

D R A F T

SUMMARY

Prohibits licensing board, commission or agency from denying, suspending or revoking occupational or professional license solely for reason that applicant or licensee was convicted of crime or subject to qualifying juvenile adjudication that does not substantially relate to specific duties and responsibilities for which license is required. Specifies criteria for determining whether crime substantially relates to specific duties and responsibilities for which license is required. Specifies additional restrictions on licensing board's, commission's or agency's power to deny occupational or professional license.

Permits person convicted of crime to petition licensing board, commission or agency at any time for determination as to whether conviction will prevent person from receiving occupational or professional license.

Permits licensing board, commission or agency to charge reasonable fee for determination. Provides that final determination is binding upon licensing board, commission or agency unless, at time of petition, person has charges pending, failed to disclose previous crime or was convicted of crime after submitting petition. Requires notice to person before final determination that conviction will result in denial of occupational or professional license. Specifies additional rights of person and additional notice requirements.

Prohibits employer, state agency or licensing board from taking certain actions on basis of record created or maintained under jurisdiction of juvenile court. Specifies exemptions.

Provides that adjudication that youth is within jurisdiction of juvenile court does not forfeit any right or privilege or operate as disqualification from holding public office or pursuing or engaging in lawful activity, occupation, profession or calling.

Provides that information about act committed by youth or adjudicated youth may be disclosed to victim of act and to and among law enforcement unit, district attorney, county juvenile authority and certain other entities.

1 Relating to the effects on adjudicated persons of adjudications for criminal
2 acts; amending ORS 419A.255, 419C.400, 670.280 and 670.290.

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

4 **SECTION 1.** ORS 670.280 is amended to read:

5 670.280. (1) As used in this section:

6 (a) “License” includes a registration, certification or permit.

7 (b) “Licensee” includes a registrant or a holder of a certification or per-
8 mit.

9 (c) **“Qualifying juvenile adjudication” means a finding that a person**
10 **is within the jurisdiction of a juvenile court under ORS 419C.005 for**
11 **committing an act that, if committed by an adult, would constitute a**
12 **crime listed in ORS 137.707 (4).**

13 (2) Except as provided in ORS [*342.143 (3) or 342.175 (3)*] **329A.030, 342.143**
14 **(3), 342.175 (3) or 443.004 and notwithstanding any other provision of**
15 **law to the contrary,** a licensing board, commission or agency **that is au-**
16 **thorized or required to consider the criminal history, moral character,**
17 **fitness or similar qualifications of an applicant for a license or a**
18 **licensee** may not deny, suspend or revoke an occupational or professional
19 license solely for the reason that the applicant or licensee has been convicted
20 of a crime[, *but it may consider the relationship of the facts which support the*
21 *conviction and all intervening circumstances to the specific occupational or*
22 *professional standards in determining the fitness of the person to receive or*
23 *hold the license.*] **or subject to a qualifying juvenile adjudication that**
24 **does not substantially relate to the specific duties and responsibilities**
25 **for which the license is required.** There is a rebuttable presumption as to
26 each individual applicant or licensee that an existing or prior conviction for
27 conduct that has been classified or reclassified as a Class E violation does
28 not make an applicant for an occupational or professional license or a
29 licensee with an occupational or professional license unfit to receive or hold
30 the license.

31 **(3) In determining whether a crime for which an applicant or**

1 **licensee was convicted or a qualifying juvenile adjudication to which**
2 **the applicant or licensee was subject substantially relates to the spe-**
3 **cific duties and responsibilities for which a license is required, a li-**
4 **ensing board, commission or agency shall consider, on a case by case**
5 **basis:**

6 **(a) The nature and seriousness of the crime or the offense under-**
7 **lying the qualifying juvenile adjudication;**

8 **(b) The amount of time that has passed since the conviction or**
9 **qualifying juvenile adjudication;**

10 **(c) The applicant's or licensee's age at the time the applicant or**
11 **licensee committed the crime or the offense underlying the qualifying**
12 **juvenile adjudication;**

13 **(d) Evidence that is relevant to show the circumstances of the**
14 **crime or the offense underlying the qualifying juvenile adjudication,**
15 **including any aggravating or mitigating circumstances or social con-**
16 **ditions within which the crime or the offense underlying the qualifying**
17 **juvenile adjudication occurred;**

