38 **issue of reporting as a sex offender as described in this section.**

39 **(2) The juvenile court that had jurisdiction over a person described in subsection (1) of**  
40 **this section shall:**

41 **(a) Send written notice of the right to a hearing to the last-known address of the person**  
42 **and to the person's most recent attorney of record. The notice shall inform the person that,**  
43 **in order to have a hearing, the person must file a written request for the hearing with the**  
44 **juvenile court.**

45 **(b) Appoint an attorney for the person in accordance with ORS 163A.030 (4).**

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

3 (a) Set an initial hearing date; and

4 (b) Notify the parties and the juvenile department or the Psychiatric Security Review  
 5 Board, if the department or board is supervising or has jurisdiction over the person, of the  
 6 hearing date.

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

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

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

12 (B) The person’s board defense attorney; and

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

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

18 (6) ORS 163A.030 (7) to (12) apply to hearings held under this section.

19 (7) If the court finds that the person has met the burden of proof as described in ORS  
 20 163A.030 (7)(b), the court shall enter an order that the person is not required to report as a  
 21 sex offender and shall send a certified copy of the order to the Department of State Police.

22 (8) If the court has not received a written request for a hearing within 30 days of sending  
 23 the notice described in subsection (2) of this section, the court shall order that the person  
 24 report as a sex offender under ORS 163A.025.

25 (9) As used in this section, “parties” has the meaning given that term in ORS 163A.030.

26 **SECTION 4.** ORS 163A.030, as amended by section 2 of this 2016 Act, is amended to read:

27 163A.030. (1)(a) Except as provided in subsection (6) of this section, the juvenile court shall hold  
 28 a hearing on the issue of reporting as a sex offender by a person who has been found to be within  
 29 the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be re-  
 30 sponsible except for insanity under ORS 419C.411, for having committed an act that if committed  
 31 by an adult would constitute a felony sex crime if:

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

33 (B) The person was adjudicated before August 12, 2015, but was still under the jurisdiction of  
 34 the juvenile court or the Psychiatric Security Review Board on August 12, 2015.

35 (b) Unless the court continues the hearing described in this section for good cause, the hearing  
 36 must be held:

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

39 (B) During the six-month period after the court receives the notice described in subsection (2)  
 40 of this section from the Psychiatric Security Review Board, if the person was placed under the ju-  
 41 risdiction of the board[; or]

42 [(C) Within six months after receiving a written request for a hearing under section 3 of this 2016  
 43 Act, if the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person  
 44 ended prior to the effective date of this 2016 Act].

45 (c) The court shall notify the person of the person’s right to a hearing under this section upon

1 finding the person within the jurisdiction of the juvenile court under ORS 419C.005.

2 (2)(a) The county or state agency responsible for supervising the person shall notify the person  
3 and the juvenile court when the agency determines that termination of jurisdiction is likely to occur  
4 within six months.

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

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

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

10 (b) Set an initial hearing date; and

11 (c) Notify the parties and the juvenile department or the Psychiatric Security Review Board, if  
12 the department or board is supervising or has jurisdiction over the person, of the hearing at least  
13 60 days before the hearing date.

14 (4)(a) A person who is the subject of a hearing under this section has the right to be represented  
15 by a suitable attorney possessing skills and experience commensurate with the nature and com-  
16 plexity of the case, to consult with the attorney prior to the hearing and, if financially eligible, to  
17 have a suitable attorney appointed at state expense.

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

20 (A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of dis-  
21 position;

22 (B) Set a date prior to the hearing under this section in order to reappoint the attorney ap-  
23 pointed under ORS 419C.200; or

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

26 (5)(a) The district attorney shall notify the victim prior to the hearing of the right to appear and  
27 the right to be heard under ORS 419C.273.

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

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

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

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

33 (6) A person may waive the right to the hearing described in this section after consultation with  
34 the person's attorney. If the court finds that the person has knowingly waived the right to a hearing,  
35 the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.

36 (7) At the hearing described in subsection (1) of this section:

37 (a) The district attorney, the victim, the person and the juvenile department or a representative  
38 of the Oregon Youth Authority shall have an opportunity to be heard.

