

Enrolled
Senate Bill 622

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

CHAPTER

AN ACT

Relating to juvenile court proceedings; creating new provisions; and amending ORS 419A.015, 419A.200, 419A.253, 419A.255, 419A.256, 419A.257, 419A.300, 419B.367 and 420.048.

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

SECTION 1. As used in this section and ORS 419A.253, 419A.255 and 419A.256:

(1) **“Person”** means an individual, a public body as defined in ORS 174.109 or a tribe that has intervened in a juvenile court proceeding pursuant to the Indian Child Welfare Act (25 U.S.C. 1901 et seq.).

(2) **“Prospective appellate attorney”** means an attorney designated by the office of public defense services established under ORS 151.216 to potentially represent a child, ward, youth, youth offender, or a parent or guardian of a child, ward, youth or youth offender, in a juvenile case when the case has been referred to the office of public defense services for appeal.

(3) **“Record of the case” or “record of each case”:**

(a) **Includes but is not limited to:**

(A) **The summons and other process;**

(B) **Petitions;**

(C) **Papers in the nature of pleadings, answers, motions, affidavits and other papers that are filed with the court, including supporting documentation;**

(D) **Local citizen review board findings and recommendations submitted under ORS 419A.118 or 419B.367;**

(E) **Guardianship report summaries filed with the court under ORS 419B.367;**

(F) **Orders and judgments of the court, including supporting documentation;**

(G) **Transcripts under ORS 419A.256;**

(H) **Exhibits and materials offered as exhibits whether or not received in evidence; and**

(I) **Other documents that become part of the record of the case by operation of law.**

(b) **May include electronic records.**

(4) **“Supplemental confidential file”:**

(a) **Includes reports and other material relating to the child, ward, youth or youth offender’s history and prognosis, including but not limited to reports filed under ORS 419B.440, that:**

(A) **Are not or do not become part of the record of the case; and**

(B) **Are not offered or received as evidence in the case.**

(b) **May include electronic records.**

SECTION 2. ORS 419A.253 is amended to read:

419A.253. (1) When, for the purpose of a hearing or proceeding that will result in the entry of an order or judgment, the juvenile court *[considers]* **intends to rely upon** information in *[a]* **any report, *[or other material described in ORS 419A.255 (2)] material or document, including information in the supplemental confidential file,*** and no party has offered the report, *[or]* material or document as an exhibit or asked the court to take judicial notice of **a fact or law** in the information pursuant to **ORS 40.060 to 40.085 and 40.090**, the court shall:

(a) Identify on the record the report, *[or]* material **or document**, or *[the part of]* **information** in the report, *[or]* material **or document**, *[that the court has considered.]* **upon which the court intends to rely; and**

(b) Subject to the court's ruling on objections by the parties, *[the court shall]* either:

(A) Take judicial notice of **a fact or law** in the information pursuant to **ORS 40.060 to 40.085 and 40.090**; or

(B) Cause the report, *[or]* material **or document**, or *[the]* a part of the report, *[or]* material **or document**, to be marked and received as an exhibit.

(2) **If the court takes judicial notice of a fact or law under subsection (1) of this section,** the court shall cause a list to be made that reasonably identifies, by reference to *[its]* **the source, *[information]* any fact or law that is** judicially noticed *[under this subsection]*. The *[list]* **court** may *[be included]* **include the list** in the order or judgment or *[may be]* set out **the contents of the list** in a separate document attached to the order or judgment.

(3) **An exhibit marked and received under subsection (1) of this section and a list made under subsection (2) of this section are part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1).**

(4) If an appeal is taken from the order or judgment following the hearing or proceeding and the designation of record on appeal includes exhibits, the court or the trial court administrator shall cause the *[exhibits and any report or other materials containing judicially noticed information]* **following** to be transmitted to the appellate court as part of the record **of the case** on appeal*[:]*:

(a) **Exhibits;**

[(2)] (b) The list described in subsection *[(1)]* (2) of this section *[is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1)]; and*

(c) **Any report, material or document containing judicially noticed facts or law as identified on the list made under subsection (2) of this section.**

[(3) Nothing in ORS 419A.255 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 court records.]

