

## **Introduction**

The Oregon Sunshine Committee is pleased to submit its fourth biannual report to the Oregon Legislature. This report is particularly exciting as the passage of SB 890 (2025) now requires this report to be submitted to the legislature's Judiciary Committees. The Sunshine Committee is proud of its accomplishments since our last report. Should the Legislative Assembly have questions, the Sunshine Committee would be happy to address those at an upcoming meeting or through a supplemental report.

## **Statutory Basis**

ORS 192.511 establishes the Sunshine Committee and sets out its purposes. The Sunshine Committee's single largest charge is to review existing public records disclosure exemptions by 2031. In total, the Sunshine Committee is also empowered to "[s]tudy and identify any inefficiencies and inconsistencies in the application of public records laws that impede transparency in public process and government." And it is charged with making "recommendations on changes in existing law, policy and practice to enhance transparency and facilitate rapid fulfillment of public records requests made to public bodies." Finally, it is required to make a report to the Legislative Assembly by May 1 of every even numbered year.

## **Committee Membership**

Statutorily, the Sunshine Committee consists of fifteen members. Four legislators are members of the Public Records Subcommittee and participate *ex officio* without voting rights. Some of the changes from SB 890 outline that two members be from the House of Representatives and two from the Senate, respectively appointed by chair the the House and

Senate Judiciary Committees. For voting members, the Governor and Attorney General or their designees are voting members. The remaining seven members are selected by the Attorney General to represent various stakeholder groups. These are the current non-legislative members serving on the Sunshine Committee:

- Mark Landauer, Special Districts Association of Oregon
- Charlie Fisher, Oregon State Public Interest Research Group
- Emily Cureton Cook, Oregon Public Broadcasting
- Stephanie Clark, State Archivist
- Alex Downing, City of Corvallis
- Leslie Wu, Office of the Attorney General
- Cameron Miles, Office of the Governor
- Morgan Smith, Polk County
- Elliot Njus, The Oregonian

Collectively, these members represent the interests of a wide array of interests in public records including journalists, public entities and public interests. It should be noted that we currently have two vacancies. The vacant positions are slated for a representative of newspaper publishers and an individual with information technology experience.

The Sunshine Committee currently meets once every two months as a full group. Two subcommittees have been created as well. The special projects subcommittee exists to do a

deeper dive into specific exemptions recommended to it by the full Committee. Over time it has been discovered that the full board can be a bit unwieldy when addressing complicated issues, and usually specific facets of an exemption will be referred to the special projects subcommittee. The subcommittee then meets separately and generates a recommendation that can be brought back to the full committee for adoption or modification. A legislative subcommittee also exists to address legislative concepts and bills that fall within the charge of the Sunshine Committee during legislative sessions.

## **Structure of Report**

Following this introductory section, this report will describe the Sunshine Committee's work and recommendations over the past two years, as well as its plans into the future. Exemption review work is discussed first, starting with an explanation of exemptions reviewed to date and recommendations of the Sunshine Committee based on that review. An update on the Sunshine Committee's plans to finish its review follows.

## **Exemption Review**

The Attorney General's catalog of public disclosure exemptions — the statutes the Sunshine Committee must review — contains over 600 entries. As explained in the Sunshine Committee's previous reports, those have been divided into categories based on subject matter, and the Sunshine Committee has established the order in which they will be reviewed. The Sunshine Committee generally uses the following framework for assessing public records exemptions:

- Why should this information be kept from the public? What public policy interests are served?
- What interests suffer if this information is not available to the public? To what extent does it hinder government accountability?
- Is the exemption appropriately written in light of the above? Does it adequately balance the relevant interests?
- If there are multiple exemptions, do there need to be? Are the various exemptions written in a way that captures the relevant differences?

These have not been adopted as questions that the Sunshine Committee will formally answer with respect to every exemption. Instead, they are the principles that are guiding the Sunshine Committee's consideration of exemptions and underlie its recommendations.

### **Exemptions Reviewed Since the Last Report**

To date the Sunshine Committee has reviewed a vast swath of public records exemptions, which as noted above were grouped together by subject matter. The current count of total exemptions to the Public Records Law in Oregon is 642. To date, the Sunshine Committee has reviewed 289.

In an effort to keep this report somewhat digestible, individual exemptions will be referenced by the subject matter which the exemptions fell under, rather than specific statutory citations of each individual exemption. The fact that this is the most practical method to provide a summary of existing public records exemptions highlights one of the continuing themes of the

Sunshine Committee's work. Specifically, it is incongruent for the public records law to start with the basic premise that all records possessed by state and local governments in Oregon are open to public inspection while at the same time having over 600 specific exemptions of this general rule. This creates an unwieldy legal framework for the public to easily access information related to the work of government and for governmental entities to manage requests, both of which can delay or obstruct transparency.

It should be noted that this total number of recommendations appearing in this report is a bit smaller than previous iterations. However, several of the subjects we covered required deeper discussion and analysis before a recommendation could be made and/or were Oregon laws and exemptions that mirrored federal law and could not be changed at a state level. Attached to this report are the specific statutes/exemptions reviewed and the summaries prepared by the Department of Justice.

### **Background Check related information**

Number of exemptions reviewed: 8 - See Attachment A

#### Discussion:

Review of the exemptions related to background checks was a robust discussion but with limited recommendation for substantive change. Most of the exemptions were related to compliance with the federal privacy restrictions around Criminal Justice Information Systems (CJIS) under federal law and different state and local government access to those protected records. CJIS provides approved pathways for information contained in state and federal criminal justice databases, and most of the exemptions reviewed worked to protect those

pathways. The one major recommendation was for a modification of ORS 166.412 and 166.436 relating to background information for gun purchases and transfers. There was concern that the verbiage in statute was overbroad and could be interpreted to make every document related to a background check conducted by the Oregon State Police exempt from disclosure. This could include anything related to whether a background check even occurred, rather than simply protecting the confidential results of the background check.

Recommendation:

ORS 166.412 – information obtained by gun dealers for background checks

ORS 166.436 – information obtained by gun transferors for background checks

Both exemptions should be amended to apply to the “results of the criminal records check” (the language already used in other statutes on the subject, like ORS 125.240) rather than “the record of the information obtained during a request for a criminal history record check”. The difference would allow the state police to disclose that a background check about a particular individual was requested and whether that check was completed - but would protect the confidentiality of the results, as federal law requires.