18 **(e) The nature of the specific duties and responsibilities for which**
19 **the license is required;**

20 **(f) Evidence of the applicant's or licensee's rehabilitation or treat-**
21 **ment since the crime or the offense underlying the qualifying juvenile**
22 **adjudication occurred; and**

23 **(g) Any other consideration the licensing board, commission or**
24 **agency deems relevant.**

25 **[(3)] (4) Except as otherwise prohibited under this section or as pro-**
26 **vided in ORS 329A.030, [342.143 (3) and] 342.175 (3) or 443.004, a licensing**
27 **board, commission or agency may [*deny an occupational or professional li-***
28 ***cence or*] impose discipline on a licensee based on conduct that is not**
29 **undertaken directly in the course of the licensed activity, but that is sub-**
30 **stantially related to the fitness and ability of the [*applicant or*] licensee to**
31 **engage in the activity for which the license is required. In determining**

1 whether the conduct is substantially related to the fitness and ability of the
2 [*applicant or*] licensee to engage in the activity for which the license is re-
3 quired, the licensing board, commission or agency shall consider the re-
4 lationship of the facts with respect to the conduct and all intervening
5 circumstances to the specific occupational or professional standards. There
6 is a rebuttable presumption as to each individual [*applicant or*] licensee that
7 an existing or prior conviction for conduct that has been classified or re-
8 classified as a Class E violation is not related to the fitness and ability of
9 the [*applicant or*] licensee to engage in the activity for which the license is
10 required.

11 **(5) Notwithstanding any other provision of law to the contrary, a**
12 **licensing board, commission or agency may not deny an occupational**
13 **or professional license because of:**

14 **(a) An arrest or charge that did not result in a criminal conviction,**
15 **unless charges are pending;**

16 **(b) An adjudication by a juvenile court that a youth is within the**
17 **juvenile court's jurisdiction, unless a law of this state explicitly au-**
18 **thorizes the denial; or**

19 **(c) A conviction that was pardoned, sealed or set aside.**

20 **(6) A person who was convicted of a crime may at any time petition**
21 **a licensing board, commission or agency for a determination as to**
22 **whether a criminal conviction will prevent the person from receiving**
23 **an occupational or professional license. The petition may specifically**
24 **address the considerations set forth in subsection (3) of this section.**
25 **The licensing board, commission or agency may charge a reasonable**
26 **fee to pay the costs of making the determination. The licensing**
27 **board's, commission's or agency's final determination is binding upon**
28 **the licensing board, commission or agency unless, at the time the**
29 **person submits a complete application, the person has criminal**
30 **charges pending, has failed to disclose a previous criminal conviction**
31 **or has been convicted of another crime during the period between the**

1 **determination and the person's application. The licensing board, com-**
2 **mission or agency is not bound by, and may reconsider, a previous**
3 **determination if an applicant submits a petition for another determi-**
4 **nation.**

5 **(7) Before a licensing board, commission or agency makes a final**
6 **determination that a criminal conviction will result in a denial of an**
7 **occupational or professional license, the licensing board, commission**
8 **or agency shall notify the petitioner or applicant in writing of:**

9 **(a) The specific conviction that is the basis for the determination;**

10 **(b) The reasons the licensing board, commission or agency deter-**
11 **mined that the conviction was substantially related to the specific**
12 **duties and responsibilities for which the license is required, including**
13 **reasons that address each of the considerations listed in subsection (3)**
14 **of this section; and**

15 **(c) The petitioner's right to submit within 30 days after the date**
16 **of the notice additional evidence related to each of the considerations**
17 **listed in subsection (3) of this section for the licensing board's,**
18 **commission's or agency's evaluation.**

19 **(8) A licensing board, commission or agency shall issue in writing**
20 **any final determination that a criminal conviction will result in a de-**
21 **niel of an occupational or professional license. The written determi-**
22 **nation must also include notice of any right the petitioner or applicant**
23 **has to appeal, notice of the earliest date on which the petitioner or**
24 **applicant can reapply for a determination under subsection (6) of this**
25 **section or apply for a license after a denial and notice that the li-**
26 **icensing board, commission or agency may consider evidence of reha-**
27 **ilitation in a new application. The written determination may also**
28 **advise a petitioner or applicant of any action that may remedy a pre-**
29 **vious disqualification.**

