

**A-Engrossed**  
**Senate Bill 519**

Ordered by the Senate March 31  
Including Senate Amendments dated March 31

Sponsored by Senator DEMBROW; Senator SOLLMAN (Presession 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.

Modifies procedure for expunction of certain juvenile records. Directs juvenile department to apply for expunction of juvenile records if juvenile was found to be under jurisdiction of juvenile court for acts that, if committed by adult, would constitute violation or misdemeanor. Creates exceptions.

Reduces number of years that must have elapsed since most recent termination before person is eligible for certain expunctions. Extends time frame for agencies to comply with certain expunction judgments.

Modifies eligibility for court-appointed counsel for persons seeking expunction of juvenile records.

Directs district attorney or juvenile department to notify victims of automatic expunction process.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to juvenile records; creating new provisions; amending ORS 21.135, 147.508, 419A.262,  
3 419A.265, 419A.267, 419A.269, 419A.271 and 419C.273; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2023 Act are added to and made a part of ORS**  
6 **419A.260 to 419A.271.**

7 **SECTION 2. (1) An expunction proceeding under this section shall be commenced in the**  
8 **county where the subject person resided at the time of the most recent contact.**

9 **(2)(a) A juvenile department shall file with the juvenile court an application for**  
10 **expunction of the records of a person the juvenile department determines meets the criteria**  
11 **under paragraph (b) of this subsection within 90 days following the later of:**

12 **(A) The date that the person attains 18 years of age; or**

13 **(B) If the subject person was 18 years of age or older on January 2, 2022, the date that**  
14 **the juvenile department receives a request to file the application for expunction from the**  
15 **subject person.**

16 **(b) Upon application of either a person who is the subject of a record or a juvenile de-**  
17 **partment, the juvenile court shall issue a judgment granting expunction, without a hearing,**  
18 **if:**

19 **(A) The subject person had contact with the juvenile department;**

20 **(B) The subject person has never been found to be within the jurisdiction of the juvenile**  
21 **court under ORS 419C.005;**

22 **(C) There is no petition pending alleging that the subject person is subject to the juvenile**

**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 court's jurisdiction under ORS 419C.005;

2 (D) The subject person has not been waived to criminal court pursuant to a hearing un-  
3 der ORS 419C.349 or 419C.352;

4 (E) The subject person does not have an open referral for a case by informal means; and

5 (F) The subject person has not had contact with the juvenile department resulting in a  
6 conviction under ORS 137.707.

7 (3)(a) A juvenile department shall file with the juvenile court an application for  
8 expunction of the records of a person the juvenile department determines meets the criteria  
9 under paragraph (b) of this subsection within 90 days following the later of:

10 (A) The date that the person attains 18 years of age;

11 (B) The date of the person's termination if the person was within the jurisdiction of the  
12 juvenile court under ORS 419C.005 on their 18th birthday; or

13 (C) If the subject person was 18 years of age or older on the operative date of this sec-  
14 tion, the date the juvenile department receives a request to file the application for  
15 expunction from the subject person.

16 (b) Upon application of either a person who is the subject of a record or a juvenile de-  
17 partment, the juvenile court shall issue a judgment granting expunction, without a hearing,  
18 if:

19 (A) The subject person had contact with the juvenile department that resulted in the  
20 subject person being found to be within the jurisdiction of the juvenile court under ORS  
21 419C.005 for acts that, if committed by an adult, would constitute one or more violations or  
22 misdemeanors;

23 (B) The subject person has not been found to be within the jurisdiction of the juvenile  
24 court under ORS 419C.005 for an act that, if committed by an adult, would constitute a fel-  
25 ony;

26 (C) There is no petition pending alleging that the subject person is subject to the juvenile  
27 court's jurisdiction under ORS 419C.005;

28 (D) The subject person does not owe restitution;

29 (E) The subject person has not had contact with the juvenile department resulting in a  
30 conviction under ORS 137.707; and

31 (F) The subject person has not been waived to criminal court pursuant to a hearing un-  
32 der ORS 419C.349 or 419C.352.

33 (4) If the juvenile court denies the application for expunction under this section:

34 (a) The court must specify in the judgment denying the application for expunction the  
35 reason for the denial;

36 (b) The juvenile department or the subject person may file a new application for  
37 expunction under this subsection; and

38 (c) If the juvenile department submitted the application that was denied, the juvenile  
39 department shall make reasonable efforts to send to the subject person the following:

40 (A) Notice of the court's decision and a copy of the judgment denying the application for  
41 expunction; and

42 (B) Notice of the person's right to an attorney, right to file a new application for  
43 expunction under this subsection and right to request expunction under ORS 419A.262.

44 (5)(a) When an expunction proceeding under this section is commenced by application of  
45 the person whose records are to be expunged, the person shall set forth as part of the ap-

1 plication the names of the juvenile courts, juvenile departments, institutions and law  
2 enforcement and other agencies that the person has reason to believe possess an expungible  
3 record of the person. The juvenile department shall provide the names and addresses of the  
4 juvenile courts, juvenile departments, institutions and law enforcement and other agencies  
5 that a reasonable search of department files indicates have expungible records.

