

House Bill 2859

Sponsored by JOINT COMMITTEE ON CAPITOL CULTURE

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**.

Creates privilege against disclosure for specified confidential communications and records created or maintained by Legislative Equity Office principal outreach officer. Provides exceptions.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to privileged communications; creating new provisions; amending ORS 40.252; and declaring
3 an emergency.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 40.225 to 40.295.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Confidential communication” means a communication between a principal outreach**
8 **officer and an individual reporting information or seeking consultative services from the**
9 **principal outreach officer.**

10 (b) **“Harassment” has the meaning given that term in legislative branch personnel rules**
11 **that establish a standard of conduct that applies to legislators, legislative staff, executive or**
12 **judicial branch staff that regularly are present in the State Capitol or regularly interact with**
13 **the legislative branch, lobbyists who are required to be registered under ORS 171.740, or**
14 **contractors, including employees of contractors, who regularly perform services in the State**
15 **Capitol.**

16 (c) **“Legislative branch” means the legislative department, as defined in ORS 174.114.**

17 (d) **“Principal outreach officer” means the principal outreach officer of the Legislative**
18 **Equity Office established under chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744),**
19 **and any staff of the principal outreach officer.**

20 (2) **A person who reports information to the principal outreach officer that concerns**
21 **harassment in the State Capitol that the person has experienced or witnessed has a privilege**
22 **to refuse to disclose and to prevent any other person from disclosing:**

23 (a) **Confidential communication to or from the principal outreach officer; and**

24 (b) **Records that are created or maintained by the principal outreach officer in the course**
25 **of reporting information that concerns harassment in the State Capitol.**

26 (3) **A person who consults with the principal outreach officer for the purpose of under-**
27 **standing what options are available for reporting harassment or filing a harassment com-**
28 **plaint, or for discussing whether described conduct is harassment, has a privilege to refuse**
29 **to disclose and to prevent any other person from disclosing:**

30 (a) **Confidential communication to or from the principal outreach officer; and**

31 (b) **Records that are created or maintained by the principal outreach officer in the course**

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 of providing counsel or services to the person.

2 (4) This section does not prohibit the disclosure of:

3 (a) Any information if the principal outreach officer reasonably believes that the disclo-
4 sure is necessary to prevent immediate physical harm or other harm described in ORS 40.252;
5 or

6 (b) Aggregate, nonpersonally identifying data.

7 (5) This section applies to civil, criminal and administrative proceedings and to legislative
8 branch disciplinary proceedings.

9 **SECTION 3.** ORS 40.252 is amended to read:

10 40.252. (1) In addition to any other limitations on privilege that may be imposed by law, there
11 is no privilege under ORS 40.225, 40.230, 40.250 or 40.264 or section 2 of this 2019 Act for com-
12 munications if:

13 (a) In the professional judgment of the person receiving the communications, the communi-
14 cations reveal that the declarant has a clear and serious intent at the time the communications are
15 made to subsequently commit a crime involving physical injury, a threat to the physical safety of
16 any person, sexual abuse or death or involving an act described in ORS 167.322;

17 (b) In the professional judgment of the person receiving the communications, the declarant poses
18 a danger of committing the crime; and

19 (c) The person receiving the communications makes a report to another person based on the
20 communications.

21 (2) The provisions of this section do not create a duty to report any communication to any
22 person.

23 (3) A person who discloses a communication described in subsection (1) of this section, or fails
24 to disclose a communication described in subsection (1) of this section, is not liable to any other
25 person in a civil action for any damage or injury arising out of the disclosure or failure to disclose.

26 **SECTION 4.** This 2019 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
28 on its passage.