SECTION 3. ORS 419A.255 is amended to read:

419A.255. (1)(a) 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]* **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***[, parent, guardian, court appointed special advocate,];*

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

(G) **The guardian ad litem for the parent;**

(H) **The surrogate** *[or];*

(I) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender[, *and their attorneys.*];

(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;

(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 *[attorneys]* 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, *[may not be disclosed directly or indirectly to anyone other than]* 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; *[and]*

(G) The attorneys *[of record]* or prospective appellate attorneys for:

(i) The child[,];

(ii) The ward[,];

(iii) The youth; *[or]*

(iv) The youth offender; *[or the child, ward, youth or youth offender's parent, guardian, court appointed special advocate,]*

(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; *[or]*

(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;

(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) *[Reports and other material relating to a youth offender's history and prognosis]* **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** *[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.]* **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.**

(e) *[Any service provider in the case, school superintendent, superintendent's designee or attorney who examines or]* **A person that** obtains copies of *[such reports or materials is]* **material in the supplemental confidential file pursuant to paragraph (d) of this subsection is** responsible for preserving *[their]* **the confidentiality of the material in the supplemental confidential file.** A service provider, school superintendent or superintendent's designee who obtains copies of such *[reports or materials shall return the copies to the court]* **material shall destroy the copies** 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)] (5) 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]* **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) 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.]

(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.

[5] (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.

[6] (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.

[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.] 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.

[(9)] (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).

[(10)] (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.

[(11)] (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 4. 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) If the court finds that the child, ward, youth, youth offender or parent or guardian of the child, ward, youth or youth offender 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 of the transcript to be furnished. The transcript or part of the transcript furnished under this subsection must be paid for in the same manner as furnished transcripts are paid for in criminal cases.

[(2)] (3) 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, surrogate or a person allowed to intervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys] persons described in ORS 419A.255 (1)(b)(A) to (P).

SECTION 5. ORS 419A.257 is amended to read:

419A.257. *[(1) The district attorney or assistant attorney general representing the state in a juvenile court proceeding, the juvenile department, the Department of Human Services and the Oregon Youth Authority may inspect and obtain from the court copies of the records, reports and other materials described in ORS 419A.255 (1) and (2) to the same extent that attorneys for the other parties and the other parties are authorized to inspect and obtain copies of the records, reports and other materials. An agency or person that inspects or obtains records, reports or materials under this subsection is subject to ORS 419A.255 (3).]*

[(2) Nothing in ORS 419A.255 prohibits the district attorney or assistant attorney general representing the state in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or the other parties in the proceeding or their attorneys from

disclosing to each other records, reports and other materials described in ORS 419A.255 (1) and (2) 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 juvenile department. An agency or person to whom records, reports or materials are disclosed under this subsection is subject to ORS 419A.255 (3).]

[(3) An agency or person that inspects or obtains records, reports or materials under subsection (1) of this section or to whom records, reports or materials are disclosed under subsection (2) of this section may not use or disclose the records, reports or materials except:]

[(a) As provided in subsections (1) and (2) of this section;]

[(b) In the juvenile court proceeding for which the records, reports or materials were sought or disclosed;]

[(c) With the consent of the court as provided in ORS 419A.255 (2) or (3); or]

[(d) As provided in ORS 419A.253.]

(1) Reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority or the juvenile department are privileged and, except with the consent of the child, ward, youth or youth offender or with the authorization of the court, shall be withheld from public inspection.

(2) The Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender's history and prognosis, if the disclosure is reasonably necessary to perform official duties relating to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department, to the following:

(a) Each other;

(b) The court;

(c) Service providers in the case;

(d) School superintendents and their designees in cases under ORS 419C.005;

(e) Attorneys of record for the child, ward, youth or youth offender;

(f) Attorneys representing a party in the case;

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

(h) The Department of Human Services;

(i) The court appointed special advocate; and

(j) The Psychiatric Security Review Board.