6 (b) When an expunction proceeding under this section is commenced by application of the  
7 juvenile department, the application shall set forth the names and addresses of the juvenile  
8 courts, juvenile departments, institutions and law enforcement and other agencies that a  
9 reasonable search of department files indicates have expungible records and those provided  
10 by the subject person.

11 (6)(a) The juvenile court or juvenile department shall send a copy of an expunction judg-  
12 ment entered under this section to each agency subject to the judgment. Attached to the  
13 expunction judgment must be information, to remain confidential, regarding the record to  
14 be expunged and the date of the record.

15 (b) Upon receipt of a copy of the judgment, the agency shall comply and, within 60 days  
16 following the date of receipt, return the copy to the juvenile court or the juvenile department  
17 with an indorsement indicating compliance.

18 (c) The juvenile department may, upon an agency's written request, provide the agency  
19 with an extension of time to comply with paragraph (b) of this subsection. The duration of  
20 the extension may not exceed the later of 30 days or, if an audit or grievance under the  
21 Interstate Compact for Juveniles relating to the subject person's records is pending, the date  
22 the audit or grievance is concluded. If the juvenile department grants an extension under  
23 this paragraph, the juvenile department shall notify the juvenile court of the extension.

24 (7) When all agencies subject to an expunction judgment have indicated their compliance  
25 or in any event no later than the later of 90 days following the date the judgment was de-  
26 livered as required by subsection (6) of this section or, if the juvenile department granted  
27 an extension of time under subsection (6)(c) of this section, 90 days following the expiration  
28 of the extension of time, the juvenile court shall provide the person who is the subject of the  
29 record with a copy of the expunction judgment, a list of complying and noncomplying agen-  
30 cies, and a written notice of rights and effects of expunction. The juvenile court and juvenile  
31 department then shall expunge forthwith all records which they possess and which are sub-  
32 ject to the judgment, except the original expunction judgment and the list of complying and  
33 noncomplying agencies which must be preserved under seal.

34 (8) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit,  
35 municipal and justice courts, and the district and city attorneys of this state, are bound by  
36 an expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing  
37 an expunction judgment.

38 **SECTION 3.** (1) Applications for expunction under ORS 419A.262 and section 2 of this 2023  
39 Act shall be available from the clerk of the court in a form prescribed by the State Court  
40 Administrator. The application must include a declaration under penalty of perjury as de-  
41 scribed in ORCP 1 E.

42 (2) The State Court Administrator shall prescribe the content and form of expunction  
43 judgments under ORS 419A.262 and section 2 of this 2023 Act. The judgment forms must in-  
44 clude a place for the court to specify the method of expunction under ORS 419A.260 (1)(b)  
45 that applies to a given record.

1       **(3) The Oregon Youth Authority, in consultation with county juvenile departments and**  
2 **the State Court Administrator, shall develop statewide model forms for juvenile departments**  
3 **to use in carrying out the duties of a juvenile department under ORS 419A.267 and section**  
4 **2 of this 2023 Act.**

5       **SECTION 4.** ORS 419A.262 is amended to read:

6       419A.262. *[(1)(a) An expunction proceeding under subsection (2) of this section shall be commenced*  
7 *in the county where the subject person resided at the time of the most recent contact.]*

8       **[(b)] (1)** An expunction proceeding under *[subsections (3) to (10) of]* this section shall be com-  
9 menced in the county where the subject person resided at the time of the most recent termination.

10       **[(2)(a)]** A juvenile department shall file with the juvenile court an application for expunction of the  
11 records of a person the juvenile department determines meets the criteria under paragraph (b) of this  
12 subsection within 90 days following the later of:]

13       **[(A)]** *The date that the person attains 18 years of age; or]*

14       **[(B)]** *If the subject person was 18 years of age or older on January 2, 2022, the date that the juve-*  
15 *nile department receives a request to file the application for expunction from the subject person.]*

16       **[(b)]** Upon application of either a person who is the subject of a record or a juvenile department,  
17 the juvenile court shall order expunction if it finds that:]

18       **[(A)]** *The subject person had contact with the juvenile department;]*

19       **[(B)]** *The subject person has never been found to be within the jurisdiction of the juvenile court*  
20 *under ORS 419C.005;]*

21       **[(C)]** *There is no petition pending alleging that the subject person is subject to the juvenile court's*  
22 *jurisdiction under ORS 419C.005;]*

23       **[(D)]** *The subject person has not been waived to criminal court pursuant to a hearing under ORS*  
24 *419C.349 or 419C.352;]*

25       **[(E)]** *The subject person does not have an open referral for a case by informal means; and]*

26       **[(F)]** *The subject person has not had contact with the juvenile department resulting in a conviction*  
27 *under ORS 137.707.]*

28       **[(c)]** *If the juvenile court denies the application for expunction under this subsection:]*