ORS 181A.220 Confidentiality of Some Records

Amend to provide that the fact a background check was conducted is not confidential, and that records not specifically containing information that is otherwise confidential under state or federal law are not exempt.

**Juvenile Records**

Number of exemptions reviewed: 16 - See Attachment B

Discussion:

Review of Oregon's privacy scheme and public records exemptions related to juvenile proceedings was light on recommendations. There was a consensus from the group that protecting juvenile information from public inspection was beneficial as a whole and no recommendations were put forward or adopted. .

Recommendations: None

**Disability Records**

Number of exemptions reviewed: 8 - See Attachment C

Discussion:

The Committee had no recommendations for approximately half of the disability related exemptions. The exemptions related to judicial fitness were of particular interest to the group as there would be greater public interest in the potential disability of a judge because of the position of authority they hold within a community. The records exemptions for these materials related to the Oregon Commission on Judicial Fitness. Accordingly, the executive director, Rachael Mortimer attended a Committee meeting and provided input on the process and protocols around the Commission on Judicial Fitness' inquiries into judicial disability issues.

The current state of the law was that all complaints (conduct or disability related) were confidential, along with any investigation of the matter by the Commission on Judicial Fitness. If an investigation concluded there was sufficient evidence of possibly disability or wrongdoing

then the matter would proceed to a hearing. At the hearing level the disability information could still be confidential. Finally, at the conclusion of the hearing, a recommendation would then be transmitted to the Oregon Supreme Court for final determination. When the matter is before the Supreme Court, all records related to the underlying proceeding become public.

Ms. Mortimer further explained that the three forms of discipline that can be meted out are public censure, suspension or termination. All judges subject to a complaint are free to stipulate to a finding and discipline if they so chose at any point in the process, and the stipulation would then be adopted by the Supreme Court which is available to the public. However, the Commission on Judicial Fitness' jurisdiction extends only to judges in Oregon and as a result, at any point in this process they could resign their position and any investigation would cease as they are no longer under the Commission's jurisdiction. Accordingly, complaints that never make it to hearing or the Supreme Court would never become available to the public.

The special projects subcommittee met to discuss the exemptions further with the assistance of Ms. Mortimer again. After lengthy deliberations, no unified path was clear but three options were coalesced for consideration by the full board. Option one would be no change to the current confidentiality. Option two was more closely aligned with how other public employee complaints/investigations are treated which is to make them public once they are founded. A third option would be to approach confidentiality the same as the Oregon State Bar which has all no restrictions on materials related to complaints against lawyers.

Balancing the privacy interests of judges and of complainants (there were concerns over a chilling effect of complainants) the eventual recommendation adopted was that documents currently exempt from public disclosure should be conditionally exempt. Complaints and

investigatory materials related to a judge who resigns or retires shall no longer be exempt from public disclosure. Complainants that wish to remain anonymous should be allowed to do so.

Recommendations:

ORS 1.303 – disability info pertaining to judges maintained by the Chief Justice

ORS 1.425 – disability info pertaining to judges received by the Commission on Judicial Fitness

ORS 1.440 – disability info pertaining to judges during investigations and proceedings

Exemptions should be amended to ensure that:

- documents currently exempt from public disclosure should be conditionally exempt.
- Complaints and investigatory materials related to a judge who resigns or retires shall no longer be exempt from public disclosure.
- Complainants that wish to remain anonymous should be allowed to do so.

**Education Records**

Number of exemptions reviewed: 8 - See Attachment D

Discussion:

The Committee reviewed a wide swath of public records exemptions related to educational records. To bring some expertise to the table, Spencer Lewis from the Oregon School Boards Association joined and provided extensive background information on the records exemptions. Specifically, how the current state of Oregon law relates to privacy requires of federal law under the Family Educational Rights and Privacy Act (FERPA). After discussion,

the committee declined to recommend substantive changes to Oregon's privacy scheme as they were largely duplicative of federal law. The one recommendation coming from this discussion was to alter ORS 341.290 to align with the record exemptions applicable to other public employees.

### Recommendations:

ORS 341.290 – community college faculty records

Amend this exemption to align with how records for other public employees are treated.

### **Legislative Advocacy**

Throughout the history of the Sunshine Committee, every year we review exemptions, more simply get added to Oregon law creating new exemptions. While exemption review is the primary charge of the Committee, we are empowered to identify inefficiencies in public records law and make recommendations to the legislature regarding public records exemptions. In the last two years, there were two primary ways in which we engaged with the legislative process.

#### SB 890 (2025)

Over the years, we have realized that while we have spent a significant amount of time reviewing exemptions and making recommendations, those recommendations have not generally been adopted. Additionally, the amount of time needed to review all of the exemptions to public records law proved to be more than initially envisioned. To address both of these issues, we

suggested several statutory changes that were introduced as a bill (SB 890) in the 2025 legislative session by Sen. Kim Thatcher. SB 890 made two primary changes.

First, it changed the due date and recipient of our biannual report. Previously, our our report was required to be submitted to the Public Records Subcommittee by June 1. However, this was a committee that didn't meet regularly and the date was past the usually scheduled set of meetings by legislative committees in even-numbered years that would have been the logical time for proposed statutory changes to be discussed. SB 890 changed the report due date to May 1 and recipient to the Senate and House Committees on Judiciary. These changes will provide an easier opportunity for the Legislature to consider our recommendations in a timely manner.

Second, SB 890 extended the deadline for our review to be finished to December 31, 2031 from 2026. This will give us the time we need to fully review all exemptions.

### Testimony

Historically the Committee has struggled to provide input to the legislative process as generally speaking the legislature moves faster than our full board can independently review, meet and agree on recommendations. In the past we have attempted to authorize comments on pending legislation to be acted on unilaterally by a board chair or other appointed representative provided the comments are consistent with prior decisions made on similar exemptions. This also proved less than effective.