30 **(9) Every licensing board, commission and agency shall include in**
31 **any application form for a license, and post on the licensing board's,**

1 **commission's or agency's website, a notice that states:**

2 **(a) Whether a criminal conviction is a possible basis for denying the**
3 **license;**

4 **(b) The considerations set forth in subsection (3) of this section; and**

5 **(c) That applicants have a right to petition for a determination**
6 **under subsection (6) of this section before submitting a completed ap-**
7 **plication for a license.**

8 **(10) A licensing board, commission or agency may adopt rules nec-**
9 **essary to implement the provisions of this section.**

10 **(11) An applicant's or petitioner's criminal history that a licensing**
11 **board, commission or agency obtains and uses to make a determi-**
12 **nation under this section is exempt from required disclosure under**
13 **ORS 192.311 to 192.478.**

14 **(12) This section does not apply to:**

15 **(a) A denial, revocation or suspension of a license, certificate, per-**
16 **mit or registration required for a program or service listed under ORS**
17 **409.010 or discipline of a licensee, registrant or certificate or permit**
18 **holder in connection with a program or service listed under ORS**
19 **409.010; or**

20 **(b) A board's, commission's or agency's consideration of an**
21 **applicant's or licensee's criminal history if the board, commission or**
22 **agency must comply with a provision of federal law or if federal law**
23 **requires the board, commission or agency to consider the history as**
24 **a condition of receiving federal moneys.**

25 **SECTION 2. ORS 670.290 is amended to read:**

26 **670.290. (1) [It shall be unlawful for any] An employer, state agency or**
27 **licensing board, including the Oregon State Bar, [to] may not:**

28 **[(1)] (a) Require [that] an applicant for employment, licensing or admis-**
29 **sion to answer any questions regarding the existence or contents of a [juve-**
30 **nile] record that [has been expunged pursuant to ORS 419A.260 to 419A.271]**
31 **was created or maintained under the jurisdiction of a juvenile court;**

1 **(b) Inquire in connection with an application for employment, li-**
2 **ensing or admission as to the existence or contents of a record that**
3 **was created or maintained under the jurisdiction of a juvenile court;**

4 [(2)] **(c) Bar or discharge from employment or refuse to hire or employ**
5 **[such] an individual because of the existence or contents of a [juvenile] re-**
6 **cord that [has been expunged pursuant to ORS 419A.260 to 419A.271] was**
7 **created or maintained under the jurisdiction of a juvenile court; or**

8 [(3)] **(d) Deny, revoke or suspend a license because of the existence or**
9 **contents of a [juvenile] record that [has been expunged pursuant to ORS**
10 **419A.260 to 419A.271] was created or maintained under the jurisdiction**
11 **of a juvenile court.**

12 **(2) This section does not apply to or affect:**

13 **(a) An employer, state agency, licensing board or commission that**
14 **state or federal law explicitly requires or authorizes to consider the**
15 **juvenile adjudication history of an applicant;**

16 **(b) An employer's, state agency's, licensing board's or commission's**
17 **power or duty to view or consider an applicant's or licensee's juvenile**
18 **adjudication history for offenses listed in ORS 137.707 (4), if the em-**
19 **ployer, state agency, licensing board or commission is authorized or**
20 **required to consider the applicant's or licensee's criminal history,**
21 **moral character, fitness or similar qualifications;**

22 **(c) A licensing board's, commission's, or state agency's power or**
23 **duty to view or consider an applicant's criminal history under ORS**
24 **443.004;**

25 **(d) A license the Department of Human Services issues under ORS**
26 **443.410 or a license that the department or the Oregon Health Au-**
27 **thority issues under ORS 443.735;**

28 **(e) Enrollment in the Central Background Registry under ORS**
29 **329A.030; or**

30 **(f) The authority of a law enforcement unit, as defined in ORS**
31 **181A.355, or the Department of Public Safety Standards and Training,**

1 **to consider an applicant's criminal history for the purpose of evaluat-**
2 **ing the applicant for employment or certification.**

3 **SECTION 3.** ORS 419A.255 is amended to read:

4 419A.255. (1)(a) The clerk of the court shall maintain a record of each
5 case and a supplemental confidential file for each case, except as otherwise
6 provided in ORS 7.120.

