

Enrolled
House Bill 3363

Sponsored by Representatives OLSON, BARKER; Representatives CONGER, HUFFMAN, KRIEGER, NATHANSON, THOMPSON, TOMEI, WHISNANT, WILLIAMSON, Senators BATES, JOHNSON, KRUSE (at the request of Oregon CASA Network)

CHAPTER

AN ACT

Relating to juvenile dependency proceedings; creating new provisions; and amending ORS 419A.255, 419A.256 and 419B.881.

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

SECTION 1. ORS 419B.881 is amended to read:

419B.881. (1) In all proceedings brought under ORS 419B.100 or 419B.500, each party, including the state, shall disclose to each other party and to a guardian ad litem appointed under ORS 419B.231 the following information and material within the possession or under the control of the party:

(a) The names and addresses of all persons the party intends to call as witnesses at any stage of the hearing, together with any relevant written or recorded statements or memoranda of any oral statements of such persons;

(b) Any written or recorded statements or memoranda of any oral statements made either by the parent or by the child to any other party or agent for any other party;

(c) Any reports or statements of experts who will be called as witnesses, including the results of any physical or mental examinations and of comparisons or experiments that the party intends to offer in evidence at the hearing; and

(d) Any books, papers, documents or photographs that the party intends to offer in evidence at the hearing, or that were obtained from or belong to any other party.

(2)(a) Disclosure *[shall]* **under subsection (1) of this section must** be made as soon as practicable following the filing of a petition and no later than:

(A) Thirty days after a petition alleging jurisdiction has been filed.

(B) Three days before any review hearing, except for information received or discovered less than three days prior to the hearing.

(C) Ten days before a **permanency hearing or a** termination trial, except for information received or discovered less than 10 days prior to the **hearing or** trial.

(b) The court may supervise the exercise of discovery to the extent necessary to insure that it proceeds properly and expeditiously.

(3)(a) When a ward has been placed in the legal custody of the Department of Human Services for care, placement and supervision under ORS 419B.337, the department shall disclose to all parties the case plan developed under ORS 419B.343, modifications to the case plan and any written material or information about services provided to the ward, or to the ward's parent or parents, under the case plan.

(b) Disclosure under this subsection must be made within 10 days of:

(A) Completion or modification of the case plan; and

(B) Receipt by the department of the written material or information about services provided under the case plan.

[3] (4) The obligation to disclose is an ongoing obligation and if a party finds, either before or during the hearing, additional material or information that is subject to disclosure, the information or material shall be promptly disclosed.

[4] (5) The following material and information need not be disclosed:

(a) Attorney work product; and

(b) Transcripts, recordings or memoranda of testimony of witnesses before the grand jury, except transcripts or recordings of testimony of a party to the current juvenile court proceeding.

[5] (6) Upon a showing of good cause, the court may at any time order that specified disclosure be denied, restricted or deferred or make such other order as is appropriate.

[6] (7) Upon request of a party, the court may permit a showing of good cause for denial or regulation of disclosure by the parties or the contents of subpoenaed materials, or portion of the showing, to be made in camera. A record shall be made of the proceeding.

[7] (8) If the court enters an order following an in camera showing, the entire record of the showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. The trial court may, after disposition, unseal the record.

[8] (9) When some parts of certain material are subject to disclosure and other parts are not, as much of the material as is subject to disclosure shall be disclosed.

[9] (10) Upon being notified of any breach of a duty to disclose material or information, the court may:

(a) Order the violating party to permit inspection of the material;

(b) Grant a continuance;

(c) Refuse to permit the witness to testify;

(d) Refuse to receive in evidence the material that was not disclosed; or

(e) Enter such other order as the court considers appropriate.

SECTION 2. ORS 419A.255 is amended to read:

419A.255. (1) The clerk of the court shall keep a record of each case, including therein the summons and other process, the petition and all other papers in the nature of pleadings, motions, orders of the court and other papers filed with the court, but excluding reports and other material relating to the child, ward, youth or youth offender's history and prognosis. The record of the case shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth offender, parent, guardian, court appointed special advocate, **a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, when reasonably necessary for the appointment or supervision of court appointed special advocates**, surrogate or a person allowed to intervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys. The attorneys are entitled to copies of the record of the case.