29       **[(A)]** *The court must specify in the judgment denying the application for expunction the reason for*  
30 *the denial.]*

31       **[(B)]** *If the juvenile department submitted the application that was denied, the juvenile department*  
32 *shall make reasonable efforts to send to the subject person the following:]*

33       **[(i)]** *Notice of the court's decision and a copy of the judgment denying the application for*  
34 *expunction; and]*

35       **[(ii)]** *Notice of the person's right to an attorney, right to file a new application for expunction under*  
36 *this subsection and right to request expunction under subsections (3) to (10) of this section.]*

37       **[(C)]** *The juvenile department or the subject person may file a new application for expunction under*  
38 *this subsection.]*

39       **[(3)] (2) Except as provided in section 2 of this 2023 Act,** upon application of either a person  
40 who is the subject of a record or a juvenile department, or upon its own motion, the juvenile court  
41 shall order expunction if, after a hearing when the matter is contested, it finds that:

42       (a) At least *[five]* **four** years have elapsed since the date of the person's most recent termination  
43 **and the person has attained 18 years of age;**

44       (b) Since the date of the most recent termination, the person has not been convicted of a felony  
45 or a Class A misdemeanor;

1 (c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are  
2 pending against the person;

3 (d) The person is not within the jurisdiction of any juvenile court on the basis of a petition al-  
4 leging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; *[and]*

5 (e) The juvenile department is not aware of any pending investigation of the conduct of the  
6 person by any law enforcement agency[.]; **and**

7 **(f) The person does not owe restitution.**

8 *[(4)(a)] (3)(a)* Notwithstanding subsection *[(3)] (2)* of this section, upon application of a person  
9 who is the subject of a record kept by a juvenile court or juvenile department, upon application of  
10 the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter  
11 is contested under subsection *[(14)] (13)* of this section, shall order expunction if it finds that:

12 (A) The application requests expunction of only that part of the person's record that involves  
13 a charge, allegation or adjudication based on conduct that if done by an adult would constitute the  
14 crime of prostitution under ORS 167.007; and

15 (B) The person was under 18 years of age at the time of the conduct.

16 (b) Except as provided in subsections *[(14) and (15)] (13) and (14)* of this section, there is no  
17 waiting period required before the juvenile court orders expunction under this subsection.

18 *[(5)] (4)* In the case of an application by the juvenile department or of the court acting upon its  
19 own motion, expunction may not be ordered under subsection *[(3) or (4)] (2) or (3)* of this section  
20 if actual notice of expunction has not been given to the person in accordance with subsection  
21 *[(13)] (12)* of this section unless the person has reached 21 years of age.

22 *[(6)] (5)* When a person who is the subject of a record kept by a juvenile court or juvenile de-  
23 partment reaches 18 years of age, the juvenile court, after a hearing when the matter is contested,  
24 shall order expunction if:

25 (a) The person never has been found to be within the jurisdiction of the court; or

26 (b) The conditions of *[subsection (3) or (4)] subsection (2) or (3)* of this section have been met.

27 *[(7)] (6)* Expunction *[shall] may* not be ordered under *[subsections (3) to (10) of]* this section if  
28 actual notice of expunction has not been given to the person in accordance with subsection *[(13)]*  
29 *(12)* of this section unless the person has reached 21 years of age.

30 *[(8)] (7)* Subsections *[(6) and (7)] (5) and (6)* of this section apply only to cases resulting in ter-  
31 mination after September 13, 1975.

32 *[(9)] (8)* Notwithstanding subsections *[(3), (4) and (6) to (8)] (2), (3) and (5) to (7)* of this section,  
33 upon application of a person who is the subject of a record kept by a juvenile court or juvenile  
34 department, upon application of the juvenile department, or upon its own motion, the juvenile court,  
35 after a hearing when the matter is contested, may order expunction of all or any part of the person's  
36 record if it finds that to do so would be in the best interests of the person and the public. In the  
37 case of an application by the juvenile department or of the court acting upon its own motion,  
38 expunction *[shall] may* not be ordered if actual notice of expunction has not been given to the  
39 person in accordance with subsection *[(13)] (12)* of this section unless the person has reached 21  
40 years of age.

41 *[(10)] (9)* Notwithstanding ORS 419A.260 (1)(d)(J), a person who has been found to be within the  
42 jurisdiction of the juvenile court based on an act that if committed by an adult would constitute:

43 (a) Rape in the third degree under ORS 163.355, sodomy in the third degree under ORS 163.385  
44 or sexual abuse in the third degree under ORS 163.415, or an attempt to commit those crimes, may  
45 apply for an order of expunction under *[subsections (3) to (10) of]* this section. The court shall order

1 expunction of the records in the case if, after a hearing when the matter is contested, the court finds  
2 that the person:

3 (A) Meets the requirements of subsection [(3)] (2) of this section;

4 (B) Is not required to report as a sex offender; and

5 (C) Has not been convicted of, found guilty except for insanity of or found to be within the ju-  
6 risdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J), other than the  
7 adjudication that is the subject of the motion.