In an effort to be more effective in curbing the continual growth of exemptions under the public records law, the Committee came up with a different approach. Prior to the most recent legislative sessions, the Committee authored a letter for submission to all bills with open

government impact statements. The letter is attached as Exhibit E. The crux of the letter encapsulates some of the guiding principles governing the Committee's review of exemptions. Initially, we ask the legislature to consider whether a new exemption is truly needed given the voluminous exemptions already on the books. If the exemption is soundly rooted in public policy, we ask the legislature to examine whether an existing exemption could be used rather than an additional exemption under the law. Lastly, we request that new exemptions come with a public interest balancing test to effectuate transparency. The letter is attached as an appendix to this report.

## **Conclusion**

In sum, the Committee reviewed 36 different exemptions to Oregon's Public Records law in the past two years. The next subjects anticipated to be reviewed will be mental health and counseling exemptions and correctional institution exemption.

## **Index of Public Records Exemptions Relating to Background Checks**

**ORS 125.240** – background checks of certain fiduciaries

**ORS 166.412** – information obtained by gun dealers for background checks

**ORS 166.436** – information obtained by gun transferors for background checks

**ORS 181A.195** – criminal offender information generally

**ORS 181A.220** – certain fingerprints, photographs, and criminal offender records

**ORS 267.237** – criminal offender information obtained by mass transit districts

**ORS 418.747** – background information obtained by county child abuse multidisciplinary teams

**ORS 443.004** – fitness determinations for certain mental health or substance abuse treatment providers

**Exemption Statute and Title: [ORS 125.240](#) Professional Fiduciaries**

**Summary:** Makes confidential the results of criminal background checks required for the appointment of professional fiduciaries for protected persons. Also see [ORS 125.012](#) and [ORS 125.085](#).

**Relevant Text: [ORS 125.240](#)**

(2)(a) If a petition seeks the appointment of a professional fiduciary as described in subsection (5) of this section, the professional fiduciary and all staff with responsibility for making decisions for clients or for management of client assets must undergo a criminal records check before the court may appoint the professional fiduciary. The results of the criminal records check shall be provided by the petitioner to the court. Results of criminal records checks submitted to the court are confidential, shall be subject to inspection only by the parties to the proceedings and their attorneys, and shall not be subject to inspection by members of the public except pursuant to a court order entered after a showing of good cause. A professional fiduciary must disclose to the court any criminal conviction of the professional fiduciary that occurs after the criminal records check was performed. \*\*\*

**Key Terms & Definitions:**

As used in this section, “professional fiduciary” means a person nominated as a fiduciary or serving as a fiduciary who is acting at the same time as a fiduciary for three or more protected persons who are not related to the fiduciary. [ORS 125.240\(5\)](#)

“Protected person” means a person for whom a protective order has been entered. [ORS 125.005\(7\)](#)

“Protective order” means an order of a court appointing a fiduciary or any other order of the court entered for the purpose of protecting the person or estate of a respondent or protected person. [ORS 125.005\(8\)](#)

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 166.412](#) Definitions**

**Summary:** Exempts from disclosure any information obtained during a request for a criminal history record check by a gun dealer, including information supplied by the dealer and information obtained during the background check.

**Relevant Text: [ORS 166.412](#)**

(7)(a) The department [Oregon State Police] may retain a record of the information obtained during a request for a criminal history record check for no more than five years \* \* \* .

(b) The record of the information obtained during a request for a criminal history record check by a gun dealer is exempt from disclosure under public records law.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Suo, March 6, 2013](#) (denied petition seeking the identity of firearm dealers requesting background checks and the number of checks by month; the “information obtained during a request for a criminal history record check” includes information required to be submitted by the gun dealer when making the request and is not limited to information obtained during the background check itself)

**Exemption Statute and Title: [ORS 166.436](#) Department of State Police Criminal Background Checks for Gun Show Firearm Transfers**

**Summary:** Exempts from disclosure any information obtained during criminal history record check requested by a gun transferor (non-dealer) at gun shows.

**Relevant Text:** [ORS 166.436](#)

(5) (a) The department may retain a record of the information obtained during a request for a criminal background check under this section for the period of time provided in [ORS 166.412\(7\)](#).

(b) The record of the information obtained during a request for a criminal background check under this section is exempt from disclosure under public records law.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 181A.195](#) Criminal Records Check**

**Summary:** Makes criminal offender information confidential.

**Relevant Text:** [ORS 181A.195](#)

(12) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

**Key Terms & Definitions:**

“Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release. [ORS 181A.010\(2\)](#)

“Authorized agency” means state government, the Oregon State Bar, or a municipal tax collection agency in a city with a population of 250,000 or more. [ORS 181A.195\(1\)\(a\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?** Directs authorized agencies and the Department of State Police to adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Ward, August 1, 2019](#) (denying petition seeking criminal offender information obtained by OLCC, an authorized agency, in the course of a criminal background check of an applicant).

**Exemption Statute and Title: [ORS 181A.220](#) Confidentiality of Some Records**

**Summary:** Makes confidential any fingerprints, photographs, records, and reports compiled under a motion to set aside an arrest or conviction; compiled as required in the course of an arrest; contained in an offender's disposition report; or related to ODOT records for undercover vehicles.

**Relevant Text: [ORS 181A.220](#)**

(1) Notwithstanding the provisions of [ORS 192.311](#) to [192.478](#) relating to public records the fingerprints, photographs, records and reports compiled under [ORS 137.225](#), [181A.010](#), [181A.160](#), [181A.175](#), [181A.230](#), [805.060](#) and this section are confidential and exempt from public inspection except:

(a) As ordered by a court;

(b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to govern access to and use of computerized criminal offender information including access by an individual for review or challenge of the individual's own records;

(c) As provided in [ORS 181A.230](#) and [181A.245](#);

(d) As provided in [ORS 181A.180](#); or

(e) As provided in [ORS 418.747\(5\)](#).

(2) The records of the department of crime reports to the department and of arrests made by the department, however, shall not be confidential and shall be available in the same manner as the records of arrest and reports of crimes of other law enforcement agencies under [ORS 192.345](#).

