

Bills That Affect Public Records and Government Disclosure Laws
Latest as of 4/15/2019

Bills Passed Out of Committee:

Number: HB2353

Impact Statement: This measure authorizes the Attorney General, district attorney or court to award a penalty to a public records requester, plus reasonable attorney fees, if the Attorney General, district attorney or court determines that the public body responded to the request with undue delay or failed to respond to the request.

This measure does not impact public interests in disclosure that would be served if public records were subject to mandatory disclosure.

Committee: HC on Judiciary

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-8 by a 11-0 vote).

Number: HB2481

Impact Statement: This measure defines which public records are exempt from disclosure as reports and records generated as a result of a child abuse investigation.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could gain additional information related to child abuse investigations and court cases.

Committee: HC on Judiciary

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 3-20 by a 9-0 vote).

Number: HB2574

Impact Statement: This measure has an indeterminate open government impact. It is not clear what types of exempt records would be provided to the Department of Land Conservation and Development, whether the proposed electronic information system would serve only as a repository for records or if new records would be created by combining information from multiple sources. Even if new records were to be created by combining exempt and non-exempt information, it is not clear whether this measure creates a new exemption from the disclosure of public records or if it merely instructs the Department of Land Conservation and Development to always claim the existing exemption for exempt records of another agency found in ORS 192.355 (10).

Based on the preceding discussion, it is also indeterminate as to how this measure would impact public interests in disclosure that would be served if the public records were subject to mandatory disclosure.

Committee: HC on Natural Resources

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-9 by a 7-0 vote).

Number: HB2706

Impact Statement: This measure exempts from public disclosure personally identifiable information about applicants for or enrollees in the COFA Dental Program.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, individuals might be less likely to apply for coverage under the COFA Dental Program.

Committee: HC on Health Care

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-4 by a 9-0-2 vote).

Number: HB2717

Impact Statement: This measure exempts from public disclosure patient information collected from health care providers in compiling data for health planning programs.

The protected data likely could not be subject to mandatory disclosure under public records law as it would consist of protected health information.

Committee: HC on Health Care

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-9 by a 11-0 vote).

Number: HB3023

Impact Statement: This measure exempts from public disclosure records obtained from a transportation network company by the Department of Transportation during a compliance audit of the transportation network company.

If the public records were instead subject to mandatory disclosure under public records law, trade secret information of transportation network companies and rider histories could be made publicly available.

Committee: HC on Business and Labor

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-8 by a 8-3 vote).

Number: SB0155

Impact Statement: This measure makes information and reports of the Teacher Standards and Practices Commission detailing investigations of abuse or sexual conduct by school employees exempt from public disclosure unless the commission makes a final determination to take disciplinary action against the school employee. However, records received from the Department of Human Services pursuant to ORS 419B.035 would remain exempt from public disclosure regardless of the disposition of the investigation. If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could gain information related to ongoing investigations being conducted by the Teacher Standards and Practices Commission and investigations in which the allegations could not be substantiated.

Committee: SC on Education

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-8 by a 3-1-1 vote).

Number: SB0276

Impact Statement: This measure exempts from public disclosure any financial, cost, production or sales data and records and lists of brands by specific manufacturer collected from stewardship organizations or mattress manufacturers by the Department of Environmental Quality in implementing the mattress stewardship program.

If these public records were instead subject to mandatory disclosure under public records law, trade secret information of mattress manufacturers would likely be made public.

Committee: SC on Environment and Natural Resources

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-8 by a 3-2 vote).

Number: SB0279

Impact Statement: This measure exempts from public disclosure materials in the possession of the Department of Consumer and Business Services received in examining student loan servicers or investigating complaints by borrowers against student loan servicers.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could gain additional information related to license applications and ongoing investigations being conducted by the Department of Consumer and Business Services related to student loan servicers.

Committee: SC on Ways and Means

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-8 by a 3-2 vote).

Number: SB0373

Impact Statement: This measure exempts from public disclosure medical records maintained by the Psychiatric Security Review Board for individuals under the board's jurisdiction. The board is required to maintain medical, social and criminal histories for all persons under its jurisdiction. Currently, the confidentiality of those records is determined by ORS 192.338, 192.345 and 192.355. As the board is likely not a covered entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the medical records are not protected under HIPAA's privacy rules. Instead, the confidentiality of medical records maintained by the board is determined by applying the public interest balancing test of ORS 192.355 (2). Thus, records kept in a medical file maintained by the board are exempt from public disclosure if disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. This measure would replace that balancing test for medical records of individuals under the board's jurisdiction with an unconditional exemption from public disclosure.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public would be able to receive complete

medical histories of individuals found guilty except for insanity including those that had been previously released from the board's jurisdiction.

Committee: SC on Judiciary

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-4 by a 7-0 vote).

Number: SB0454

Impact Statement: This measure exempts from public disclosure information supplied to the State Treasurer by the Employment Department for the disposition of unclaimed property.

It is unlikely that there are public interests in employment records used for the disposition of unclaimed property.