8 (b) A sex crime that is a Class C felony may apply for an order of expunction under [subsections  
9 (3) to (10) of] this section. The court shall order expunction of the records in the case if, after a  
10 hearing when the matter is contested, the court finds that:

11 (A) The person meets the requirements of subsection [(3)] (2) of this section;

12 (B) The person was under 16 years of age at the time of the offense;

13 (C) The person is:

14 (i) Less than two years and 180 days older than the victim; or

15 (ii) At least two years and 180 days older, but less than three years and 180 days older, than  
16 the victim and the expunction is in the interests of justice and of benefit to the person and the  
17 community;

18 (D) The victim's lack of consent was due solely to incapacity to consent by reason of being less  
19 than a specified age;

20 (E) The victim was at least 12 years of age at the time of the offense;

21 (F) Each finding described in this paragraph involved the same victim; and

22 (G) The person has not been convicted of, found guilty except for insanity of or found to be  
23 within the jurisdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J) or an  
24 offense the court is prohibited from setting aside under ORS 137.225, other than the adjudication  
25 that is the subject of the motion.

26 [(11)] (10) When an expunction proceeding under [subsections (3) to (10) of] this section is com-  
27 menced by application of the person whose records are to be expunged, the person shall set forth  
28 as part of the application the names of the juvenile courts, juvenile departments, institutions and  
29 law enforcement and other agencies that the person has reason to believe possess an expungible  
30 record of the person. The juvenile department shall provide the names and addresses of the juvenile  
31 courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable  
32 search of department files indicates have expungible records.

33 [(12)] (11) When an expunction proceeding is commenced by application of the juvenile depart-  
34 ment or upon the court's own motion, the application or motion shall set forth the names and ad-  
35 dresses of the juvenile courts, juvenile departments, institutions and law enforcement and other  
36 agencies that a reasonable search of department files indicates have expungible records and those  
37 provided by the subject person.

38 [(13)(a)] (12)(a) Notice and a copy of an application for expunction under [subsections (3) to (10)  
39 of] this section shall be given to:

40 (A) The district attorney of the county in which the expunction proceeding is commenced and  
41 the district attorney of each county in which the record sought to be expunged is kept; and

42 (B) The person who is the subject of the record if the person has not initiated the expunction  
43 proceeding.

44 (b) A district attorney who receives notice under this subsection shall notify the victim of the  
45 acts that resulted in the disposition that is the subject of the application for expunction and shall

1 mail a copy of the application for expunction to the victim's last known address.

2 [(14)(a)] **(13)(a)** Within 30 days of receiving the notice of application for expunction under sub-  
 3 section [(13)] **(12)** of this section, a district attorney shall give written notice of any objection and  
 4 the grounds therefor to the person whose records are to be expunged and to the juvenile court.

5 (b) Except as provided in subsection [(15)(c)] **(14)(c)** of this section, if no objection is filed the  
 6 court may decide the issue of expunction either without a hearing or after full hearing under sub-  
 7 sections [(15) to (18)] **(14) to (17)** of this section.

8 [(15)] **(14)** When an expunction is pending under [subsections (3) to (10) of] this section, the court  
 9 may proceed with or without a hearing, except that:

10 (a) The court may not enter an expunction judgment without a hearing if a timely objection to  
 11 expunction has been filed under subsection [(14)] **(13)** of this section;

12 (b) The court may not deny an expunction without a hearing if the proceeding is based on an  
 13 application of the subject; and

14 (c) The court shall proceed without a hearing if:

15 (A) No objection is filed under subsection [(14)] **(13)** of this section;

16 (B) The application requests expunction of only that part of the person's record that involves  
 17 a charge, allegation or adjudication based on conduct that if done by an adult would constitute the  
 18 crime of prostitution under ORS 167.007; and

19 (C) The person was under 18 years of age at the time of the conduct.

20 [(16)(a)] **(15)(a)** Notice of a hearing on a pending expunction shall be served on the subject and  
 21 any district attorney filing a timely objection under subsection [(14)] **(13)** of this section.

22 (b) When a district attorney receives notice of a hearing for expunction of a record concerning  
 23 a youth or adjudicated youth proceeding under ORS chapter 419C, if the victim of the acts that re-  
 24 sulted in the disposition that is the subject of the application for expunction requests, the district  
 25 attorney shall mail notice of the hearing to the victim's last-known address.

26 [(17)] **(16)** The court shall conduct a hearing on an expunction pending under [subsections (3) to  
 27 (10) of] this section in accord with the provisions of ORS 419B.205, 419B.208, 419B.310, 419B.812 to  
 28 419B.839 and 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court juris-  
 29 diction and as defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the  
 30 party contesting expunction.

31 [(18)(a)] **(17)(a)** At the conclusion of a hearing on an expunction pending under [subsections (3)  
 32 to (10) of] this section, the court shall issue judgment granting or denying expunction.