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

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

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

- 1 (b) The nature of the act that subjected the person to the duty of reporting as a sex offender;
- 2 (c) Whether the person used or threatened to use force in committing the act;
- 3 (d) Whether the act was premeditated;
- 4 (e) Whether the person took advantage of a position of authority or trust in committing the act;
- 5 (f) The age of any victim at the time of the act, the age difference between any victim and the
- 6 person and the number of victims;
- 7 (g) The vulnerability of the victim;
- 8 (h) Other acts committed by the person that would be crimes if committed by an adult and
- 9 criminal activities engaged in by the person before and after the adjudication;
- 10 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
- 11 the victim;
- 12 (j) The person's willingness to accept personal responsibility for the act and personal account-
- 13 ability for the consequences of the act;
- 14 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
- 15 trauma-related expenses or other efforts to mitigate the effects of the act;
- 16 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
- 17 program or any other intervention, and if so the juvenile court may also consider:
- 18 (A) The availability, duration and extent of the treatment activities;
- 19 (B) Reports and recommendations from the providers of the treatment;
- 20 (C) The person's compliance with court, board or supervision requirements regarding treatment;
- 21 and
- 22 (D) The quality and thoroughness of the treatment program;
- 23 (m) The person's academic and employment history;
- 24 (n) The person's use of drugs or alcohol before and after the adjudication;
- 25 (o) The person's history of public or private indecency;
- 26 (p) The person's compliance with and success in completing the terms of supervision;
- 27 (q) The results of psychological examinations of the person;
- 28 (r) The protection afforded the public by records of sex offender registration; and
- 29 (s) Any other relevant factors.
- 30 (9) In a hearing under this section, the juvenile court may receive testimony, reports and other
- 31 evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and
- 32 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings re-
- 33 quired under this section. As used in this subsection, "relevant evidence" has the meaning given
- 34 that term in ORS 40.150.
- 35 (10)(a) In a hearing under this section, the Oregon Youth Authority or the juvenile department,
- 36 if either agency is supervising the person, or the Psychiatric Security Review Board, if the board
- 37 has jurisdiction over the person, shall submit to the juvenile court the following records and mate-
- 38 rials in the possession of the agency or board at least 45 days prior to the hearing unless good cause
- 39 is shown:
- 40 (A) Evaluations and treatment records concerning the person conducted by a clinician or pro-
- 41 gram operating under the standards of practice for the evaluation and treatment of juvenile sex
- 42 offenders adopted by the Sex Offender Treatment Board under ORS 675.400, and recommendations
- 43 contained therein regarding the need for the person to register in order to protect the public from
- 44 future sex crimes;
- 45 (B) All examination preparation material and examination records from polygraph examinations

1 conducted by or for the treatment provider, juvenile department or Oregon Youth Authority; and

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

3 (b) Any records and materials submitted to the court under this subsection shall be released and  
4 disclosed to the district attorney and the person's attorney and to the Oregon Youth Authority or  
5 juvenile department that is responsible for the supervision of the person, no less than 30 days prior  
6 to any hearing held under this section unless good cause is shown.

7 (11) When the juvenile court enters an order described in subsection (7)(b) of this section, the  
8 court shall ensure that the person completes a form that documents the person's obligation to report  
9 under ORS 163A.025. No later than three business days after the person completes the form required  
10 by this subsection, the court shall ensure that the form is sent to the Department of State Police.

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

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

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

17 163A.130. (1) A person required to report as a sex offender under ORS 163A.025 (1)(a) **or**  
18 **(1)(b)**, or required to report as a sex offender under the laws of another state as a result of an ad-  
19 judication in an Oregon juvenile court, may file a petition for an order relieving the person of the  
20 obligation to report. The person must pay the filing fee established under ORS 21.135. If the person  
21 resides:

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

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

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

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

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

33 (b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than  
34 30 days before the termination of juvenile court jurisdiction over the person or, if the person is  
35 placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days be-  
36 fore the person is discharged from the jurisdiction of the board.

37 (3)(a) The juvenile court in which a petition under this section is filed may transfer the matter  
38 to the juvenile court of the county that last supervised the person if the court determines that the  
39 convenience of the parties, the victim and witnesses require the transfer.

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

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

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

1 limited to considering:

