

SB 209 A STAFF MEASURE SUMMARY

Carrier: Rep. Nelson

House Committee On Early Childhood and Human Services**Action Date:** 05/03/23**Action:** Do Pass the A-Eng bill.**Vote:** 6-4-0-0**Yeas:** 6 - Andersen, Hartman, Nelson, Neron, Nguyen H, Reynolds**Nays:** 4 - Cramer, Elmer, Hieb, Scharf**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Matthew Perreault, LPRO Analyst**Meeting Dates:** 4/17, 5/3**WHAT THE MEASURE DOES:**

Exempts records of child's sexual orientation, gender identity, or gender expression from public disclosure unless failure to disclose a record is reasonably likely to jeopardize the child's safety or well-being, the record is necessary to provide services to the child or the child's family, or the child consents to disclosure. Permits child's attorney to consent to the disclosure in juvenile court proceedings. Defines "record of sexual orientation, gender identity or gender expression" as written or recorded statement made by a child, or documentation thereof, in child welfare records that concern a child's sexual orientation, gender expression, or gender identity.

ISSUES DISCUSSED:

- Sensitivity of information related to person's sexual orientation and gender identity or expression
- Disclosure of information through court processes
- Risks of disclosure
- Rights of parents to obtain information

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon's public records disclosure laws are outlined in ORS chapter 192. Generally, any record or file produced or held by a state agency or public body may be inspected by the public upon request, with certain exceptions. For example, the Department of Human Services (DHS) is prohibited from disclosing or using the contents of any child welfare records, files, papers, or communications that contain information about a child, family, or other recipient of services unless it is necessary for the administration of child welfare laws or is otherwise required or authorized (ORS 409.225). These records, files, papers, and communications are confidential and not available for public inspection. However, general information, policy statements, statistical reports, or similar compilations of data are not confidential unless such information is identified with an individual child, family, or other recipient of services or protected by law. DHS must disclose a child's client record to a juvenile court in juvenile proceedings, including tribal proceedings regarding the child (OAR 413-010-0045).

In 2021, the Legislative Assembly passed House Bill 3159, which added sexual orientation and gender identity to the list of categories of data that DHS and the Oregon Health Authority must collect. Because of this, information on the sexual orientation and gender identity or gender expression of children and young adults in foster care may be disclosed in certain court proceedings or public records requests.

Senate Bill 209 A exempts records of a child's sexual orientation, gender identity, or gender expression from public disclosure unless failure to disclose a record is reasonably likely to jeopardize the child's safety or well-being, the record is necessary to provide services to the child or the child's family, or the child consents to

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the disclosure.