33 (b) The court's denial of an application for expunction under subsections (2) to [(10)] **(9)** of this  
 34 section does not preclude the subject person from filing an application for expunction under any  
 35 other applicable subsection of this section.

36 [(19)(a)] **(18)(a)** The juvenile court or juvenile department shall send a copy of an expunction  
 37 judgment to each agency subject to the judgment. Attached to the expunction judgment must be  
 38 information, to remain confidential, regarding the record to be expunged and the date of the record.

39 [(b) Upon receipt of a copy of the judgment granting an application for expunction under subsection  
 40 (2) of this section, the agency shall comply and, within 60 days following the date of receipt, return the  
 41 copy to the juvenile court or the juvenile department with an indorsement indicating compliance.]

42 [(c)] **(b)** Upon receipt of a copy of the judgment granting an application for expunction under  
 43 [subsections (3) to (10) of] this section, the agency shall comply and, within [21] **60** days of the date  
 44 of receipt, return the copy to the juvenile court or juvenile department with an indorsement indi-  
 45 cating compliance.

1        [(d)] (c) The juvenile department may, upon an agency's written request, provide the agency  
 2 with an extension of time to comply with paragraph (b) [or (c)] of this subsection. The duration of  
 3 the extension may not exceed the later of 30 days or, if an audit or grievance under the Interstate  
 4 Compact for Juveniles relating to the subject person's records is pending, the date the audit or  
 5 grievance is concluded. **If the juvenile department grants an extension under this paragraph,**  
 6 **the juvenile department shall notify the juvenile court of the extension.**

7        [(20)] (19) When all agencies subject to an expunction judgment have indicated their compliance  
 8 or in any event no later than the later of 90 days following the date the judgment was delivered as  
 9 required by subsection [(19)] (18) of this section or, if the juvenile department granted an extension  
 10 of time under subsection [(19)(d)] (18)(c) of this section, 90 days following the expiration of the ex-  
 11 tension of time, the juvenile court shall provide the person who is the subject of the record with a  
 12 copy of the expunction judgment, a list of complying and noncomplying agencies, and a written no-  
 13 tice of rights and effects of expunction. The juvenile court and juvenile department then shall  
 14 expunge forthwith all records which they possess and which are subject to the judgment, except the  
 15 original expunction judgment and the list of complying and noncomplying agencies which must be  
 16 preserved under seal.

17        [(21)] (20) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit,  
 18 municipal and justice courts, and the district and city attorneys of this state, are bound by an  
 19 expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing an  
 20 expunction judgment.

21        [(22)(a)] *Applications for expunction under this section shall be available from the clerk of the court*  
 22 *in a form prescribed by the State Court Administrator.]*

23        [(b)] *The State Court Administrator shall prescribe the content and form of expunction judgments*  
 24 *under this section. The judgment forms must include a place for the court to specify the method of*  
 25 *expunction under ORS 419A.260 (1)(b) that applies to a given record.]*

26        **SECTION 5.** ORS 419A.265 is amended to read:

27        419A.265. Notwithstanding ORS 419A.262 [(3)(a)] (2)(a), a person is eligible for an order of  
 28 expunction under ORS 419A.262 [(3) to (10)] if the person was adjudicated for committing an act that,  
 29 if committed by an adult, would constitute a criminal offense in which possession, delivery or man-  
 30 ufacture of marijuana or a marijuana item as defined in ORS 475C.009 is an element and:

31        (1) The court finds that at least one year has elapsed since the date of the person's most recent  
 32 termination;

33        (2) The applicant has not been adjudicated or convicted for any other act or offense, excluding  
 34 motor vehicle violations; and

35        (3) The applicant has complied with and performed all conditions of the adjudication.

36        **SECTION 6.** ORS 419A.267 is amended to read:

37        419A.267. (1) A juvenile department **in the county where the subject person resided at the**  
 38 **time of the most recent contact** shall issue a notice of expunction of a subject person's records  
 39 if the subject person:

40        (a) Has had contact with the juvenile department;

41        (b) Has never been the subject of a petition alleging that the subject person is subject to the  
 42 juvenile court's jurisdiction under ORS 419C.005;

43        (c) Has never been found to be within the jurisdiction of the juvenile court under ORS 419C.005;

44        (d) Does not have an open referral for a case by informal means; and

45        (e) Has not had contact with the juvenile department resulting in a conviction under ORS



1 137.707.

2 (2) The juvenile department shall issue the notice described in subsection (1) of this section  
3 within 90 days following the later of:

4 (a) The date the subject person attains 18 years of age; or

5 (b) If the subject person was 18 years of age or older on January 2, 2022, the date the juvenile  
6 department receives a request for expunction from the subject person.

7 (3) The juvenile department shall send the notice described in subsection (1) of this section to  
8 each agency that the juvenile department determines, after a reasonable search of the juvenile  
9 department's files, may be in possession of records relating to the subject person. The notice must  
10 notify the recipient agency that the agency has 60 days from the date of receipt to expunge the  
11 subject person's records.