- 2 (a) The extent and impact of any physical or emotional injury to the victim;
- 3 (b) The nature of the act that subjected the person to the obligation of reporting as a sex  
4 offender;
- 5 (c) Whether the person used or threatened to use force in committing the act;
- 6 (d) Whether the act was premeditated;
- 7 (e) Whether the person took advantage of a position of authority or trust in committing the act;
- 8 (f) The age of any victim at the time of the act, the age difference between any victim and the  
9 person and the number of victims;
- 10 (g) The vulnerability of the victim;
- 11 (h) Other acts committed by the person that would be crimes if committed by an adult and  
12 criminal activities engaged in by the person before and after the adjudication;
- 13 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of  
14 the victim;
- 15 (j) The person's willingness to accept personal responsibility for the act and personal account-  
16 ability for the consequences of the act;
- 17 (k) The person's ability and efforts to pay the victim's expenses for counseling and other  
18 trauma-related expenses or other efforts to mitigate the effects of the act;
- 19 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment  
20 program or any other intervention, and if so the juvenile court may also consider:
  - 21 (A) The availability, duration and extent of the treatment activities;
  - 22 (B) Reports and recommendations from the providers of the treatment;
  - 23 (C) The person's compliance with court, board or supervision requirements regarding treatment;
- 24 and
  - 25 (D) The quality and thoroughness of the treatment program;
  - 26 (m) The person's academic and employment history;
  - 27 (n) The person's use of drugs or alcohol before and after the adjudication;
  - 28 (o) The person's history of public or private indecency;
  - 29 (p) The person's compliance with and success in completing the terms of supervision;
  - 30 (q) The results of psychological examinations of the person;
  - 31 (r) The protection afforded the public by the continued existence of the records; and
  - 32 (s) Any other relevant factors.
- 33 (5) In a hearing under this section, the juvenile court may receive testimony, reports and other  
34 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and  
35 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this  
36 section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS  
37 40.150.
- 38 (6) When a petition is filed under this section, the state has the right to have a psychosexual  
39 evaluation of the person conducted. The state shall file notice with the juvenile court of its intention  
40 to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile  
41 court for good cause shown may direct the state to select a different evaluator.
- 42 (7) As soon as practicable after a petition has been filed under this section, the district attorney  
43 or juvenile department shall make a reasonable effort to notify the victim of the crime that the  
44 person has filed a petition seeking relief under this section and, if the victim has requested, to in-  
45 form the victim of the date, time and place of a hearing on the petition in advance of the hearing.

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

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

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

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

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

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

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

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

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

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

29 163A.135. (1) Except as provided in subsection (7) of this section, a person required to report  
30 under ORS 163A.025 [(1)(b)] (1)(c) may file a petition in the juvenile court for an order relieving the  
31 person of the duty to report. The person must pay the filing fee established under ORS 21.135. If the  
32 person resides:

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

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

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

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

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

44 (3) The person filing the petition must submit with the petition all releases and waivers neces-  
45 sary to allow the district attorney for the county in which the petition is filed to obtain the fol-

1 lowing documents from the jurisdiction in which the person was adjudicated for the act for which  
 2 reporting is required:

- 3 (a) The juvenile court petition;
- 4 (b) The dispositional report to the court;
- 5 (c) The order of adjudication or jurisdiction;
- 6 (d) Any other relevant court documents;
- 7 (e) The police report relating to the act for which reporting is required;
- 8 (f) The order terminating jurisdiction for the act for which reporting is required; and
- 9 (g) The evaluation and treatment records or reports of the person that are related to the act for  
 10 which reporting is required.

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

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

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

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

23 (8) In a hearing under this section, the court may receive testimony, reports and other evidence  
 24 without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to  
 25 40.585 if the evidence is relevant to the determination and findings required under this section. As  
 26 used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

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

31 **SECTION 7.** ORS 419A.255, as amended by section 11, chapter 417, Oregon Laws 2013, section  
 32 8, chapter 439, Oregon Laws 2013, section 3, chapter 71, Oregon Laws 2014, and section 2, chapter  
 33 293, Oregon Laws 2015, is amended to read:

34 419A.255. (1)(a) The clerk of the court shall maintain a record of each case and a supplemental  
 35 confidential file for each case, except as otherwise provided in ORS 7.120.

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

- 38 (A) The judge of the juvenile court and those acting under the judge's direction;
- 39 (B) The child;
- 40 (C) The ward;
- 41 (D) The youth;
- 42 (E) The youth offender;
- 43 (F) The parent or guardian of the child, ward, youth or youth offender;
- 44 (G) The guardian ad litem for the parent;
- 45 (H) A person allowed to intervene in a proceeding involving the child, ward, youth or youth