**Enumerated Exceptions or Public Interest Balancing Test?** Various statutory exceptions permit disclosure for various official purposes, but none permit disclosure to the general public. Notwithstanding this provision, ORS 192.345(3) provides that "[t]he record of an arrest or the report of a crime 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." See [Pamplin v. City of Salem, 293 Or App 755 \(2018\)](#) (record of an arrest or report of a crime in a child abuse case were not exempt notwithstanding the general prohibition on the disclosure of child abuse investigatory information found in ORS 419B.035).

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 267.237](#) Criminal Records Check**

**Summary:** Makes confidential any criminal offender information obtained by a mass transit district as part of a required criminal records check. Also see [ORS 181A.195](#).

**Relevant Text:** [ORS 267.237](#)

(12) Criminal offender information is confidential. The Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information. Any district receiving information pursuant to this section is bound by the rules of disclosure adopted by the department.

**Key Terms & Definitions:**

“Criminal offender information” is not defined in Chapter 267. It is defined in Chapter 181A to include “records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.” [ORS 181A.010\(2\)](#)

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 418.747](#) County Teams for Investigation**

**Summary:** Makes confidential any criminal history information obtained by county child abuse multidisciplinary teams on any person who is part of the household where DHS may place or has placed a child who is in the department's custody. Also see [ORS 419B.035](#).

**Relevant Text: [ORS 418.747](#)**

(1) The district attorney in each county shall be responsible for developing county child abuse multidisciplinary teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, local health department personnel, county mental health department personnel who have experience with children and family mental health issues, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

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(5) To ensure the protection and safe placement of a child, the Department of Human Services may request that team members obtain criminal history information on any person who is part of the household where the department may place or has placed a child who is in the department's custody. All information obtained by the team members and the department in the exercise of their duties is confidential and may be disclosed only when necessary to ensure the safe placement of a child.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 443.004](#) Criminal Records Check Required for Employees and Volunteers Providing Direct Care**

**Summary:** Upon the request of a mental health or substance abuse treatment provider who sought employment with a residential facility or adult foster home, DHS or OHA must retain the results of any fitness determination made under [ORS 181A.195\(10\)](#). Any disclosure of those results requires prior written authorization from the provider.

**Relevant Text:** [ORS 443.004](#)

(5) Public funds may not be used to support, in whole or in part, the employment, in any capacity having contact with a recipient of support services or a resident of a residential facility or an adult foster home, of a mental health or substance abuse treatment provider who has been convicted of committing, or convicted of an attempt, conspiracy or solicitation to commit, a crime described in [ORS 163.095](#) (“Aggravated murder” defined), [163.107](#) (Murder in the first degree), [163.115](#) (Murder in the second degree), [163.375](#) (Rape in the first degree), [163.405](#) (Sodomy in the first degree), [163.411](#) (Unlawful sexual penetration in the first degree) or [163.427](#) (Sexual abuse in the first degree).

(6) Upon the request of a mental health or substance abuse treatment provider, the department or authority shall maintain a record of the results of any fitness determination made under [ORS 181A.195\(10\)](#) (Criminal records check). The department or authority may disclose the record only to a person the provider specifically authorizes, by a written release, to receive the information.

**Key Terms & Definitions:**

“Mental health or substance abuse treatment provider” means:

- (A) A peer support specialist;
- (B) An employee of a residential treatment facility or a residential treatment home that is licensed under [ORS 443.415](#) to provide treatment for individuals with alcohol or drug dependence;
- (C) An individual who provides treatment or services for persons with substance use disorders; or
- (D) An individual who provides mental health treatment or services. [ORS 443.004 \(e\)](#)

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Index of Public Records Exemptions  
Relating to Juvenile Information**

- [163A.225](#) – information concerning juvenile sex offenders
- [179.045](#) – reports on convictions prepared for the Department of Corrections
- [192.345\(41\)](#) – tip line information related to threats to student safety
- [329A.290](#) – name and identifying information of a complainant of a child care facility
- [339.323](#) – information reported to school administrators regarding juvenile offenders
- [339.326](#) – information reported to school administrators regarding juvenile offenders transferring from outside states
- [339.329](#) – personally identifiable tip line information related to threats to student safety
- [417.030](#) – information obtained under the Interstate Compact for Juveniles
- [418.811](#) – information considered by review teams in certain child abuse-related fatalities
- [419A.015](#) – reports to school administrators regarding youth offenders on probation
- [419A.100](#) – information reviewed by citizen review boards in juvenile cases
- [419A.255](#) – juvenile court records and related history and prognosis records
- [419A.257](#) – records relating to a child, ward, youth or youth offender’s history and prognosis
- [419A.262](#) – information about juvenile offenses that are later expunged
- [419B.035](#) – reports and records compiled under Oregon’s child abuse reporting laws
- [419B.112](#) – records acquired by special advocate in juvenile proceedings

**Exemption Statute and Title:** [ORS 163A.225](#) **Release of Information Concerning Sex Offender Adjudicated in Juvenile Court**

**Summary:** Governs and restricts the release of information about juvenile sex offenders by law enforcement agencies.

**Relevant Text:** [ORS 163A.225](#)

(1) (a) Except as otherwise provided in this section, when a sex offender is under the supervision of the Oregon Youth Authority or a county juvenile department for the first time as a result of committing an act that if committed by an adult would constitute a sex crime, the Department of State Police, city police department or county sheriff's office shall release, upon request, only:

(A) The sex offender's name and year of birth;

(B) The name and zip code of the city where the sex offender resides;

(C) The name and telephone number of a contact person at the agency that is supervising the sex offender; and

(D) The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.

(b) Notwithstanding paragraph (a) of this section, the Oregon Youth Authority or a county juvenile department shall release, upon request, any information that may be necessary to protect the public concerning a sex offender under the supervision of the authority or department.

(2) Except as otherwise limited by subsection (1)(a) of this section regarding persons who are under supervision for the first time as sex offenders, the Department of State Police, a city police department or a county sheriff's office shall release, upon request, any information that may be necessary to protect the public concerning sex offenders required to report under [ORS 163A.025](#) who reside in a specific area or concerning a specific sex offender required to report under [ORS 163A.025](#). However, the entity releasing the information may not release the identity of a victim of a sex crime.