12 (4)(a) Upon receipt of a notice of expunction, an agency shall comply and, within 60 days of the  
13 date of receipt, return a copy of the notice to the juvenile department with an indorsement indi-  
14 cating compliance.

15 (b) The juvenile department may, upon an agency's written request, provide the agency with an  
16 extension of time to comply with paragraph (a) of this subsection. The duration of the extension may  
17 not exceed the later of 30 days or, if an audit or grievance under the Interstate Compact for Juve-  
18 niles relating to the subject person's records is pending, the date the audit or grievance is con-  
19 cluded.

20 (c) If an agency fails to comply with the requirements of paragraph (a) of this subsection, the  
21 juvenile department shall petition the juvenile court in the county in which the juvenile department  
22 is located for an order compelling the agency to comply.

23 (5) When all agencies subject to the notice of expunction have indicated their compliance or in  
24 any event no later than the later of 90 days following the date the notice was delivered as required  
25 by subsection (3) of this section or, if the juvenile department granted an extension of time under  
26 subsection (4) of this section, 90 days following the expiration of the extension of time, the juvenile  
27 department shall provide the subject person with a copy of the notice of expunction, a list of com-  
28 plying and noncomplying agencies, and a written notice of rights and effects of expunction. The ju-  
29 venile department then shall expunge forthwith all records in its possession that are subject to the  
30 notice of expunction, except the juvenile department shall retain a record of the expunction pro-  
31 cesses under this section and keep the record confidential.

32 *[(6) The Oregon Youth Authority, in consultation with county juvenile departments, shall develop*  
33 *statewide model forms to implement the provisions of this section.]*

34 **SECTION 7.** ORS 419A.269 is amended to read:

35 419A.269. (1) Upon issuance of a notice of expunction under ORS 419A.267 or entry of an  
36 expunction judgment under ORS 419A.262 **or section 2 of this 2023 Act**, the contact that is the  
37 subject of the expunged record may not be disclosed by any agency. An agency that is subject to a  
38 notice of expunction or an expunction judgment shall respond to any inquiry about the contact by  
39 indicating that no record or reference concerning the contact exists.

40 (2) A person who is the subject of a record that has been expunged under ORS 419A.262 or  
41 419A.267 **or section 2 of this 2023 Act** may assert that the record never existed and that the con-  
42 tact that was the subject of the record never occurred without incurring a penalty for perjury or  
43 false swearing under the laws of this state.

44 (3)(a) *[Upon the juvenile department's expunction of a subject person's records under ORS*  
45 *419A.262 or 419A.267,]* The juvenile department may destroy any records in the juvenile

1 department's possession relating to the subject person's contact under ORS 419B.100 if the records  
 2 are duplicate copies of records maintained by the Department of Human Services. The destruction  
 3 of records related to the subject person's contact under ORS 419B.100 pursuant to this [subsection]  
 4 **paragraph** does not constitute expunction.

5 **(b) The juvenile department may destroy any records in the juvenile department's pos-**  
 6 **session relating to the subject person's record of a motor vehicle, boating or game violation**  
 7 **waived to the criminal or municipal court pursuant to ORS 419C.370. The destruction of re-**  
 8 **ords related to the subject person's record of a motor vehicle, boating or game violation**  
 9 **pursuant to this paragraph does not constitute expunction.**

10 (4) Juvenile courts, by court rule or by order related to a particular matter, may direct that  
 11 records concerning a subject person be destroyed. No records may be destroyed until at least three  
 12 years have elapsed after the date of the subject's most recent termination. In the event the record  
 13 has been expunged, the expunction judgment and list of complying and noncomplying agencies may  
 14 not be destroyed, but shall be preserved under seal. The destruction of records under this sub-  
 15 section does not constitute expunction.

16 (5) A notice of expunction or an expunction judgment and the list of complying and noncom-  
 17 plying agencies shall be disclosed only on order of the court that would have had jurisdiction to  
 18 compel compliance with the notice of expunction or that originated the expunction judgment, based  
 19 on a finding that review of a particular case furthers compliance with the expunction provisions of  
 20 ORS 419A.260 to 419A.271.

21 (6) A person who, in the person's official capacity with a juvenile department, sends a notice  
 22 of expunction for an ineligible individual or fails to send a notice of expunction for an eligible in-  
 23 dividual under ORS 419A.267 has immunity from any liability, civil or criminal, that might otherwise  
 24 be incurred or imposed for making the disclosure or failing to make the disclosure, except when the  
 25 person who sends the notice has knowledge that the individual is ineligible or when the person who  
 26 fails to send the notice has knowledge that the individual is eligible.

27 (7) A person subject to a notice of expunction or expunction judgment has a right of action  
 28 against any person who intentionally violates the confidentiality provisions of this section. In the  
 29 proceeding, punitive damages up to an amount of \$1,000 may be sought in addition to any actual  
 30 damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

31 (8) Intentional violation of the confidentiality provisions of this section by a public employee is  
 32 cause for dismissal.

