

Enrolled Senate Bill 586

Sponsored by Senators JAMA, FREDERICK, GELSER BLOUIN; Senators DEMBROW, MANNING JR, Representatives ANDERSEN, GAMBA, PHAM K (Pre-session filed.)

CHAPTER

AN ACT

Relating to confidentiality in restorative justice programs; and declaring an emergency.

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

SECTION 1. As used in sections 2 and 3 of this 2023 Act:

- (1) **“Offender” means a person who has engaged in the commission of a crime.**
- (2) **“Participant” means a person who is a crime victim, survivor or offender.**
- (3) **“Restorative justice communication” means:**

(a) All communications, written and oral that are made in the course of, or in connection with, any phase of a restorative justice program, including but not limited to a phase under which a facilitated dialogue occurs and the referral, preparation, pre-enrollment, enrollment, post-enrollment and post-dialogue phases of the program.

(b) All memoranda, work products, documents and other materials that are prepared for or submitted in the course of, or in connection with, any phase of a restorative justice program, including but not limited to a phase under which a facilitated dialogue occurs and the referral, preparation, pre-enrollment, enrollment, post-enrollment and post-dialogue phases of the program.

(4) “Restorative justice program” means a community-based program administered by a private or public entity that offers as a part of the program a facilitated dialogue between a crime victim or a survivor and the offender.

(5) “Survivor” means a person who has experienced harm as a result of an offender’s crime.

SECTION 2. The Legislative Assembly finds and declares that:

(1) Restorative justice programs can promote justice and healing for crime victims and survivors.

(2) A facilitated dialogue is most successful when it is conducted in a manner that fosters the participants’ maximum openness about a crime, or the impact of the crime, by providing the participants with the knowledge that their communications will not be disclosed or used against them in subsequent adjudicatory or judicial proceedings.

(3) It is the policy and purpose of this section and section 3 of this 2023 Act that restorative justice communications are confidential, except in limited exceptions as specified in statute.

SECTION 3. (1) Except as provided in this section, restorative justice communications are confidential, exempt from public disclosure and:

(a) May not be used or disclosed by any restorative justice program staff members, facilitators, participants or any community members or persons who provide support to the restorative justice program, for any purpose unrelated to the program.

(b) Are not admissible as evidence in any administrative or judicial proceeding.

(2) A restorative justice communication is not confidential if:

(a) A restorative justice program staff member or facilitator reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or substantial bodily injury to a specific person; or

(b) The parties who are participants of a facilitated dialogue under a restorative justice program provide written consent that all or part of the communication may be disclosed.

(3) Any communication relating to child abuse that is made to a person who is required to report child abuse under the provisions of ORS 419B.010 is not confidential to the extent that the person is required to report child abuse under ORS 419B.010.

(4) Any communication relating to elder abuse under the provisions of ORS 124.050 to 124.095 is not confidential to the extent that a person is required to report elder abuse under the provisions of ORS 124.050 to 124.095.

SECTION 4. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate March 7, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 4, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State