

House Bill 2321

Sponsored by Representative LIVELY, Senator PROZANSKI, Representative BARKER; Representative STARK
(Pre-session filed.)

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**.

Exempts from required disclosure pursuant to public records request, home address, home phone number and other specified personal information of county juvenile department employees who primarily perform duties related to youth offenders confined in detention facilities. Requires disclosure of county juvenile department employee information if public interest requires disclosure in particular instance.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public records of county juvenile department employees; amending ORS 192.345, 192.511
3 and 312.030; and prescribing an effective date.

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

5 **SECTION 1.** ORS 192.345 is amended to read:

6 192.345. The following public records are exempt from disclosure under ORS 192.311 to 192.478
7 unless the public interest requires disclosure in the particular instance:

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

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

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

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

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

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

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 (d) The identity of and biographical information concerning both complaining party and victim;
 2 (e) The identity of the investigating and arresting agency and the length of the investigation;
 3 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
 4 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
 5 from justice.

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

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

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

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

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

26 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
 27 663.180.

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

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

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

36 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
 37 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
 38 cies.

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

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

- 1 (a) The original data, including but not limited to numbers, text, voice, graphics and images;
2 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
3 the program; or
4 (c) The mathematical and statistical formulas which would be used if the manipulated forms of
5 the original data were to be produced manually.
- 6 (16) Data and information provided by participants to mediation under ORS 36.256.
- 7 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
8 until a final administrative determination is made or, if a citation is issued, until an employer re-
9 ceives notice of any citation.
- 10 (18) Specific operational plans in connection with an anticipated threat to individual or public
11 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
12 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
13 law enforcement activity.
- 14 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
15 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
16 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
17 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
18 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
19 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
20 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
21 audit of a cost study that would be discoverable in a contested case proceeding and that is not
22 subject to a protective order; and
- 23 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
24 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
25 with a telecommunications carrier, as defined in ORS 133.721.
- 26 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
27 247.967.
- 28 (21) The following records, communications and information submitted to a housing authority
29 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
30 for and recipients of loans, grants and tax credits:
- 31 (a) Personal and corporate financial statements and information, including tax returns;
32 (b) Credit reports;
33 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
34 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
35 of as part of the project, but only after the transactions have closed and are concluded;
36 (d) Market studies and analyses;
37 (e) Articles of incorporation, partnership agreements and operating agreements;
38 (f) Commitment letters;
39 (g) Project pro forma statements;
40 (h) Project cost certifications and cost data;
41 (i) Audits;
42 (j) Project tenant correspondence requested to be confidential;
43 (k) Tenant files relating to certification; and
44 (L) Housing assistance payment requests.
- 45 (22) Records or information that, if disclosed, would allow a person to:

- 1 (a) Gain unauthorized access to buildings or other property;
- 2 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
- 3 disruption to, or interference with, services; or
- 4 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
- 5 cessing, communication or telecommunication systems, including the information contained in the
- 6 systems, that are used or operated by a public body.
- 7 (23) Records or information that would reveal or otherwise identify security measures, or
- 8 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
- 9 protect:
 - 10 (a) An individual;
 - 11 (b) Buildings or other property;
 - 12 (c) Information processing, communication or telecommunication systems, including the infor-
 - 13 mation contained in the systems; or
 - 14 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
 - 15 evaluation under ORS 461.180 (6).
- 16 (24) Personal information held by or under the direction of officials of the Oregon Health and
- 17 Science University or a public university listed in ORS 352.002 about a person who has or who is
- 18 interested in donating money or property to the Oregon Health and Science University or a public
- 19 university, if the information is related to the family of the person, personal assets of the person or
- 20 is incidental information not related to the donation.
- 21 (25) The home address, professional address and telephone number of a person who has or who
- 22 is interested in donating money or property to a public university listed in ORS 352.002.
- 23 (26) Records of the name and address of a person who files a report with or pays an assessment
- 24 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
- 25 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.
- 26 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
- 27 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
- 28 card expiration date, password, financial institution account number and financial institution routing
- 29 number.
- 30 (28) Social Security numbers as provided in ORS 107.840.
- 31 (29) The electronic mail address of a student who attends a public university listed in ORS
- 32 352.002 or Oregon Health and Science University.
- 33 (30) The name, home address, professional address or location of a person that is engaged in,
- 34 or that provides goods or services for, medical research at Oregon Health and Science University
- 35 that is conducted using animals other than rodents. This subsection does not apply to Oregon Health
- 36 and Science University press releases, websites or other publications circulated to the general pub-
- 37 lic.
- 38 (31) If requested by a public safety officer, as defined in ORS 181A.355, **or a county juvenile**
- 39 **department employee who is charged with and primarily performs duties related to the cus-**
- 40 **tody, control or supervision of youth offenders confined in a detention facility, as defined in**
- 41 **ORS 419A.004:**
- 42 (a) The home address and home telephone number of the public safety officer **or county juve-**
- 43 **venile department employee** contained in the voter registration records for the officer **or**
- 44 **employee.**
- 45 (b) The home address and home telephone number of the public safety officer **or county juve-**

1 **nile department employee** contained in records of the Department of Public Safety Standards and
 2 Training.