(2) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis are privileged and, except at the request of the child, ward, youth or youth offender, may not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under the judge's direction, service providers in the case and the attorneys of record for the child, ward, youth or youth offender or the child, ward, youth or youth offender's parent, guardian, court appointed special advocate, **a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, when reasonably necessary for the appointment or supervision of court appointed special advocates**, surrogate or person allowed to intervene in a proceeding involving the child, ward, youth or youth offender. Reports and other material relating to a youth offender's history and prognosis in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee. The service providers in the case, school superintendents, superintendents' designees and attorneys are entitled to examine and obtain copies of any reports or other material relating to the child, ward,

youth or youth offender's history and prognosis. Any service provider in the case, school superintendent, superintendent's designee or attorney who examines or obtains copies of such reports or materials is responsible for preserving their confidentiality. A service provider, school superintendent or superintendent's designee who obtains copies of such reports or materials shall return the copies to the court upon the conclusion of the service provider's, superintendent's or superintendent's designee's involvement in the case.

(3) Except as otherwise provided in subsection (7) of this section, no information appearing in the record of the case or in reports or other material relating to the child, ward, youth or youth offender's history or prognosis may be disclosed to any person not described in subsection (2) of this section without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

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

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

(4) If the court finds that the child, ward, youth, youth offender or parent is without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court shall order upon motion the transcript or part thereof to be furnished. The transcript or part thereof furnished under this subsection shall be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(5) Notwithstanding any other provision of law, the following are not confidential and not exempt from disclosure:

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

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

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

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

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

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

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

(6) Notwithstanding any other provision of law, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

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

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

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

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

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

(7)(a) Information contained in reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information for the reports or other materials has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person or entity who is in danger from the child, ward, youth or youth offender.

(b) An agency or a person who discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

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

(8) A county juvenile department is the agency responsible for disclosing youth and youth offender records if the records are subject to disclosure.

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

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

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

SECTION 3. ORS 419A.256 is amended to read:

419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 (1) and (3) governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, audiotape or videotape has been prepared in any proceeding under ORS chapter 419C, the victim may obtain a copy by paying the actual cost of preparation.

(2) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth offender, parent, guardian, court appointed special advocate, **a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, when reasonably necessary for the appointment or supervision of court appointed special advocates**, surrogate or a person allowed to intervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys.

SECTION 4. (1) **The Work Group on Juvenile Court Dependency Proceedings is established, consisting of 11 members appointed as follows:**

(a) The Chief Justice of the Supreme Court shall appoint six members as follows:

(A) Two members representing the Judicial Department with expertise in juvenile court dependency proceedings, at least one of whom shall be a circuit court judge;

(B) One member representing the citizen review board state administrative office or local citizen review boards;

(C) Two members representing CASA Volunteer Programs as defined in section 3, chapter 97, Oregon Laws 2012; and

(D) One member representing the Public Defense Services Commission.

(b) The Attorney General shall appoint two members as follows:

(A) One member representing the Department of Justice with expertise in juvenile court dependency proceedings; and

(B) One member representing the Oregon District Attorneys Association with expertise in juvenile court dependency proceedings.

(c) The Board of Governors of the Oregon State Bar shall appoint two members who are members of the Oregon State Bar with expertise representing parents and children in juvenile court dependency proceedings.

(d) The Director of Human Services shall appoint one member representing the Department of Human Services with expertise in the area of child welfare.

(2) The work group shall:

(a) Examine Oregon's juvenile court dependency system for the purpose of identifying impediments to:

(A) The timely resolution of jurisdictional petitions in juvenile court dependency proceedings.

(B) The assessment of the bases for dependency jurisdiction.

(C) The development and implementation of case plans for the reunification of families that include services and other assistance that are appropriate and accessible to parents.

(D) The assessment of the adequacy of case plans.

(E) The identification and implementation of specific, understandable and realistic conditions for the return of a child placed in substitute care to the physical custody of the child's parent.

(F) The timely development and implementation of permanent plans, including reunification of the family, that take into account the policies of the State of Oregon expressed in ORS 419B.090 and the concept of "reasonable time" as defined in ORS 419A.004.