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

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

11 (B) The child;

12 (C) The ward;

13 (D) The youth;

14 (E) The adjudicated youth;

15 (F) The parent or guardian of the child, ward, youth or adjudicated youth;

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

17 (H) A person allowed to intervene in a proceeding involving the child,
18 ward, youth or adjudicated youth;

19 (I) The court appointed special advocate, and a representative of a CASA
20 Volunteer Program as defined in ORS 184.489, when reasonably necessary for
21 the appointment or supervision of court appointed special advocates;

22 (J) The attorneys or prospective appellate attorneys for any of the persons
23 listed in subparagraphs (B) to (I) of this paragraph;

24 (K) The surrogate;

25 (L) Service providers in the case;

26 (M) The district attorney or assistant attorney general representing a
27 party in the case;

28 (N) The juvenile department;

29 (O) The Department of Human Services;

30 (P) The Oregon Youth Authority; and

31 (Q) Any other person or entity allowed by the court pursuant to ORS

1 419A.258.

2 (c) The following are entitled to copies of the record of the case:

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

5 (B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285
6 (2);

7 (C) A guardian ad litem for a parent to the same extent the parent is
8 permitted to copies under ORS 419B.875 (2) or 419C.285 (2);

9 (D) Persons listed in paragraph (b)(J) to (P) of this subsection; and

10 (E) Any other person or entity allowed by the court pursuant to ORS
11 419A.258.

12 (2)(a) Reports and other material relating to the child, ward, youth or
13 adjudicated youth's history and prognosis in the record of the case or the
14 supplemental confidential file are privileged and, except at the request of the
15 child, ward, youth or adjudicated youth, shall be withheld from public in-
16 spection except that inspection is permitted as set forth in subsection (1)(b)
17 of this section and paragraph (b) of this subsection. The offer or admission
18 of reports and other material in the record of the case or the supplemental
19 confidential file as exhibits in a hearing or trial does not waive or otherwise
20 change the privileged status of the reports and other material, except for
21 purposes of the hearing or trial in which the reports and other material are
22 offered or admitted. Once offered as an exhibit, reports and other material
23 relating to the child, ward, youth or adjudicated youth's history and
24 prognosis that were maintained in the supplemental confidential file become
25 part of the record of the case but are subject to paragraph (e) of this sub-
26 section.

27 (b) A supplemental confidential file is open to inspection by the following:

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

30 (B) The parent or guardian of the child or ward in a dependency case;

31 (C) The guardian ad litem for the parent of a child or ward in a depend-

1 ency case;

2 (D) The parent or guardian of the youth or adjudicated youth in a delin-
3 quency case if the youth or adjudicated youth consents to, or the court au-
4 thorizes, inspection;

5 (E) The guardian ad litem for the parent of a youth or adjudicated youth
6 in a delinquency case if the youth or adjudicated youth consents to, or the
7 court authorizes, inspection;

8 (F) A person allowed to intervene in a proceeding involving the child,
9 ward, youth or adjudicated youth;

10 (G) The court appointed special advocate, and a representative of a CASA
11 Volunteer Program as defined in ORS 184.489, when reasonably necessary for
12 the appointment or supervision of court appointed special advocates;

13 (H) The surrogate;

14 (I) Service providers in the case;

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

16 (i) The child;

17 (ii) The ward;

18 (iii) The youth;

19 (iv) The adjudicated youth;

20 (v) The parent or guardian of the child, ward, youth or adjudicated youth;

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

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

24 (viii) The court appointed special advocate and a representative of a
25 CASA Volunteer Program as defined in ORS 184.489;

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

28 (L) The juvenile department;

29 (M) The Department of Human Services;

30 (N) The Oregon Youth Authority; and

31 (O) Any other person or entity allowed by the court pursuant to ORS

1 419A.258.