3 (c) The name of the public safety officer **or county juvenile department employee** contained
 4 in county real property assessment or taxation records. This exemption:

5 (A) Applies only to the name of the [*public safety*] officer **or employee** and any other owner of
 6 the property in connection with a specific property identified by the officer **or employee** in a re-
 7 quest for exemption from disclosure;

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

10 (C) Applies until the [*public safety*] officer **or employee** requests termination of the exemption;

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

13 (E) May not result in liability for the county if the name of the [*public safety*] officer **or em-
 14 ployee** is disclosed after a request for exemption from disclosure is made under this subsection.

15 (32) Unless the public records request is made by a financial institution, as defined in ORS
 16 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
 17 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
 18 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
 19 by an individual described in paragraph (b) of this subsection using the procedure described in par-
 20 agraph (c) of this subsection:

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

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

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

27 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
 28 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
 29 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
 30 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
 31 in the prosecution of criminal matters.

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

38 (33) The following voluntary conservation agreements and reports:

39 (a) Land management plans required for voluntary stewardship agreements entered into under
 40 ORS 541.973; and

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

43 (34) Sensitive business records or financial or commercial information of the State Accident In-
 44 surance Fund Corporation that is not customarily provided to business competitors. This exemption
 45 does not:

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

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

5 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
 6 tracts, except that employer account records shall remain exempt from disclosure as provided in
 7 ORS 192.355 (35); or

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

10 (35) Records of the Department of Public Safety Standards and Training relating to investi-
 11 gations conducted under ORS 181A.640 or 181A.870 (6), until the department issues the report de-
 12 scribed in ORS 181A.640 or 181A.870.

13 (36) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
 14 examiner under ORS 146.117.

15 (37) Any document or other information related to an audit of a public body, as defined in ORS
 16 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
 17 cognized government auditing standards, until the auditor or audit organization issues a final audit
 18 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
 19 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response
 20 to the audit findings.

21 (38)(a) Personally identifiable information collected as part of an electronic fare collection sys-
 22 tem of a mass transit system.

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

27 (c) As used in this subsection:

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

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

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

37 (i) Customer account information, date of birth, telephone number, physical address, electronic
 38 mail address, credit or debit card information, bank account information, Social Security or taxpayer
 39 identification number or other identification number, transit pass or fare payment medium balances
 40 or history, or similar personal information; or

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

43 (39)(a) If requested by a civil code enforcement officer:

44 (A) The home address and home telephone number of the civil code enforcement officer con-
 45 tained in the voter registration records for the officer.

1 (B) The name of the civil code enforcement officer contained in county real property assessment
2 or taxation records. This exemption:

3 (i) Applies only to the name of the civil code enforcement officer and any other owner of the
4 property in connection with a specific property identified by the officer in a request for exemption
5 from disclosure;

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

8 (iii) Applies until the civil code enforcement officer requests termination of the exemption;

9 (iv) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
10 governmental purposes; and

11 (v) May not result in liability for the county if the name of the civil code enforcement officer
12 is disclosed after a request for exemption from disclosure is made under this subsection.

13 (b) As used in this subsection, "civil code enforcement officer" means an employee of a public
14 body, as defined in ORS 174.109, who is charged with enforcing laws or ordinances relating to land
15 use, zoning, use of rights-of-way, solid waste, hazardous waste, sewage treatment and disposal or the
16 state building code.

17 (40) Audio or video recordings, whether digital or analog, resulting from a law enforcement
18 officer's operation of a video camera worn upon the officer's person that records the officer's inter-
19 actions with members of the public while the officer is on duty. When a recording described in this
20 subsection is subject to disclosure, the following apply:

21 (a) Recordings that have been sealed in a court's record of a court proceeding or otherwise or-
22 dered by a court not to be disclosed may not be disclosed.

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

26 (c) A video recording disclosed under this subsection must, prior to disclosure, be edited in a
27 manner as to render the faces of all persons within the recording unidentifiable.

28 **SECTION 2.** ORS 192.511 is amended to read:

29 192.511. (1) The Oregon Sunshine Committee is established, consisting of 15 members as follows:

30 (a) The members of the public records subcommittee established under ORS 192.499 shall be ex
31 officio nonvoting members of the committee.

32 (b) The Governor and the Attorney General, or their designees, shall be voting members of the
33 committee.

34 (c) The State Archivist, or a designee of the State Archivist, shall be a voting member of the
35 committee.

36 (d) The Attorney General shall appoint to the committee as voting members:

37 (A) A person with information technology expertise;

38 (B) Three representatives of local government to represent the interests of counties, cities,
39 school districts and special districts;

40 (C) A representative of broadcasters;

41 (D) A representative of professional journalists;

42 (E) A representative of newspaper publishers; and

43 (F) A representative from a nonprofit open government or public interest group.