(3) (a) The Department of State Police may make the information described in subsections (1) and (2) of this section available to the public, without the need for a request, by electronic or other means. The Department of State Police shall make information about a person who is under supervision for the first time as a result of committing an act that if committed by an adult would constitute a sex crime accessible only by the use of the sex offender's name. For all other sex offenders required to report under [ORS 163A.025](#), the Department of State Police may make the information accessible in any manner the department chooses.

(b) Notwithstanding paragraph (a) of this subsection, the Department of State Police may not use the Internet to make information available to the public.

**Enumerated Exceptions or Public Interest Balancing Test?** The Oregon Youth Authority or a county juvenile department shall release, upon request, any information that may be necessary to protect the public concerning a sex offender under the supervision of the authority or department.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 179.045](#) Reports on Convictions**

**Summary:** Makes confidential reports prepared by court clerks regarding juveniles found to be within the jurisdiction of the court and prepared for the Department of Corrections.

**Relevant Text:** [ORS 179.045](#)

(1) The clerk of a circuit or county court shall cause a report to be made to the Department of Corrections on each offender convicted of a felony or misdemeanor in the court and on each juvenile found to be within the jurisdiction of the court by reason of a ground set forth in [ORS 419B.100\(1\)\(a\)](#) or [419C.005\(1\)](#).

(2) The Department of Corrections shall prescribe forms for the reports required under subsection (1) of this section. Information required may include the name, age, sex, crime or action and disposition of the offender or juvenile and such other information as the department by rule may require. Such reports are confidential and may not be used in evidence.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 192.345\(41\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Makes conditionally exempt any information reported to a tip line concerning threats to student safety. Make personally identifiable information in such reports unconditionally exempt.

**Relevant Text:** [ORS 192.345](#)

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

(41) The contents of tips reported to a tip line, as defined in [ORS 339.329](#). However, personally identifiable information, as defined in [ORS 339.329](#), is not subject to public interest balancing under this section and remains exempt from disclosure except as provided in [ORS 339.329](#).

**Enumerated Exceptions or Public Interest Balancing Test?** Yes – public interest balancing test for the contents of tips, but not for personally identifiable information.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 329A.390](#) Inspection**

**Summary:** Prohibits the disclosure of the complainant's name and other identifying information related to certain complaints received and investigated by the Office of Child Care.

**Relevant Text:**

(4) Complaints, including but not limited to serious complaints, made by individuals or entities regarding certified or registered child care facilities, regulated subsidy facilities, preschool recorded programs or school-age recorded programs may be received and investigated by the Office of Child Care. The name, address and other identifying information about the individual or entity that made the complaint may not be disclosed.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 339.323\(1\)](#) Disclosure of Information Regarding Person Charged With or Convicted of Crime or Regarding Release or Discharge of Person**

**Summary:** Restricts the disclosure of information provided to school administrators regarding juvenile offenders.

**Relevant Text:** [ORS 339.323\(1\)](#)

(1) When a school administrator as defined in [ORS 419A.305](#) receives notice under [ORS 339.317](#), [339.319](#), [339.321](#), [419A.015](#), [420.048](#) or [420A.122](#), 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.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 339.326](#) Actions After Receipt of Notice Under ORS 419A.305**

**Summary:** Makes confidential any information provided to school administrators regarding certain juvenile offenders.

**Relevant Text:** [ORS 339.326](#)

(6)(a) Except as provided in this section, information contained in a notice required under [ORS 419A.305](#) or obtained from an out-of-state school under subsection (3) of this section is confidential.

(b) Persons receiving information contained in a notice required under [ORS 419A.305](#) or obtained from an out-of-state school under subsection (3) of this section may not disclose any information received to anyone other than:

- (A) The person who is the subject of the notice or the transfer student;
- (B) The parent or guardian of the person who is the subject of the notice or the transfer student;
- (C) A school administrator;
- (D) School personnel notified under subsection (2) or (3) of this section;
- (E) Law enforcement personnel;
- (F) The probation officer or juvenile counselor of the person who is the subject of the notice or the transfer student; and
- (G) The attorney for the person who is the subject of the notice or the transfer student.

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions listed above, but none permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

**Exemption Statute and Title: [ORS 339.329](#) Statewide Tip Line to Report Information Concerning Threats or Potential Threats to Student Safety**

**Summary:** Restricts the disclosure of personally identifiable information reported to a tip line concerning threats to student safety. See also ORS 192.345(41).

**Relevant Text:** [ORS 339.329](#)

(4) The contents of tips reported to the tip line may be disclosed only as allowed under [ORS 192.345\(41\)](#), except that:

(a) Personally identifiable information may be disclosed only as provided in this section; and

(b) Personally identifiable information and other information reported through the tip line may be disclosed to the following persons for the purpose of follow-up contact to obtain or provide further information:

(A) Tip line staff;

(B) A school district, education service district, community college, private school that provides educational services to kindergarten through grade 12 students, career school or public university;

(C) A service provider; or

(D) Law enforcement.

**Enumerated Exceptions or Public Interest Balancing Test?**

[ORS 192.345](#) exempts the following from disclosure unless the public interest requires disclosure in a particular instance:

(41) The contents of tips reported to a tip line, as defined in ORS 339.329. However, personally identifiable information, as defined in ORS 339.329, is not subject to public interest balancing under this section and remains exempt from disclosure except as provided in ORS 339.329.

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 417.030](#) The Interstate Compact for Juveniles**

**Summary:** Authorizes the Governor to enter an interstate compact regarding the transfer or return of juvenile offenders between jurisdictions and permits the governing Interstate Commission to exempt information or official records to the extent disclosure would adversely affect personal privacy rights or proprietary interests.

**Relevant Text: [ORS 417.030](#)**

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 418.811](#) Team Assignment and Membership**

**Summary:** Makes confidential any information provided to a Critical Incident Review Team investigating certain child abuses cases that result in the death of a child.

**Relevant Text:** [ORS 418.811](#)

(5) (a) All information and records available to the department regarding the critical incident shall be provided to team members. Information and records under this subsection include, but are not limited to, medical records, hospital records, records maintained by any state, county or local agency, police investigative data, coroner or medical examiner investigative data and social services records, as necessary to complete a case review under this section.

(b) Information and records provided to team members are confidential and may be disclosed only as necessary to carry out the purposes of the team's case review.