33 (9) A person who releases all or part of an expunged record commits a Class A violation.

34 **SECTION 8.** ORS 419A.271 is amended to read:

35 419A.271. (1) If a person who is the subject of a record for which expunction under [ORS  
 36 419A.262 (2)] **section 2 of this 2023 Act** has been denied or that is eligible for expunction under  
 37 ORS 419A.262 [(3) to (10)] wishes to apply for expunction and if the person is without funds to em-  
 38 ploy suitable counsel possessing skills and experience commensurate with the nature and complexity  
 39 of the expunction process, the person may request the juvenile court having jurisdiction over the  
 40 expunction process under ORS 419A.262 (1) to appoint counsel to represent the person in the  
 41 expunction proceeding.

42 (2) The juvenile court shall inform a person requesting court-appointed counsel under this sec-  
 43 tion of the person's right to be represented by suitable counsel possessing skills and experience  
 44 commensurate with the nature and complexity of the expunction process, to consult with counsel  
 45 prior to the filing of an application for expunction under ORS 419A.262 [(3) to (10)] and prior to a

1 hearing on the matter and[, *if financially eligible,*] to have suitable counsel appointed at state ex-  
2 pense. Upon request of the person, the juvenile court shall appoint counsel in accordance with the  
3 provisions of ORS 419B.195 and 419B.198 to aid the person in the expunction proceeding, including  
4 in the completion of an application for expunction and representation in any hearings on the appli-  
5 cation for expunction.

6 (3) When the juvenile court appoints counsel for a person under this section and the person is  
7 determined to be entitled to[, *and financially eligible for,*] appointment of counsel at state expense,  
8 the compensation for counsel and reasonable fees and expenses of investigation, preparation and  
9 presentation paid or incurred shall be determined and paid as provided in ORS 135.055.

10 **SECTION 9.** ORS 419C.273 is amended to read:

11 419C.273. (1) **As used in this section:**

12 (a) **“Critical stage of the proceeding” means a hearing that:**

13 (A) **Affects the legal interests of the youth or adjudicated youth;**

14 (B) **Is held in open court; and**

15 (C) **Is conducted in the presence of the youth or adjudicated youth.**

16 (b) **“Critical stage of the proceeding” includes, but is not limited to:**

17 (A) **Detention and shelter hearings;**

18 (B) **Hearings to review placements;**

19 (C) **Hearings to set or change conditions of release;**

20 (D) **Hearings to transfer proceedings or to transfer parts of proceedings;**

21 (E) **Waiver hearings;**

22 (F) **Adjudication and plea hearings;**

23 (G) **Dispositional hearings, including but not limited to restitution hearings;**

24 (H) **Review or dispositional review hearings;**

25 (I) **Hearings on motions to amend, dismiss or set aside petitions, orders or judgments;**

26 (J) **Probation violation hearings, including probation revocation hearings, when the basis**  
27 **for the alleged violation directly implicates a victim’s rights;**

28 (K) **Hearings for relief from the duty to report under ORS 163A.130; and**

29 (L) **Expunction hearings.**

30 [(1)(a)] (2)(a) The victim of any act alleged in a petition filed under this chapter may be present  
31 at and, upon request, must be informed in advance of critical stages of the proceedings held in open  
32 court when the youth or adjudicated youth will be present.

33 (b) The victim must be informed of any constitutional rights of the victim. Except as provided  
34 in ORS 147.417, the district attorney or juvenile department must ensure that victims are informed  
35 of their constitutional rights.

36 (c) **The district attorney or the juvenile department shall notify the victim at or before**  
37 **the time of adjudication of an act that, if committed by an adult, would constitute a violation**  
38 **or misdemeanor of the expunction process under section 2 of this 2023 Act.**

39 [(2)(a)] (3)(a) The victim has the right, upon request, to be notified in advance of or to be heard  
40 at:

41 (A) A detention or shelter hearing;

42 (B) A hearing to review the placement of the youth or adjudicated youth; or

43 (C) A dispositional hearing.

44 (b) For a release hearing, the victim has the right:

45 (A) Upon request, to be notified in advance of the hearing;

1 (B) To appear personally at the hearing; and

2 (C) If present, to reasonably express any views relevant to the issues before the court.

3 [(3)] (4) If the victim is not present at a critical stage of the proceeding, the court shall ask the  
4 district attorney or juvenile department whether the victim requested to be notified of critical stages  
5 of the proceedings. If the victim requested to be notified, the court shall ask the district attorney  
6 or juvenile department whether the victim was notified of the date, time and place of the hearing.

7 [(4) As used in this section:]

8 [(a) "Critical stage of the proceeding" means a hearing that:]

9 [(A) Affects the legal interests of the youth or adjudicated youth;]

10 [(B) Is held in open court; and]

11 [(C) Is conducted in the presence of the youth or adjudicated youth.]