(3) A person that obtains copies of reports or other materials under this section is responsible for preserving the confidentiality of the reports or other materials. A service provider, school superintendent or superintendent's designee who obtains copies of reports or other materials under this section shall destroy the copies upon the conclusion of involvement in the case.

(4)(a) Information appearing in reports or other materials relating to the child, ward, youth or youth offender's history or prognosis may not be disclosed directly or indirectly to any person not described in subsection (2) of this section unless the consent of the child, ward, youth or youth offender or the authorization of the court has been obtained, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343.

(b) Information appearing in reports or other materials may not be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether the 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 an order or judgment of the juvenile court.

(5)(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 Oregon Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information contained in the reports and 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 that is in danger from the child, ward, youth or youth offender.

(b) An agency or 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.

(6) 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.

SECTION 6. ORS 419B.367 is amended to read:

419B.367. (1) Upon granting a motion for guardianship under ORS 419B.366 or upon granting a petition for guardianship under ORS 419B.365, the court shall issue letters of guardianship to the guardian. As provided in ORS 419A.255, a guardian may disclose letters of guardianship when necessary to fulfill the duties of a guardian. Letters of guardianship must be in substantially the following form:

State of Oregon,)
) LETTERS OF
County of _____) GUARDIANSHIP

BY THESE LETTERS OF GUARDIANSHIP be informed:

That on _____ (month) _____ (day), 2____, the _____ Court, _____ County, State of Oregon, appointed _____ (name of guardian) guardian for _____ (name of ward) and that the named guardian has qualified and has the authority and duties of guardian for the named ward including legal custody of the ward, except as provided below.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the court at my office on _____ (month) _____ (day), 2____.

(Seal)
_____, Clerk of the Court
By _____, Deputy

(2) In the order appointing the guardian, the court shall require the guardian to file with the court a verified written report within 30 days after each anniversary of appointment and may:

(a) Specify the frequency and nature of visitation or contact between relatives, including siblings, and the ward, if the court determines that visitation or contact is in the ward's best interests;

(b) Enter an order for child support pursuant to ORS 419B.400 that complies with ORS 25.275; and

(c) Make any other order to provide for the ward's continuing safety and well-being.

(3) The report required under subsection (2) of this section must:

(a) Contain a summary sheet that:

(A) Identifies the written report and includes the date of submission and the name of the submitting person; and

(B) Is maintained as part of the record of the case under ORS 419A.255 (1); and

(b) Be maintained in the supplemental confidential file under ORS 419A.255 (2).

~~[(3)(a)]~~ **(4)(a)** Upon timely receipt of a report under subsection (2) of this section, the court shall review the report and ~~[cause the report to become part of the juvenile court file and]~~ **maintain the report as described in subsection (3) of this section. The court may:**

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

(b) If the court does not receive a report under subsection (2) of this section in a timely manner, the court shall:

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

~~[(4)]~~ **(5)** Except as otherwise limited by the court, a person appointed guardian has legal custody of the ward and the duties and authority of legal custodian and guardian under ORS 419B.373 and 419B.376. A guardian is not liable to third persons for acts of the ward solely by reason of being appointed guardian.

SECTION 7. ORS 419A.015 is amended to read:

419A.015. (1)(a) Once each month, a county juvenile department shall provide to school administrators of schools or of school districts in the county a list of all youth offenders enrolled in a school in the county who are on probation by order of the juvenile court in the county. The department shall include in the list the name and business telephone number of the juvenile counselor assigned to each case.

(b) When a youth offender who is on probation transfers from one school or school district to a different school or school district, the juvenile counselor assigned to the case shall notify the school administrator of the school or of the school district to which the youth offender has transferred of the youth offender's probation status. The juvenile counselor shall make the notification no later than 72 hours after the juvenile counselor knows of the transfer.

(2) Upon request by the school administrator, the juvenile department shall provide additional information, including the offense that brought the youth offender within the jurisdiction of the juvenile court and such other information that is subject to disclosure under ORS 419A.255 ~~[(5)]~~ **(6)**.

(3) In addition to the general notification required by subsection (1) of this section, the juvenile department shall notify the school administrator of the specific offense if the act bringing the youth offender within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled substance.