**Key Terms:**

“Critical incident” means an incident that resulted in the death of a child if the Department of Human Services reasonably believes the death was the result of child abuse and:

- (1) The child was in the custody of the department at the time of death;
- (2) The child, the child's sibling or any other child living in the household with the child was the subject of a child protective services assessment by the department within the 12 months preceding the fatality;
- (3) The child, the child's sibling or any other child living in the household with the child had a pending child welfare or adoption case with the department within the 12 months preceding the fatality; or
- (4) The child, the child's sibling or any other child living in the household with the child was the subject of a report of abuse or neglect made to the department or a law enforcement agency within the 12 months preceding the fatality, whether or not the report was closed at screening without an investigation being commenced.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 419A.015](#) Reports to School Administrators  
Concerning Youth Offenders on Probation**

**Summary:** Restricts the disclosure of information provided to school administrators regarding juvenile offenders on probation.

**Relevant Text:** [ORS 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 adjudicated youths 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 an adjudicated youth 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 adjudicated youth has transferred of the adjudicated youth's probation status. The juvenile counselor shall make the notification no later than 72 hours after the juvenile counselor knows of the transfer.

\* \*

- (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.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 419A.100](#) Confidentiality of Information**

**Summary:** Makes juvenile information reviewed by local citizen review boards confidential.

**Relevant Text:** [ORS 419A.100](#)

(1) Before beginning to serve on a local citizen review board, each member shall swear or affirm to the court that the member shall keep confidential the information reviewed by the board and its actions and recommendations in individual cases.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO McClure \(5/25/1995\)](#) (observing that citizen review board records are exempt from disclosure to all persons who are not participants)

**Exemption Statute and Title: [ORS 419A.255](#) Maintenance**

**Summary:** Makes juvenile court records confidential and privileged, with some exceptions. Also see [ORS 419A.257](#).

**Relevant Text: [ORS 419A.255](#)**

(1) (a) The clerk of the court shall maintain a record of each case and a supplemental confidential file for 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 (judges, youth, parents, guardians, attorneys, special advocates, service providers, district attorneys, juvenile department, DHS, OYA)

(2) (a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the record of the case or the supplemental confidential file are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection except that inspection is permitted as set forth in subsection (1)(b) of this section and paragraph (b) of this subsection. \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test? Yes.**

(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.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Bachman](#) (8/6/09) (denying a media petition seeking disclosure of Oregon Youth Authority records relating to a child who was in the custody of DHS' Child Services Division)

[PRO Cole](#) (2/3/09) (denying media petition seeking the judge's order approving an adoption after child later murdered by adopted parent; the order was exempt as a juvenile court record)

[PRO Matteo-Boehm](#) (9/2/05) (denying, in part, a media petition seeking disclosure of "administrative information" regarding DHS' activities and responsibilities in a juvenile case insofar as the responsive records consisted of juvenile court records)

[PRO Black](#) (12/11/98) (under a prior version of the statute, denying a father's petition seeking disclosure of son's confidential history and prognosis records in the custody of the Office for Services to Children and Families; parents not entitled to disclosure under the statute)

[PRO Zaitz](#) (6/28/96) (under a prior version of the statute, denying media petition seeking disclosure of records maintained by the Office for Services to Children and Families, notwithstanding the consent of the father who was otherwise entitled to "inspect" the records)

[PRO Deutsch](#) (4/10/95) (denying petition seeking disclosure of information maintained by the Child Services Division that was obtained from juvenile court temporary custody orders and petitions)

**Exemption Statute and Title: [ORS 419A.257](#) Reports and Materials Privileged**

**Summary:** Makes privileged any reports or other materials relating to a child, ward, youth or youth offender's history and prognosis maintained by the Oregon Youth Authority or the juvenile department. Also see [ORS 419A.255](#).

**Relevant Text: [ORS 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.

\*\*\*

(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.

**Enumerated Exceptions or Public Interest Balancing Test?** Several exemptions for limited official purposes, but none that would permit disclosure to the general public without the consent of the juvenile or authorization from a court.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 419A.262](#) Expunction Proceeding**

**Summary:** Prohibits agencies from disclosing information about juvenile offenses that are the subject of an expunged record.

**Relevant Text: [ORS 419A.262](#)**

(21) Upon entry of an expunction judgment, the contact that is the subject of the expunged record shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall respond to any inquiry about the contact by indicating that no record or reference concerning the contact exists.

**Key Terms:**

(a) “Contact” means any instance in which a person’s act or behavior, or alleged act or behavior, which could result in a juvenile court’s assumption of jurisdiction under [ORS 419B.100](#)(1)(a) to (c) and (f) or [419C.005](#) comes to the attention of an agency specified in paragraph (d) of this subsection.

(b) “Expunction” means:

(A) The removal and destruction or sealing of a judgment or order related to a contact and all records and references; and

(B) Where a record is kept by the Department of Human Services or the Oregon Youth Authority, either the sealing of such record by the department or the Oregon Youth Authority or, in a multiperson file, the affixing to the front of the file, by the department or the youth authority, a stamp or statement identifying the name of the individual, the date of expunction and instruction that no further reference shall be made to the material that is subject to the expunction order except upon an order of a court of competent jurisdiction.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 419B.035](#) Confidentiality of Records**

**Summary:** Makes confidential all records or reports compiled under Oregon's Child Abuse Reporting Statutes.

**Relevant Text: [ORS 419B.035](#)**

(1) Notwithstanding the provisions of [ORS 192.001](#) to [192.170](#), [192.210](#) to [192.478](#) and [192.610](#) to [192.810](#) relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of [ORS 419B.010](#) to [419B.050](#) are confidential and may not be disclosed except as provided in this section. \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test?**

ORS 419B.035(1) requires DHS to disclose child abuse records – in limited circumstances and for limited purposes – to: law enforcement agencies; certain medical providers; attorneys or other parties in juvenile court proceedings; certain citizen review boards; court appointed special advocates in certain proceedings; the Office of Child Care; the Office of Children's Advocate; the Teacher Standards and Practices Commission for certain investigations; Disability Rights Oregon, *and to any person in cases where a child, as the result of abuse, died or suffered serious physical injury.* Note that within the context of Oregon's Public Records Law, the statute does not generally permit the disclosure of child abuse records to alleged victims, alleged perpetrators, or parents/guardians.