44 (2)(a) The term of each voting committee member appointed by the Attorney General is four
45 years, but a member so appointed serves at the pleasure of the Attorney General.

1 (b) Before the expiration of a term of a member appointed by the Attorney General, the Attorney
 2 General shall reappoint the member to a new term or appoint a successor.

3 (c) If there is a vacancy for any cause in a position that is appointed by the Attorney General,
 4 the Attorney General shall make an appointment to become immediately effective.

5 (3) The Oregon Sunshine Committee shall do all of the following:

6 (a) Establish, and adjust as necessary, a plan or schedule to review all exemptions from disclo-
 7 sure for public records included in the Attorney General's catalog required by ORS 192.340 that
 8 provides for review not later than December 31, 2026, except that the following exemptions need not
 9 be considered:

10 (A) Exemptions required by federal law;

11 (B) Evidentiary privileges described in ORS 40.225 to 40.295, other than the lawyer-client privi-
 12 lege described in ORS 40.225;

13 (C) The exemption for trade secrets as described in the public records law, ORS 192.311 to
 14 192.478, or the Uniform Trade Secrets Act, ORS 646.461 to 646.475;

15 (D) Security records described in ORS 192.345 (23) or 192.355 (11), (32) or (33);

16 (E) Personal information of certain scientific workers described in ORS 192.345 (30), care
 17 workers described in ORS 192.363 and 192.365 or public safety workers **or county juvenile de-**
 18 **partment employees** described in ORS 192.345 (31); and

19 (F) Public safety plans described in ORS 192.345 (18).

20 (b) Include in the review required by this subsection any administrative rule for which a review
 21 was requested under ORS 183.730.

22 (c) Study and identify any inefficiencies and inconsistencies in the application of public records
 23 laws that impede transparency in public process and government.

24 (d) Make recommendations on changes in existing law, policy and practice to enhance trans-
 25 parency and facilitate rapid fulfillment of public records requests made to public bodies.

26 (e) On or before July 1 of each even-numbered year, submit a report to the public records sub-
 27 committee established under ORS 192.499 and include in the report the recommendations described
 28 in paragraph (d) of this subsection and recommendations to amend or repeal the exemptions from
 29 disclosure reviewed by the committee during the period since the last report submitted by the
 30 committee under this section.

31 (4) The Oregon Sunshine Committee may take all lawful actions and exercise any lawful powers
 32 the committee deems reasonable for facilitating its work, including but not limited to conducting
 33 public hearings and creating subcommittees. Any subcommittees created by the committee are sub-
 34 ject to the public meetings and public records requirements that apply to the committee.

35 (5) A majority of the voting members of the Oregon Sunshine Committee constitutes a quorum
 36 for the transaction of business.

37 (6) Official action by the committee requires the approval of a majority of the voting members
 38 of the committee.

39 (7) The committee shall select one of its members to serve as chairperson.

40 (8) The committee shall meet at times and places specified by the call of the chairperson or of
 41 a majority of the voting members of the committee and shall meet at least three times per year.

42 (9) All meetings of the committee must be open to the public. Any public records created by
 43 the committee are subject to disclosure, and any privilege or exemption from disclosure that would
 44 otherwise be applicable may not be claimed.

45 (10) The committee may adopt rules necessary for the operation of the committee.

1 (11) The Department of Justice shall provide administrative support to the committee.

2 (12) Members of the committee who are not members of the Legislative Assembly are not enti-
3 tled to compensation, but may be reimbursed for actual and necessary travel and other expenses
4 incurred by them in the performance of their official duties in the manner and amounts provided for
5 in ORS 292.495. Claims for expenses incurred in performing functions of the committee shall be paid
6 out of funds appropriated to the Department of Justice for purposes of the committee.

7 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist the
8 committee in the performance of the committee's duties and, to the extent permitted by laws relating
9 to confidentiality, to furnish information and advice the members of the committee consider neces-
10 sary to perform their duties.

11 **SECTION 3.** ORS 312.030 is amended to read:

12 312.030. (1) Within two months after the day of delinquency of taxes of each year the tax col-
13 lector shall prepare a list of all real properties then subject to foreclosure. The list shall be known
14 as the foreclosure list and shall contain:

15 (a) The names of the several persons appearing in the latest tax roll as the respective owners
16 of tax-delinquent properties. If the owner of the property is an attorney, or a public safety officer,
17 **county juvenile department employee** or civil code enforcement officer who has applied for an
18 exemption under ORS 192.345, the list shall state that the name of the owner is suppressed by law.

19 (b) A description of each such property as it appears in the latest tax roll.

20 (c) The year or years for which taxes are delinquent on each property.

21 (d) The principal amount of the delinquent taxes of each year and the amount of accrued and
22 accruing interest thereon to the day of publication.

23 (2) Thereafter, and until judgment is obtained pursuant to ORS 312.090, interest shall be charged
24 and collected on each of the several amounts of taxes included in the foreclosure list at the rate
25 provided in ORS 311.505 (2).

26 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
27 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

28