12 [(b) "Critical stage of the proceeding" includes, but is not limited to:]

13 [(A) Detention and shelter hearings;]

14 [(B) Hearings to review placements;]

15 [(C) Hearings to set or change conditions of release;]

16 [(D) Hearings to transfer proceedings or to transfer parts of proceedings;]

17 [(E) Waiver hearings;]

18 [(F) Adjudication and plea hearings;]

19 [(G) Dispositional hearings, including but not limited to restitution hearings;]

20 [(H) Review or dispositional review hearings;]

21 [(I) Hearings on motions to amend, dismiss or set aside petitions, orders or judgments;]

22 [(J) Probation violation hearings, including probation revocation hearings, when the basis for the  
23 alleged violation directly implicates a victim's rights;]

24 [(K) Hearings for relief from the duty to report under ORS 163A.130; and]

25 [(L) Expunction hearings.]

26 (5) Nothing in this section creates a cause of action for compensation or damages. This section  
27 may not be used to invalidate an accusatory instrument or adjudication or otherwise terminate any  
28 proceeding at any point after the case is commenced or on appeal.

29 **SECTION 10.** ORS 21.135 is amended to read:

30 21.135. (1) Unless a specific fee is provided by subsection (3) of this section or other law for a  
31 proceeding, a circuit court shall collect a filing fee of \$281 when a complaint or other document is  
32 filed for the purpose of commencing an action or other civil proceeding and when an answer or  
33 other first appearance is filed in the proceeding.

34 (2) Except as provided in subsection (4) of this section, the filing fee established by subsection  
35 (1) of this section applies to:

36 (a) Proceedings in which only equitable remedies are sought.

37 (b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS  
38 21.285.

39 (c) Interpleader actions.

40 (d) Actions relating to a trust.

41 (e) Proceedings for judicial review of an agency order.

42 (f) Declaratory judgment actions.

43 (g) Any other action or proceeding that is statutorily made subject to the fee established by this  
44 section and any other civil proceeding for which a specific filing fee is not provided.

45 (3)(a) The circuit court shall collect a filing fee of \$263 in adoption cases under ORS chapter

1 109, excluding readoptions under ORS 109.385, when a petition is filed for the purpose of commenc-  
2 ing an adoption proceeding or when any other document or other first appearance is filed in the  
3 proceeding. The fee shall include the cost of issuing one or more certificates of adoption under ORS  
4 109.410.

5 (b) When separate petitions for adoption of multiple minor children are concurrently filed under  
6 ORS 109.276 by the same petitioner, one filing fee shall be charged for the first petition filed and  
7 the filing fees for concurrently filed petitions shall not be charged.

8 (4) The filing fee established under subsection (1) of this section does not apply to:

9 (a) Expunction proceedings under ORS 419A.262 **or section 2 of this 2023 Act**;

10 (b) Petitions under ORS 163A.130 or 163A.135 for an order relieving the person from the duty  
11 to report as a sex offender if the person is required to report under ORS 163A.025; or

12 (c) Any juvenile delinquency proceeding arising under ORS chapter 419B or 419C.

13 **SECTION 11.** ORS 147.508 is amended to read:

14 147.508. (1) At the request of a victim, the prosecuting attorney may request that the court  
15 schedule a hearing to reconsider a release decision if:

16 (a) The victim did not have notice of, or an opportunity to be heard at, a hearing in which the  
17 court released the defendant from custody or reduced the defendant's security amount; and

18 (b) The victim's request is made no later than 30 days after the victim knew or reasonably  
19 should have known of the release decision that is to be reconsidered.

20 (2) As used in this section, "release decision" includes:

21 (a) Decisions made at arraignment; and

22 (b) Decisions made at hearings described in ORS 419C.273 [(4)(b)(A) to (C)] **(1)(b)(A) to (C)**.

23 **SECTION 12.** Sections 1 to 3 of this 2023 Act and the amendments to ORS 419A.262,  
24 419A.265, 419A.267, 419A.269 and 419A.271 by sections 4 to 8 of this 2023 Act apply to  
25 expunction of records created before, on or after the effective date of this 2023 Act.

26 **SECTION 13.** (1) Sections 1 to 3 of this 2023 Act and the amendments to ORS 21.135,  
27 147.508, 419A.262, 419A.265, 419A.267, 419A.269, 419A.271 and 419C.273 by sections 4 to 11 of  
28 this 2023 Act become operative on January 1, 2024.

29 (2) **The State Court Administrator and the Oregon Youth Authority may take any action**  
30 **before the operative date specified in subsection (1) of this section that is necessary for the**  
31 **administrator or the authority to exercise, on and after the operative date specified in sub-**  
32 **section (1) of this section, all of the duties, functions and powers conferred on the adminis-**  
33 **trator or the authority by sections 1 to 3 of this 2023 Act and the amendments to ORS 21.135,**  
34 **147.508, 419A.262, 419A.265, 419A.267, 419A.269, 419A.271 and 419C.273 by sections 4 to 11 of**  
35 **this 2023 Act.**

36 **SECTION 14.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
37 regular session of the Eighty-second Legislative Assembly adjourns sine die.

38