

Enrolled
House Bill 2042

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Corrections)

CHAPTER

AN ACT

Relating to disclosure of certain juvenile records to Department of Corrections; amending ORS 419A.257 and section 3, chapter 509, Oregon Laws 2015; and declaring an emergency.

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

SECTION 1. ORS 419A.257, as amended by section 2, chapter 509, Oregon Laws 2015, is amended to read:

419A.257. (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) The Oregon Youth Authority and county juvenile departments established under ORS 419A.010 to 419A.020 may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender's history and prognosis to the Department of Corrections for the purpose of enabling the Department of Corrections to perform its official duties relating to the exercise of custody or supervision of a person committed to the legal and physical custody of the Department of Corrections.

(b) The Department of Corrections shall limit the use of reports and other materials disclosed and provided to the department under this section to reports and other materials that relate to the history and prognosis of a youth or youth offender as these pertain to:

(A) A person who was transferred to the physical custody of the authority under ORS 137.124 and is subsequently transferred to the physical custody of the Department of Corrections under ORS 137.124 or 420.011 or any other statute; or

(B) A person committed to the legal and physical custody of the Department of Corrections while the person is under the jurisdiction of the juvenile court under ORS 419C.005, including but not limited to a person in the legal custody of the authority.

[3] (4) 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)] (5)(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)] (6)(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] (7) 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 2. Section 3, chapter 509, Oregon Laws 2015, as amended by section 1, chapter 39, Oregon Laws 2017, is amended to read:

Sec. 3. The amendments to ORS 419A.257 by section 2, chapter 509, Oregon Laws 2015, become operative on [January 1, 2020] **the effective date of this 2019 Act.**

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by House March 5, 2019

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate April 24, 2019

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State