

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)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes sunset date on temporary law and makes permanent law authorizing Oregon Youth Authority and county juvenile departments to disclose and provide copies of reports and other materials relating to child, ward, youth or youth offender's history and prognosis to Department of Corrections for specified purposes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to disclosure of certain juvenile records to Department of Corrections; amending ORS
3 419A.257 and section 3, chapter 509, Oregon Laws 2015; and declaring an emergency.

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

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

7 419A.257. (1) Reports and other materials relating to a child, ward, youth or youth offender's
8 history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority
9 or the juvenile department are privileged and, except with the consent of the child, ward, youth or
10 youth offender or with the authorization of the court, shall be withheld from public inspection.

11 (2) The Oregon Youth Authority and the juvenile department may disclose and provide copies
12 of reports and other materials relating to the child, ward, youth or youth offender's history and
13 prognosis, if the disclosure is reasonably necessary to perform official duties relating to the in-
14 volvement of the child, ward, youth or youth offender with the juvenile court or the juvenile de-
15 partment, to the following:

- 16 (a) Each other;
17 (b) The court;
18 (c) Service providers in the case;
19 (d) School superintendents and their designees in cases under ORS 419C.005;
20 (e) Attorneys of record for the child, ward, youth or youth offender;
21 (f) Attorneys representing a party in the case;
22 (g) The district attorney or assistant attorney general representing a party in the case;
23 (h) The Department of Human Services;
24 (i) The court appointed special advocate; and
25 (j) The Psychiatric Security Review Board.

26 **(3)(a) The Oregon Youth Authority and county juvenile departments established under**
27 **ORS 419A.010 to 419A.020 may disclose and provide copies of reports and other materials re-**
28 **lating to the child, ward, youth or youth offender's history and prognosis to the Department**
29 **of Corrections for the purpose of enabling the Department of Corrections to perform its of-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **fi**cial duties relating to the exercise of custody or supervision of a person committed to the
2 **legal and physical custody of the Department of Corrections.**

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

6 **(A) A person who was transferred to the physical custody of the authority under ORS**
7 **137.124 and is subsequently transferred to the physical custody of the Department of Cor-**
8 **rections under ORS 137.124 or 420.011 or any other statute; or**

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

12 [(3)] (4) A person that obtains copies of reports or other materials under this section is respon-
13 sible for preserving the confidentiality of the reports or other materials. A service provider, school
14 superintendent or superintendent's designee who obtains copies of reports or other materials under
15 this section shall destroy the copies upon the conclusion of involvement in the case.

16 [(4)(a)] (5)(a) Information appearing in reports or other materials relating to the child, ward,
17 youth or youth offender's history or prognosis may not be disclosed directly or indirectly to any
18 person not described in subsection (2) of this section unless the consent of the child, ward, youth
19 or youth offender or the authorization of the court has been obtained, except for purposes of eval-
20 uating the child, ward, youth or youth offender's eligibility for special education as provided in ORS
21 chapter 343.

22 (b) Information appearing in reports or other materials may not be used in evidence in any
23 proceeding to establish criminal or civil liability against the child, ward, youth or youth offender,
24 whether the proceeding occurs after the child, ward, youth or youth offender has reached 18 years
25 of age or otherwise, except for the following purposes:

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

28 (B) In connection with a proceeding in another juvenile court concerning the child, ward, youth
29 or youth offender or an appeal from an order or judgment of the juvenile court.

30 [(5)(a)] (6)(a) Information contained in reports and other materials relating to a child, ward,
31 youth or youth offender's history and prognosis that, in the professional judgment of the Oregon
32 Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or
33 superintendent's designee, teacher or detention worker to whom the information contained in the
34 reports and other materials has been provided, indicates a clear and immediate danger to another
35 person or to society, shall be disclosed to the appropriate authority and the person or entity that
36 is in danger from the child, ward, youth or youth offender.

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

40 (c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
41 and 419B.045.

42 [(6)] (7) The disclosure of information under this section does not make the information admis-
43 sible in any court or administrative proceeding if it is not otherwise admissible.

44 **SECTION 2.** Section 3, chapter 509, Oregon Laws 2015, as amended by section 1, chapter 39,
45 Oregon Laws 2017, is amended to read:

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

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

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