ORS 419B.035(3) gives OHS discretion to make records compiled under Oregon's Child Abuse Reporting Statutes available to any person “when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, [and] to protect children from abuse and neglect\*\*\*.”

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** Dozens of PROs, with representative examples below.

[Pamplin Media v. Salem](#), 293 Or App 755 (2018) (the record of an arrest in a child abuse case was not compiled under Oregon's Child Abuse Reporting Statutes; information sought was obtained under authorities governing the conduct of criminal investigations)

[PRO Maynard](#) (8/19/20) (DHS permitted to withhold exempt child abuse records)

[PRO Thompson](#) (5/29/20) (same)

[PRO van der Linde](#) (5/26/20) (if DHS exercises its discretion to disclose child abuse records under ORS 419B.035(3), it is not permitted to disclose the “name, address and other identifying information about the person who made the report.”)

[PRO Gormley](#) (1/16/20) (DHS permitted to withhold exempt child abuse records from the subject of the records)

[PRO Wishnia](#) (7/8/19) (DHS permitted to withhold exempt child abuse records from the father of the victim)

[PRO Chapman](#) (6/26/19) (child welfare records to which petitioner may have been entitled under ORS 409.225 did not include a subset of child abuse records, which were expressly exempt under ORS 419B.035)

[PRO Upham](#) (4/1/19) (noting that the court's interpretation of the statute in [Pamplin Media v. Salem](#) (above) suggests that law enforcement agencies may need to better distinguish between records compiled under Oregon's Child Abuse Reporting Statutes and those compiled under separate law enforcement authorities).

[PRO Brynelson](#) (2/28/19) (cross report of child abuse by DHS to state police was exempt)

[PRO Young](#) (5/2/18) (application of the confidentiality provisions in ORS 419B.035 and 409.225 (child welfare records) do not turn on the public interest)

[PRO Bailey](#) (7/3/14) (documents compiled in law enforcement investigations of child abuse are compiled under the child abuse reporting statutes, specifically ORS 419B.020, and are therefore confidential)

[PRO Hinkle](#) (5/26/06) (to find an abuse of discretion under ORS 419B.035(3), we would need to find that DHS determined that disclosure was necessary to its administration of child welfare services and in the best interests of the child, or that disclosure was necessary to investigate, prevent or treat child abuse and neglect, or to protect children from abuse and neglect, or for research, but nonetheless chose not to make this necessary disclosure)

**Exemption Statute and Title: [ORS 419B.112](#) Court Appointed Special Advocate**

**Summary:** Information acquired by a court appointed special advocate during juvenile proceedings is confidential under [ORS 419A.255](#).

**Relevant Text:** [ORS 419B.112](#)

(1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings and may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. \*\*\*

\*\*\*

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under [ORS 419A.255](#).

**Enumerated Exceptions or Public Interest Balancing Test?** See summary of [ORS 419A.255](#)

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Index of Public Records Exemptions  
Relating to Disability Information**

[ORS 1.303](#) – disability info pertaining to judges maintained by the Chief Justice

[ORS 1.425](#) – disability info pertaining to judges received by the Commission on Judicial Fitness

[ORS 1.440](#) – disability info pertaining to judges during investigations and proceedings

[ORS 176.309](#) – disability info pertaining to the Governor received by disability evaluation panel

[ORS 247.973](#) – disability information of an elector entered in voter registration records

[ORS 346.165](#) – records of the Commission for the Blind

[ORS 346.167](#) – lists or names maintained by the Commission for the Blind

[ORS 427.293](#) – info disclosed during commitment proceedings

**Exemption Statute and Title: [ORS 1.303](#) Disability of Judge**

**Summary:** Information received or prepared by the Chief Justice of the Supreme Court during an inquiry to determine whether a judge has a disability is not a public record.

**Relevant Text: [ORS 1.303](#)**

(2) When the Chief Justice of the Supreme Court receives a complaint as provided in [ORS 1.420](#)(2) or has reliable information that would lead a reasonable person to believe that a judge has a disability, the Chief Justice may:

- (a) Confer with the subject judge in respect to the alleged disability.
- (b) Consult with other judges of the court in which the subject judge serves and other persons who may have knowledge concerning the alleged disability.
- (c) Conduct other inquiry in respect to the alleged disability as the Chief Justice considers appropriate.

\*\*\*

(6) Documents filed with or prepared by the Chief Justice under subsections (2), (3) and (5) of this section shall not be public records unless received as competent evidence in the course of a hearing pursuant to [ORS 1.310](#)(4) or [1.420](#).

**Key Terms:**

“Disability” means a physical or mental condition of a judge, including but not limited to impairment derived in whole or in part from habitual or excessive use of intoxicants, drugs or controlled substances, that significantly interferes with the capacity of the judge to perform judicial duties. A disability may be permanent or temporary. ORS 1.303(1)(c).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 1.425](#) Commission Proceedings Upon Receipt of Complaint of Disability**

**Summary:** Testimony and evidence presented in a hearing of the Commission on Judicial Fitness to inquire into the alleged temporary disability of a judge is not a public record.

**Relevant Text:** [ORS 1.425](#)

- (1) Upon complaint from the Chief Justice of the Supreme Court as provided in [ORS 1.303](#), and after such investigation as the Commission on Judicial Fitness and Disability considers necessary, the commission may:
  - (a) Proceed as provided in [ORS 1.420](#); or
  - (b) If the investigation under this subsection indicates that the subject judge may have a temporary disability, hold a hearing pursuant to subsection (2) of this section to inquire into the alleged disability, or request the Supreme Court to appoint three qualified persons to act as masters, to hold a hearing pursuant to subsection (2) of this section and maintain a record on the matter referred to them and to report to the commission on the alleged disability.
- (2) When a hearing is held by the commission or by masters as authorized in subsection (1)(b) of this section, the hearing shall not be open to the public unless the subject judge requests a public hearing. The testimony and evidence given and received in the hearing shall not be public records. The subject judge shall have the right to be present at such hearing, to be represented by counsel, to present testimony and evidence and to cross-examine witnesses.