(4) When a school administrator receives any notice under this section, the school administrator may disclose the information only to school personnel, as defined in ORS 339.326, who the school administrator determines need the information in order to safeguard the safety and security of the school, students and staff. A person to whom personally identifiable information is disclosed under this subsection may not disclose the information to another person except to carry out the provisions of this subsection.

(5) Except as otherwise provided in ORS 192.490, a juvenile department, school district or school administrator, or anyone employed or acting on behalf of a juvenile department, school district or school administrator, who sends or receives records under this section is not civilly or criminally liable for failing to disclose the information under this section.

(6) As used in this section, "school administrator" has the meaning given that term in ORS 419A.305.

SECTION 8. ORS 419A.200 is amended to read:

419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An ap-

peal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's judgment, shall grant a rehearing and shall direct that a record of the proceedings be kept. However, the court may not grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth or youth offender affected by such case. If a rehearing is held, the time for taking an appeal runs from the date of entry of the court's judgment after the rehearing.

(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS 19.250, to be served:

(A) On all parties who have appeared in the proceeding;

(B) On the trial court administrator or other person serving as clerk of the juvenile court; and

(C) On the juvenile court transcript coordinator, if a transcript is designated in connection with the appeal.

(b) The original of the notice with proof of service must be filed with:

(A) The Court of Appeals if the appeal is from a circuit court; or

(B) The circuit court if the appeal is from a county court.

(c) The notice must be filed not later than 30 days after the entry of the court's judgment. On appeal from the county court, the circuit court shall hear the matter de novo and its judgment is appealable to the Court of Appeals in the same manner as if the proceeding had been commenced in the circuit court.

(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the office of public defense services for appeals of juvenile court judgments.

(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of this section, the appellate court shall grant the person leave to file a notice of appeal after the time limits described in subsection (3) of this section if:

(A) The person shows a colorable claim of error in the proceeding from which the appeal is taken; and

(B) The person shows that the failure to file a timely notice of appeal is not personally attributable to the person.

(b) A person other than the state is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and must be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the person's request for relief.

(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal under ORS chapter 19 except that the court shall advance the appeal on the court's docket in the same manner as appeals in criminal cases.

(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor discharge the ward or youth offender from the custody of the person, institution or agency in whose custody the ward or youth offender may have been placed nor preclude the juvenile court after notice and hearing from entering such further orders relating to the ward or youth offender's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent

to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the adjudication of a petition seeking termination of the parental rights of a parent of the ward who is subject to the judgment from which the appeal is taken.

(c) The appeal of any judgment entered in a termination of parental rights proceeding under paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must be conducted and advanced on the court's docket in the same manner as termination of parental rights cases.

(8) On appeal of a judgment or final order, the appellate court may review any interlocutory order that:

(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

(b) Was made after entry of the last appealable judgment or final order preceding entry of the judgment or final order being appealed.

(9) The district attorney or Attorney General shall represent the state in the appeal.

(10)(a) The court from which an appeal is taken shall prepare and transmit a record on appeal in the manner provided in ORS 19.365, except that, when the appeal is to the circuit court from a county court, the record on appeal shall be prepared and transmitted by the county court to the circuit court.

(b) The court to which an appeal is taken under this section shall keep a record of the case on appeal that includes but is not limited to notices of appeal, briefs, motions, orders of the court and other papers filed with the court on appeal.

(c) The record on appeal prepared and transmitted under paragraph (a) of this subsection, when it is in the custody of the court to which the appeal is taken, and the record of the case on appeal kept under paragraph (b) of this subsection are subject to the same limitations on inspection, copying and disclosure of records, reports and materials as those set forth under ORS 419A.255 [and 419A.257].

(d) The court on appeal may consent to disclosure of:

(A) Records described in paragraph (a) of this subsection, while in the custody of the court to which the appeal is taken, in the same manner and under the same circumstances as the juvenile court consents to disclosure under ORS 419A.255 [and 419A.257]; [or]

(B) Records described in paragraph (b) of this subsection; or

(C) An audiotape or videotape prepared of an oral proceeding on appeal, in the same manner as permitted under ORS 419A.256 (1)(b) and (3).