2 (c) The supplemental confidential file in cases under ORS 419C.005 may
3 be disclosed to the superintendent of the school district in which the adju-
4 dicated youth resides or the superintendent's designee.

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

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

9 (B) Service providers in the case;

10 (C) School superintendents and their designees in cases under ORS
11 419C.005;

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

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

15 (F) The juvenile department;

16 (G) The Department of Human Services;

17 (H) The Oregon Youth Authority;

18 (I) The court appointed special advocate, and a representative of a CASA
19 Volunteer Program as defined in ORS 184.489, when reasonably necessary for
20 the appointment or supervision of court appointed special advocates; and

21 (J) Any other person or entity allowed by the court pursuant to ORS
22 419A.258.

23 (e) A person that obtains copies of material in the supplemental confi-
24 dential file pursuant to paragraph (d) of this subsection is responsible for
25 preserving the confidentiality of the material in the supplemental confiden-
26 tial file. A service provider, school superintendent or superintendent's
27 designee who obtains copies of such material shall destroy the copies upon
28 the conclusion of involvement in the case.

29 (3) Except as otherwise provided in subsection (5) of this section, no in-
30 formation appearing in the record of the case or in the supplemental confi-
31 dential file may be disclosed to any person not described in subsections (1)(b)

1 and (2)(b) of this section, respectively, without the consent of the court, ex-
2 cept for purposes of evaluating the child, ward, youth or adjudicated youth's
3 eligibility for special education as provided in ORS chapter 343, and no such
4 information may be used in evidence in any proceeding to establish criminal
5 or civil liability against the child, ward, youth or adjudicated youth, whether
6 such proceeding occurs after the child, ward, youth or adjudicated youth has
7 reached 18 years of age or otherwise, except for the following purposes:

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

10 (b) In connection with a proceeding in another juvenile court concerning
11 the child, ward, youth or adjudicated youth or an appeal from the juvenile
12 court.

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

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

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

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

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

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

1 subsection is subject to subsection (3) of this section.

2 (5)(a) Information contained in the supplemental confidential file that, in
3 the professional judgment of the juvenile counselor, caseworker, school su-
4 perintendent or superintendent's designee, teacher or detention worker to
5 whom the information in the supplemental confidential file has been pro-
6 vided, indicates a clear and immediate danger to another person or to society
7 shall be disclosed to the appropriate authority and the person who is in
8 danger from the child, ward, youth or adjudicated youth.

9 (b) A person that discloses information under paragraph (a) of this sub-
10 section has immunity from any liability, civil or criminal, that might other-
11 wise be incurred or imposed for making the disclosure.

12 (c) Nothing in this subsection affects the provisions of ORS 146.750,
13 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under
14 this subsection does not make the information admissible in any court or
15 administrative proceeding if it is not otherwise admissible.

16 (6) Notwithstanding any other provision of law, and subject to subsection
17 (8) of this section, the following [*are not confidential and not exempt from*
18 *disclosure*] **information may be disclosed to the victim of an act com-**
19 **mitted by a youth or an adjudicated youth, to a law enforcement unit,**
20 **as defined in ORS 181A.355, to a district attorney, to a county juvenile**
21 **authority or to any entity to which records and information may be**
22 **disclosed under ORS 419A.257 (2), if the disclosure is reasonably nec-**
23 **essary for the performance of official duties:**

24 (a) The name and date of birth of the youth or adjudicated youth;

25 (b) The basis for the juvenile court's jurisdiction over the youth or adju-
26 dicated youth;

27 (c) The date, time and place of any juvenile court proceeding in which the
28 youth or adjudicated youth is involved;

29 (d) The act alleged in the petition that if committed by an adult would
30 constitute a crime if jurisdiction is based on ORS 419C.005;

31 (e) That portion of the juvenile court order providing for the legal dis-

1 position of the youth or adjudicated youth when jurisdiction is based on ORS
2 419C.005;

3 (f) The names and addresses of the youth or adjudicated youth's parents
4 or guardians; and

5 (g) The register described in ORS 7.020 when jurisdiction is based on ORS
6 419C.005.