(b) Identify the specific actions each entity represented by the work group members can take under existing law and within current budgetary restraints to remove or mitigate the impediments identified under paragraph (a) of this subsection, and develop a plan to put those actions into practice and to measure the effectiveness of those actions.

(c) Identify changes to existing law that could be made to assist in removing or mitigating one or more of the impediments identified under paragraph (a) of this subsection that would not require the investment and support of additional state funds.

(d) Identify changes to existing law that would be essential to remove or mitigate one or more of the impediments identified in paragraph (a) of this subsection that would require the investment and support of additional state funds.

(3) A majority of the members of the work group constitutes a quorum for the transaction of business.

(4) Official action by the work group requires the approval of a majority of the voting members of the work group.

(5) The work group shall elect one of its members to serve as chairperson.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The work group shall meet at times and places specified by the call of the chairperson or of a majority of the members of the work group.

(8) The work group may adopt rules necessary for the operation of the work group.

(9) The work group shall make a report, and may include recommendations for legislation, to interim committees of the Legislative Assembly related to juvenile dependency proceedings no later than January 15, 2015.

(10) The Legislative Administrator selected under ORS 173.710 shall provide staff support to the work group.

(11) Members of the work group who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the work group in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the work group consider necessary to perform their duties.

SECTION 5. Section 4 of this 2013 Act is repealed on June 30, 2015.

SECTION 6. The amendments to ORS 419A.255, 419A.256 and 419B.881 by sections 1 to 3 of this 2013 Act apply to dependency proceedings commenced or pending before, on or after the effective date of this 2013 Act.

SECTION 7. If Senate Bill 622 becomes law, section 2 of this 2013 Act (amending ORS 419A.255) is repealed and ORS 419A.255, as amended by section 3, chapter __, Oregon Laws 2013 (Enrolled Senate Bill 622), is amended to read:

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

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

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

(B) The child;

(C) The ward;

(D) The youth;

(E) The youth offender;

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

(G) The guardian ad litem for the parent;

(H) The surrogate;

(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(J) Service providers in the case;

(K) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates;**

(L) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (K) of this paragraph;

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

(N) The juvenile department;

(O) The Department of Human Services; and

(P) The Oregon Youth Authority.

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

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

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

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

(D) Persons listed in paragraph (b)(J) to (P) of this subsection.

(2)(a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the supplemental confidential file or record of the case are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection. Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth offender's history and prognosis become part of the record of the case but are subject to paragraph (e) of this subsection.

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

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

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

(C) The guardian ad litem for the parent of a child or ward in a dependency case;

(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;

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

(F) Service providers in the case;

(G) The attorneys or prospective appellate attorneys for:

(i) The child;

(ii) The ward;

(iii) The youth;

- (iv) The youth offender;
 - (v) The parent or guardian of the child, ward, youth or youth offender; or
 - (vi) The guardian ad litem for the parent;
 - (H) The surrogate;
 - (I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;
 - (J) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates;**
 - (K) The district attorney or assistant attorney general representing a party in the case;
 - (L) The juvenile department;
 - (M) The Department of Human Services; and
 - (N) The Oregon Youth Authority.
- (c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee.
- (d) The following are entitled to copies of material maintained in the supplemental confidential file:
- (A) The judge of the juvenile court and those acting under the judge's direction;
 - (B) Service providers in the case;
 - (C) School superintendents and their designees in cases under ORS 419C.005;
 - (D) Attorneys designated under subsection (1)(b)(L) of this section;
 - (E) The district attorney or assistant attorney general representing a party in the case;
 - (F) The juvenile department;
 - (G) The Department of Human Services;
 - (H) The Oregon Youth Authority; and
 - (I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates.**
- (e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.
- (3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in subsection (2) of this section without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:
- (a) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.
 - (b) In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from the juvenile court.
- (4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or obtains copies of reports, materials or documents under this subsection or under subsection (1) or (2) of this section, the person may not use or disclose the reports, materials or documents, except:
- (A) As provided in this subsection or under subsection (1) or (2) of this section;
 - (B) In the juvenile court proceeding for which the reports, materials or documents were sought or disclosed;

- (C) With the consent of the court; or
- (D) As provided in ORS 419A.253.