(e) Notwithstanding any other provision of law, any decision, as that term is defined in ORS 19.450, issued by the Court of Appeals or the Supreme Court, on appeal or review of a juvenile court decision, is not confidential and is not exempt from disclosure.

SECTION 9. ORS 419A.300 is amended to read:

419A.300. (1)(a) Once each month, the Department of Human Services shall provide to each school district a list of all young persons enrolled in a school in the school district who are on conditional release. The department shall include in the list the name and business telephone number of the caseworker assigned to each case.

(b) When a young person who is on conditional release transfers from one school district to a different school district, the caseworker assigned to the case shall notify the superintendent of the school district to which the young person has transferred of the young person's status. The caseworker shall make the notification no later than 72 hours after the caseworker knows of the transfer.

(2) Upon request by the superintendent of the school district in which a young person is enrolled or the superintendent's designee, the department shall provide additional information, including the

offense that brought the young person within the jurisdiction of the juvenile court and such other information that is subject to disclosure under ORS 419A.255 [(5)] (6).

(3) In addition to the general notification required by subsection (1) of this section, the department shall notify the superintendent or the superintendent's designee of the specific offense and whether the act involved a firearm or delivery of a controlled substance.

(4) ORS 419A.015 (4) and (5) apply to persons sending or receiving records under this section.

SECTION 10. ORS 420.048 is amended to read:

420.048. (1)(a) When a youth offender who is in the legal custody of the Oregon Youth Authority transfers from one school or school district to a different school or school district, the person responsible for supervising the youth offender shall notify the school administrator of the school or of the school district to which the youth offender has transferred of the youth offender's status as a youth offender. The person shall make the notification no later than 72 hours after the person knows of the transfer.

(b) When a school administrator receives notification under this section, the school administrator may request the Oregon Youth Authority to provide additional information about the youth offender. The youth authority shall provide additional information, including the offense that brought the youth offender within the jurisdiction of the juvenile court and such other information that is subject to disclosure under ORS 419A.255 [(5)] (6).

(2) The youth authority shall include in the notice the following:

- (a) The name and date of birth of the youth offender;
- (b) The names and addresses of the youth offender's parents or guardians;
- (c) The name and contact information of the attorney for the youth offender, if known;
- (d) The name and contact information of the person giving notice under subsection (1) of this section or the person's designated representative to contact for further information about the notice;
- (e) The specific offense that brought the youth offender within the jurisdiction of the juvenile court and whether it involved a firearm or the delivery of a controlled substance, a violation of ORS 163.355 to 163.445 or 163.465 or any other offense if the youth authority or juvenile court believes the youth offender represents a risk to other students or school staff; and
- (f) Any terms of probation.

(3) Except as otherwise provided in ORS 192.490, the youth authority, a school district or a school administrator, or anyone employed or acting on behalf of the youth authority, school district or school administrator, who sends or receives records under this section is not liable civilly or criminally for failing to disclose the information under this section.

(4) As used in this section:

- (a) "School administrator" has the meaning given that term in ORS 419A.305.
- (b) "School district" has the meaning given that term in ORS 332.002.

SECTION 11. ORS 419A.255, as amended by section 3 of this 2013 Act, 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;

(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; **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); *[and]*

(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;

(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; **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; *[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; **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 12. The amendments to ORS 419A.255 by section 11 of this 2013 Act:

(1) Become operative on July 1, 2014; and

(2) Apply to juvenile court proceedings commenced on or after the operative date specified in subsection (1) of this section.

SECTION 13. Section 1 of this 2013 Act and the amendments to ORS 419A.015, 419A.200, 419A.253, 419A.255, 419A.256, 419A.257, 419A.300, 419B.367 and 420.048 by sections 2 to 10 of this 2013 Act apply to juvenile court proceedings commenced on or after the effective date of this 2013 Act.

Passed by Senate April 24, 2013

Repassed by Senate June 5, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2013

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Tina Kotek, Speaker of House

Received by Governor:

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

Approved:

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

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

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

.....
Kate Brown, Secretary of State