7 (7) Notwithstanding any other provision of law, and subject to subsection
8 (8) of this section, when a youth has been taken into custody under ORS
9 419C.080, the following information [*shall*] **may be disclosed to a law**
10 **enforcement unit, as defined in ORS 181A.355, to a district attorney**
11 **and by the district attorney to the victim, to a county juvenile au-**
12 **thority and to an entity to which records and information may be**
13 **disclosed under ORS 419.257 (2), if the disclosure is reasonably neces-**
14 **sary for the performance of official duties** [*unless, and only for so long*
15 *as, there is a clear need to delay disclosure in the course of a specific investi-*
16 *gation, including the need to protect the complaining party or the victim*]:

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

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

20 (c) The name and age of the adult complaining party and the adult victim,
21 unless the disclosure of such information is otherwise prohibited or re-
22 stricted;

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

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

27 [(8) *Except as provided in ORS 419A.300 and unless otherwise directed by*
28 *the court, only the juvenile court, the county juvenile department and the*
29 *Oregon Youth Authority may disclose the information under subsections (6)*
30 *and (7) of this section if the information is subject to disclosure. The youth*
31 *authority may disclose only information relating to adjudicated youths com-*

1 *mitted to the youth authority by order of the juvenile court if the information*
2 *is subject to disclosure under subsection (6) or (7) of this section.]*

3 **(8)(a) Except as provided in ORS 419A.300 and unless otherwise di-**
4 **rected by the court, only the juvenile court, the district attorney, the**
5 **county juvenile department and the Oregon Youth Authority may**
6 **disclose the information listed under subsections (6) and (7) of this**
7 **section if the information is subject to disclosure. The district attor-**
8 **ney, county juvenile department and youth authority may disclose to**
9 **each other information listed under subsections (6) and (7) of this**
10 **section. The youth authority may disclose only information relating**
11 **to adjudicated youths committed to the youth authority by order of**
12 **the juvenile court if the information is subject to disclosure under**
13 **subsections (6) and (7) of this section. The district attorney need not**
14 **disclose information listed under subsections (6) and (7) of this section**
15 **that is not in the district attorney's possession.**

16 **(b) Notwithstanding any other provision of law, the Oregon Youth**
17 **Authority may disclose any information the youth authority possesses**
18 **about an adjudicated youth after receiving written consent for the**
19 **disclosure from the adjudicated youth.**

20 (9) Nothing in this section limits access to any juvenile court records by
21 an appellate court reviewing a juvenile court order or judgment. Appellate
22 court rules may establish procedures for appellate court access to juvenile
23 records.

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

29 (11) In addition to any other provision in this section, the Judicial De-
30 partment may permit county or statewide access to juvenile court records
31 or information by county juvenile departments, the Department of Human

1 Services, the Oregon Youth Authority, district attorney offices, the office of
2 the Attorney General, the office of public defense services, prospective ap-
3 pellate attorneys or public defense providers subject to the following re-
4 strictions:

5 (a) A prospective appellate attorney or public defense provider granted
6 access under this subsection must agree, pursuant to a written agreement
7 with the Judicial Department, to access:

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

10 (B) Other records or information about a client only as reasonably nec-
11 essary for the representation of that client in any juvenile case in which the
12 client is a party, subject to applicable state and federal confidentiality laws.

13 (b) Any other person or entity granted access under this subsection must
14 agree, pursuant to a written agreement with the department, to access re-
15 cords or information only as authorized and allowed by this section, subject
16 to applicable state and federal confidentiality laws.

17 (c) The State Court Administrator shall prescribe standards and proce-
18 dures to implement the provisions of this subsection.

19 (d) Any person or entity granted access to juvenile court records or in-
20 formation under this subsection must preserve the confidentiality of that
21 information as required under this section.

22 (12) A petition filed under ORS 419B.851 alleging that a child who is a
23 foreign national is within the jurisdiction of the court, or a motion request-
24 ing an implementation plan other than return of a ward to the ward's parent,
25 is subject to disclosure to the consulate for the child or ward's country as
26 provided under ORS 419B.851 (3).

27 (13) Nothing in this section prohibits a guardian appointed under ORS
28 419B.365 or 419B.366 from disclosing or providing copies of letters of
29 guardianship when so required to fulfill the duties of a guardian.

