

March 15, 2021



## Oregon Progressive Party Independent Party of Oregon

### Position on Bills at 2021 Session of Oregon Legislature:

Dear Committee: **SB 719 and SB 722: Support**

The Oregon Progressive Party and Independent Party of Oregon support these bills, both of which clarify that aggregate data, statistical compilations and reports relating to reportable disease investigations are not confidential or exempt from disclosure under public records law unless data, compilations and reports could reasonably lead to identification of an individual.

The Oregon Health Authority has been refusing to release key statistics used to justify and monitor reopening of business in the COVID pandemic. See, for example:

<https://www.kgw.com/article/news/health/coronavirus/oregon-covid-19-no-longer-reporting-details-individual-deaths/283-d84d236c-b3c5-4e17-b8d6-249ae2eab40c>

KGW stated on January 27, 2021:

Eleven months since the first COVID-19 case was reported in Oregon, the state's health agency says it will no longer share details about individual deaths connected to the virus. The Oregon Health Authority (OHA) announced the change on Wednesday.

Prior to Wednesday, OHA had reported basic details about every COVID-19-linked death in the state since the first death was reported on March 14, 2020. Those details included age, which county the person lived in, when they tested positive for the virus, when they died and where they died.

That basic information has given Oregonians insight into who is being most affected by COVID-19. The first day that information wasn't available was Wednesday, when [20 more deaths were reported](#).

Instead, OHA is now telling Oregonians to use its [public dashboards](#) to review general information and trends about coronavirus-related deaths in the state.

The new charts show an age range but don't include specific details including gender, where the person lived, when the person tested positive and when the person died.

And see:

<https://www.oregonlive.com/coronavirus/2020/06/oregon-uses-coronavirus-data-to-make-decisions-about-reopening-it-refuses-to-release-that-data.html>

The Oregonian article on June 3, 2020, noted:

The health authority won't publicly release daily tallies of new county hospitalizations, however, saying it could lead to the identification of someone with the coronavirus.

The health authority has regularly cited the public health investigation law for not disclosing statistics about the outbreak.

At the beginning of the pandemic, officials used it to block inquiries about which labs were processing the most coronavirus tests and how many Oregonians had been rejected for testing or were asked to stay home after potential exposure.

While the law makes information obtained during public health investigations confidential and exempt from public records disclosure, nothing prevents health officials from [“publishing statistical compilations and reports relating to reportable disease investigation if the compilations and reports do not identify individual cases or sources of information.”](#)

The newsroom appealed an early public records denial to the Oregon attorney general but also was denied.

In response to the newsroom's appeal for data early in the pandemic, the Attorney General's Office wrote:

“In conclusion, the legislature entrusted this decision to OHA and OHA has decided not to publish this data. Although we acknowledge the strong public interest in information about the current outbreak, we have no legal authority to override OHA's decision to withhold the data. OHA is the public health agency in charge and is in the best position to evaluate the wisdom of publishing any particular information.”

SB 722 goes further and authorizes the Department of Human Services to notify persons with disabilities who receive services from department of potential exposure to infectious disease. This would alert those persons to get tested for the disease and seek treatment.

## Oregon Progressive Party

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