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or youth offender.

(b) A person that discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

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

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

- (a) The name and date of birth of the youth or youth offender;
- (b) The basis for the juvenile court's jurisdiction over the youth or youth offender;
- (c) The date, time and place of any juvenile court proceeding in which the youth or youth offender is involved;
- (d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

- (f) The names and addresses of the youth or youth offender's parents or guardians; and
- (g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

- (a) The youth's name and age and whether the youth is employed or in school;
- (b) The youth offense for which the youth was taken into custody;
- (c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;
- (d) The identity of the investigating and arresting agency; and
- (e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county juvenile department may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure, unless otherwise directed by the court.

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

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

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

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

SECTION 8. If Senate Bill 622 becomes law, ORS 419A.255, as amended by sections 3 and 11, chapter ____, Oregon Laws 2013 (Enrolled Senate Bill 622), is amended to read:

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

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

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

(B) The child;

(C) The ward;

(D) The youth;

(E) The youth offender;

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

(G) The guardian ad litem for the parent;

(H) The surrogate;

(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(J) Service providers in the case;

(K) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates;**

(L) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (K) of this paragraph;

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

(N) The juvenile department;

(O) The Department of Human Services;

(P) The Oregon Youth Authority; and

(Q) Any other person allowed by the court.

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

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

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

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

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

(E) Any other person allowed by the court.

(2)(a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the supplemental confidential file or record of the case are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection. Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth offender's history and prognosis become part of the record of the case but are subject to paragraph (e) of this subsection.

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

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

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

- (C) The guardian ad litem for the parent of a child or ward in a dependency case;
- (D) The parent or guardian of the youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;
- (E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;
- (F) Service providers in the case;
- (G) The attorneys or prospective appellate attorneys for:
 - (i) The child;
 - (ii) The ward;
 - (iii) The youth;
 - (iv) The youth offender;
 - (v) The parent or guardian of the child, ward, youth or youth offender; or
 - (vi) The guardian ad litem for the parent;
- (H) The surrogate;
- (I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;
- (J) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates;**
- (K) The district attorney or assistant attorney general representing a party in the case;
- (L) The juvenile department;
- (M) The Department of Human Services;
- (N) The Oregon Youth Authority; and
- (O) Any other person allowed by the court.

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

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

- (A) The judge of the juvenile court and those acting under the judge's direction;
- (B) Service providers in the case;
- (C) School superintendents and their designees in cases under ORS 419C.005;
- (D) Attorneys designated under subsection (1)(b)(L) of this section;
- (E) The district attorney or assistant attorney general representing a party in the case;
- (F) The juvenile department;
- (G) The Department of Human Services;
- (H) The Oregon Youth Authority;
- (I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012, **when reasonably necessary for the appointment or supervision of court appointed special advocates;** and
- (J) Any other person allowed by the court.

(e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.

(3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in subsection (2) of this section without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding

occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

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

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

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

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

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

(C) With the consent of the court; or

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

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or youth offender.

(b) A person that discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

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

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

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

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

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

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

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

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

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

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

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

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

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

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

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

(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county juvenile department may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure, unless otherwise directed by the court.

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

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

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

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

SECTION 9. If Senate Bill 622 becomes law, section 3 of this 2013 Act (amending ORS 419A.256) is repealed.

SECTION 10. If Senate Bill 622 becomes law, section 6 of this 2013 Act is amended to read:

Sec. 6. The amendments to ORS 419A.255[, 419A.256] and 419B.881 by sections 1 [to 3] and 7 of this 2013 Act apply to dependency proceedings commenced or pending before, on or after the effective date of this 2013 Act.

Passed by House April 29, 2013

Received by Governor:

Repassed by House June 11, 2013

.....M.,....., 2013

Approved:

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Ramona J. Line, Chief Clerk of House

.....M.,....., 2013

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Tina Kotek, Speaker of House

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John Kitzhaber, Governor

Passed by Senate June 5, 2013

Filed in Office of Secretary of State:

.....M.,....., 2013

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Peter Courtney, President of Senate

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Kate Brown, Secretary of State