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

- 1 (I) Service providers in the case;
- 2 (J) The attorneys or prospective appellate attorneys for:
  - 3 (i) The child;
  - 4 (ii) The ward;
  - 5 (iii) The youth;
  - 6 (iv) The youth offender;
  - 7 (v) The parent or guardian of the child, ward, youth or youth offender;
  - 8 (vi) The guardian ad litem for the parent;
  - 9 (vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency
  - 10 case; or
  - 11 (viii) The court appointed special advocate and a representative of a CASA Volunteer Program
  - 12 as defined in ORS 458.580;
- 13 (K) The district attorney or assistant attorney general representing a party in the case;
- 14 (L) The juvenile department;
- 15 (M) The Department of Human Services;
- 16 (N) The Oregon Youth Authority; and
- 17 (O) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act.**
- 18 (c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the su-  
19 perintendent of the school district in which the youth offender resides or the superintendent's  
20 designee.
  - 21 (d) The following are entitled to copies of material maintained in the supplemental confidential  
22 file:
    - 23 (A) The judge of the juvenile court and those acting under the judge's direction;
    - 24 (B) Service providers in the case;
    - 25 (C) School superintendents and their designees in cases under ORS 419C.005;
    - 26 (D) Attorneys designated under subsection (2)(b)(J) of this section;
    - 27 (E) The district attorney or assistant attorney general representing a party in the case;
    - 28 (F) The juvenile department;
    - 29 (G) The Department of Human Services;
    - 30 (H) The Oregon Youth Authority;
    - 31 (I) The court appointed special advocate, and a representative of a CASA Volunteer Program
    - 32 as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court
    - 33 appointed special advocates; and
    - 34 (J) Any other person **or entity** allowed by the court **pursuant to section 9 of this 2016 Act.**
  - 35 (e) A person that obtains copies of material in the supplemental confidential file pursuant to  
36 paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in  
37 the supplemental confidential file. A service provider, school superintendent or superintendent's  
38 designee who obtains copies of such material shall destroy the copies upon the conclusion of in-  
39 volvement in the case.
- 40 (3) Except as otherwise provided in subsection (5) of this section, no information appearing in  
41 the record of the case or in the supplemental confidential file may be disclosed to any person not  
42 described in subsections (1)(b) and (2)(b) of this section, respectively, without the consent of the  
43 court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for  
44 special education as provided in ORS chapter 343, and no such information may be used in evidence  
45 in any proceeding to establish criminal or civil liability against the child, ward, youth or youth

1 offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached  
 2 18 years of age or otherwise, except for the following purposes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (11) In addition to any other provision in this section, the Judicial Department may permit  
 27 county or statewide access to juvenile court records or information, **including audio and video**  
 28 **recordings**, by county juvenile departments, the Department of Human Services, the Oregon Youth  
 29 Authority, district attorney offices, the office of the Attorney General, the office of public defense  
 30 services, prospective appellate attorneys or public defense providers subject to the following re-  
 31 strictions:

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

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

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

38 (b) Any other person or entity granted access under this subsection must agree, pursuant to a  
 39 written agreement with the department, to access records or information only as authorized and  
 40 allowed by this section, subject to applicable state and federal confidentiality laws.

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

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

45 (12) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within

1 the jurisdiction of the court, or a motion requesting an implementation plan other than return of a  
 2 ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country  
 3 as provided under ORS 419B.851 (3).

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

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

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

22 (16)(a) **A child, ward, youth or youth offender, or the parent or guardian of a child, ward,**  
 23 **youth or youth offender who is a party to the juvenile court proceeding, who is entitled to**  
 24 **inspect or copy the record of the case under subsection (1)(b) and (c) of this section main-**  
 25 **tains the right to inspect or copy the record of the case after jurisdiction of the court over**  
 26 **the child, ward, youth or youth offender terminates and after the child, ward, youth or youth**  
 27 **offender has reached the age of majority.**

28 (b) **Notwithstanding ORS 419B.524, a parent or guardian of a child, ward, youth or youth**  
 29 **offender whose parental rights have been terminated maintains the right that existed under**  
 30 **subsection (1)(b) and (c) of this section to inspect or copy the record of the case as the re-**  
 31 **cord of the case existed up until the time of entry of the judgment terminating the parent's**  
 32 **or guardian's parental rights.**

33 (17) **When inspection or copying of the record of the case or of the supplemental confi-**  
 34 **dential file is allowed pursuant to this section, and unless otherwise required by law, the**  
 35 **court that maintains the record of the case or the supplemental confidential file is not re-**  
 36 **quired to redact the names of, or information about, siblings or other persons contained in**  
 37 **the record of the case or the supplemental confidential file.**

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

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

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

45 (b) **The relevancy, if any, of the inspection or copying to the juvenile court proceeding;**

1 and

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

4 (2)(a) No later than 14 days before the court considers the motion, the person or entity  
5 filing the motion shall serve all parties to the juvenile court proceeding with a copy of the  
6 motion and affidavit or declaration. Except as provided in paragraph (b) of this subsection  
7 and regardless of whether the juvenile court proceeding was commenced under ORS chapter  
8 419B or 419C, service under this subsection must be consistent with the provisions of ORS  
9 419B.851 and 419B.854. The person or entity filing the motion shall also provide all parties  
10 with written notice that the party has until 14 days after the date of service to file a re-  
11 sponse or objection to the motion or such other time as specified by the court under para-  
12 graph (c) of this subsection.

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

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

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

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

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

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

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

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

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

38 (d) The interests of the public.

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

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

42 (b) May limit inspection or copying to particular parts of the record of the case or the  
43 supplemental confidential file;

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

45 (d) Shall make protective orders governing use of the materials that are inspected or

1 copied.

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

3 (2) The amendments to ORS 163A.030 by section 4 of this 2015 Act become operative July  
4 1, 2018.

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

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

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

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