Committee: JC on Ways and Means

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 2-21 by a 5-0 vote).

Number: SB0597

Impact Statement: This measure exempts from public disclosure the document submitted in a criminal case by the prosecutor which identifies the name of the victim of a sex crime when a pseudonym, initials or other signifier is used instead of the name of the victim in publicly available court records.

If the public records were instead subject to mandatory disclosure under public records law, the public could learn the identity of victims of sex crimes.

Committee: SC on Judiciary

Floor Vote Scheduled: Nothing scheduled yet (passed out of committee on 4-4 by a 7-0 vote).

Bills Passed Out of a Chamber:

Number: HB2016

Impact Statement: This measure makes it an unfair labor practice for a public body to waive a public records exemption and release personally identifiable information about employees within a bargaining unit to any party other than the exclusive representative of the employee.

If those public records were instead subject to mandatory disclosure under public records law, the public would be able to collect more personally identifiable information about public employees in Oregon.

Floor Vote: Passed House (36-22).

New Committee Assignment: SC on Workforce.

New Committee Dates Scheduled: Hearing on 4-18.

Number: HB2051

Impact Statement: This measure prohibits the disclosure of information received by the Department of State Police to their student safety tip line, information received while

investigating tips received by the tip line and outcomes or actions taken in response to a tip received.

If the public records were instead subject to mandatory disclosure under public records law, the public could receive more information relating to threats to students, but the public may be less forthcoming in providing tips and in providing information relating to a tip received.

Floor Vote: Passed House (58-2).

New Committee Assignment: SC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: HB2090

Impact Statement: This measure abolishes the peer review committee of the Oregon Board of Naturopathic Medicine and eliminates the exemption from public disclosure for information provided to the committee in the performance of its duties.

This measure would make those public records that could be subject to public disclosure subject to mandatory disclosure under public records law.

Floor Vote: Passed House (59-0-1).

New Committee Assignment: SC on Health Care.

New Committee Dates Scheduled: Hearing scheduled for 4-10.

Number: HB2321

Impact Statement: This measure expands the exemption from disclosure of personal information of public safety officers to also include county juvenile department employees who primarily perform duties related to youth offenders confined in detention facilities.

Currently this information is subject to mandatory disclosure under public records law unless another exemption from public disclosure applies.

Floor Vote: Passed House (56-0-1).

New Committee Assignment: SC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: HB2462

Impact Statement: This measure exempts from public disclosure information contained in criminal court files regarding the defendant's status as a servicemember if the defendant requests the information to be sealed within the court file.

If public records related to the status of a service member were instead subject to mandatory disclosure under public records law, defendants would be less likely to proffer that information to the court and, consequently, not be able to take advantage of treatment programs, specialty courts or mitigated sentencing that is available to service members.

Floor Vote: Passed House (60-0).

New Committee Assignment: SC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: SB0029

Impact Statement: This measure makes certain investigative reports received by the Health Licensing Office exempt from public disclosure.

If the public records were instead subject to mandatory disclosure under public records law, the Health Licensing Office would likely receive fewer complaints regarding health care licensees and would find it more difficult to investigate those complaints. However, the public would also be able to obtain additional information regarding complaints and investigations by the Health Licensing Office, including information relating to complaints that could not be substantiated.

Floor Vote: Passed Senate (17-12-1).

New Committee Assignment: HC on Healthcare.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: SB0031

Impact Statement: This measure makes information and records acquired by a high-risk team addressing safety risks facing highly vulnerable adults exempt from public disclosure except when necessary to carry out the purposes of the high-risk team.

The protected data likely could not be subject to mandatory disclosure under public records law as much of it would consist of protected health information.

Floor Vote: Passed Senate (30-0).

New Committee Assignment: HC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: SB0358

Impact Statement: This measure makes information the Department of Revenue provides to the Oregon State Bar for disciplinary action related to persons admitted to practice law exempt from public disclosure unless the Oregon State Bar finds probable cause of a rule violation or the matter has been finally resolved by disciplinary board action, a diversion or agreement or an order of the Supreme Court.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could gain information related to ongoing investigations being conducted by the Oregon State Bar and those in which the allegations could not be substantiated.

Floor Vote: Passed Senate (27-3).

New Committee Assignment: HC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled yet.

Number: SB0388

Impact Statement: This measure requires a presiding judge to seal the record of a pardoned conviction and other official records in the case.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public could gain additional information related to convictions that were later pardoned. However, convictions for which a pardon was issued could continue to negatively impact the individual after having been pardoned.

Floor Vote: Passed Senate (22-4-4).

New Committee Assignment: HC on Judiciary.

New Committee Dates Scheduled: Nothing scheduled

Number: SB0523

Impact Statement: This measure exempts from public disclosure patient information used by the Department of Revenue to publish information regarding outstanding tax debts owed to the department.

The protected data likely could not be subject to mandatory disclosure under public records law as it would consist of protected tax return information.

Floor Vote: Passed Senate (28-2).

New Committee Assignment: HC on Revenue.

New Committee Dates Scheduled: Nothing scheduled yet.