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

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

18 (16) Subject to subsection (11) of this section, the office of public defense
19 services shall be permitted access to juvenile court records for the purposes
20 of performing the office's duties as set forth in ORS 151.219 to audit or in-
21 vestigate attorney appointment or representation of a party in a juvenile
22 court proceeding in order to ensure adequate representation of parties in
23 juvenile court proceedings consistent with the child welfare state plan re-
24 lated to Title IV-E of the Social Security Act.

25 (17) Subject to subsection (11) of this section, the Oregon State Bar shall
26 be permitted access to juvenile court records maintained in the record of the
27 case for the purpose of performing the bar's duties as set forth in ORS 9.005
28 to 9.757 to investigate attorney representation of a party in a juvenile court
29 proceeding and in order to ensure adequate representation of parties in ju-
30 venile court proceedings consistent with the child welfare state plan related
31 to Title IV-E of the Social Security Act.

1 (18)(a) A child, ward, youth or adjudicated youth, or the parent or
2 guardian of a child, ward, youth or adjudicated youth who is a party to the
3 juvenile court proceeding, who is entitled to inspect or copy the record of
4 the case under subsection (1)(b) and (c) of this section maintains the right
5 to inspect or copy the record of the case after jurisdiction of the court over
6 the child, ward, youth or adjudicated youth terminates and after the child,
7 ward, youth or adjudicated youth has reached the age of majority.

8 (b) Notwithstanding ORS 419B.524, a parent of a child, ward, youth or
9 adjudicated youth whose parental rights have been terminated maintains the
10 right that existed under subsection (1)(b) and (c) of this section to inspect
11 or copy the record of the case as the record of the case existed up until the
12 time of entry of the judgment terminating the parent's parental rights and
13 may obtain a copy of the judgment terminating the parent's parental rights.

14 (19) When inspection or copying of the record of the case or of the sup-
15 plemental confidential file is allowed pursuant to this section, and unless
16 otherwise required by law, the court that maintains the record of the case
17 or the supplemental confidential file is not required to redact the names of,
18 or information about, siblings or other persons contained in the record of the
19 case or the supplemental confidential file.

20 (20) Nothing in this section prohibits the court, acting as a certifying
21 agency or official as defined in ORS 147.620, from certifying a request under
22 ORS 147.620 and including in the certification document any information
23 obtained from the record of the case or the confidential supplemental file
24 that is necessary to complete the certification.

25 (21) Nothing in this section prohibits a court from providing to the De-
26 partment of State Police, pursuant to ORS 163A.030 (11), a copy of an order
27 requiring a youth or adjudicated youth to report as a sex offender or a copy
28 of a form that documents the youth's or adjudicated youth's obligation to
29 report as a sex offender.

30 **SECTION 4.** ORS 419C.400 is amended to read:

31 419C.400. (1) The hearing [*shall*] **must** be held by the court without a jury

1 and may be continued from time to time.

2 (2) The facts alleged in the petition showing the youth to be within the
3 jurisdiction of the court as provided in ORS 419C.005, unless admitted, must
4 be established beyond a reasonable doubt.

5 (3) If the youth files written notice of intent to rely on the defense set
6 forth in ORS 419C.522, the youth has the burden of proving the defense by
7 a preponderance of the evidence.

8 (4) For the purpose of determining proper disposition of the youth, testi-
9 mony, reports or other material relating to the youth's mental, physical and
10 social history and prognosis may be received by the court without regard to
11 their competency or relevancy under the rules of evidence.

12 (5)(a) An adjudication by a juvenile court that a youth is within *[its]* **the**
13 **juvenile court's** jurisdiction is not a conviction of a crime or offense. **The**
14 **adjudication does not find the youth guilty or determine that the**
15 **youth is a criminal.**

16 (b) **A juvenile court's adjudication that a youth is within the juve-**
17 **venile court's jurisdiction does not forfeit any right or privilege or dis-**
18 **qualify any person from holding any public office. Unless a law of this**
19 **state explicitly authorizes a disqualification, an adjudication in a ju-**
20 **venile court does not disqualify a person from pursuing or engaging**
21 **in any lawful activity, occupation, profession or calling.**

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