**Key Terms:**

“Disability” means a physical or mental condition of a judge, including but not limited to impairment derived in whole or in part from habitual or excessive use of intoxicants, drugs or controlled substances, that significantly interferes with the capacity of the judge to perform judicial duties. A disability may be permanent or temporary. ORS 1.303(1)(c).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 1.440](#) Status of Records of Proceedings Under ORS 1.420 or 1.425**

**Summary:** Generally provides that documents and testimony given during investigations and proceedings to inquire into the alleged disability of a judge are privileged communications and are not public records unless received as competent evidence in the course of certain hearings of the Commission on Judicial Fitness and Disability.

**Relevant Text:**

(1) Documents filed with the Commission on Judicial Fitness and Disability and the investigation conducted by the commission prior to a hearing pursuant to [ORS 1.420](#) or [1.425](#) shall not be public records unless received as competent evidence in the course of a hearing pursuant to [ORS 1.420](#). The decision of the commission after hearing or upon review of the record and report of masters under [ORS 1.420](#) shall be a public record, together with the recommendations, if any, of the commission to the Supreme Court. The decision of the commission after hearing or upon review of the record and report of masters under [ORS 1.425](#) shall not be a public record, except for a decision and recommendation to the Supreme Court under [ORS 1.425\(4\)\(b\)](#). A consent to censure, suspension or removal executed by a judge under [ORS 1.420\(1\)\(c\)](#), and a stipulation of facts entered into between the commission and a judge under [ORS 1.420\(1\)\(c\)](#), shall not be a public record until the consent and stipulation are submitted to the Supreme Court.

(2) Documents filed and testimony given in proceedings under [ORS 1.420](#) or [1.425](#) are privileged communications which may not be received in evidence in any judicial proceedings other than those directly connected with the administration of [ORS 1.410](#) to [1.480](#) unless expressly or impliedly waived by the person tendering the document to or testifying in such proceedings or except in a criminal prosecution for perjury or false swearing before the commission.

(3) Members of the commission, masters appointed pursuant to [ORS 1.420](#) or [1.425](#) and staff of the commission shall not disclose or use any investigation, testimony or documents which are not public records as defined in [ORS 1.410](#) to [1.480](#) for any purpose other than in connection with their official duties in the administration of [ORS 1.410](#) to [1.480](#). The commission may, upon the request of a judge who has been the subject of a complaint and proceedings thereon that are not public records, state the disposition of the complaint and proceedings and the reasons for its decision when the commission finds that the complaint or proceedings have been publicized and fairness requires such comment.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 176.309](#) Disability Evaluation Panel Procedures**

**Summary:** Records of an evaluation panel assembled to examine whether the Governor is unable to discharge the duties of the office by reason of a disability are not subject to disclosure.

**Relevant Text:** [ORS 176.309](#)

(1) As soon as possible after a disability evaluation panel is convoked, the panel shall meet and examine whether the Governor is unable to discharge the duties of the office by reason of a physical or mental disability. The members of the panel who are physicians, or other physicians appointed by the panel, shall conduct a medical examination of the Governor if possible.

(2) Meetings of the disability evaluation panel are not subject to [ORS 192.610](#) to [192.690](#). Except for the panel's determination, records of the panel are not subject to disclosure under [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 247.973](#) Status of Signature on Voter Registration Card as Public Record**

**Summary:** Exempts from disclosure any identifying information relating to a disability of an elector in official voter registration records.

**Relevant Text:**

(5) Identifying information relating to a disability of an elector that is entered into official voter registration records by an elections official is exempt from disclosure under [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 346.165](#) Use of Official Records**

**Summary:** Prohibits the Commission for the Blind from disclosing or using certain records for purposes other than those directly connected with its programs and make such records confidential. Also see [ORS 346.167](#).

**Relevant Text: [ORS 346.165](#)**

(1) The Commission for the Blind may not disclose or use the contents of the register of persons who are blind filed and maintained under the provisions of [ORS 346.160](#), or any records, files, papers or communications for purposes other than those directly connected with the programs administered by the commission, and the register of persons who are blind, the records, files, papers and communications are considered confidential.

(2) Notwithstanding subsection (1) of this section, [ORS 346.150\(2\)](#) and [346.167](#), the minutes and records of official actions of the Commission for the Blind, its payroll, books of account and accounts of expenditures are public writings available for inspection in the manner provided in [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test?** Exception for certain business records, as described in subsection (2).

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 346.167](#) Prohibited Uses of Records**

**Summary:** Prohibits the use or disclosure of lists or names maintained by the Commission for the Blind for any purpose not directly connected with the administration of its programs.

**Relevant Text:** [ORS 346.167](#)

No person or agency shall solicit, disclose, receive, make use of, or authorize, knowingly permit, participate in or acquiesce in the use of any lists or names for commercial or political purposes of any nature, or for any purpose not directly connected with the administration of programs administered by the Commission for the Blind.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 427.293](#) Disclosure of Record of Proceeding**

**Summary:** Prohibits courts from disclosing any part of a record in commitment proceedings for persons with intellectual disabilities and requires appellate courts to use initials or an alias in decisions relating to such proceedings.

**Relevant Text: [ORS 427.293](#)**

(1) In any proceeding conducted under [ORS 427.235](#) to [427.290](#), the court may not disclose any part of the record, including any report submitted to the court under [ORS 427.270](#), to any person except:

(a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in [ORS 181A.290](#), to the Department of State Police for persons described in [ORS 181A.290](#)(1)(c) to enable the department to maintain the information and transmit the information to the federal government as required under federal law;

(b) On request of the person subject to the proceeding;

(c) On request of the person's legal representative or the attorney for the person or the state; or

(d) Pursuant to court order.

(2) In any proceeding described in subsection (1) of this section that is before the Supreme Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the appellate court record and to the trial court record while it is in the appellate court's custody. The appellate court may disclose information from the trial or appellate court record in a decision, as defined in [ORS 19.450](#), provided that the court uses initials, an alias or some other convention for protecting against public disclosure the identity of the person who is alleged to have an intellectual disability.

**Enumerated Exceptions or Public Interest Balancing Test?** Several exceptions listed above, but none that would permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Index of Public Records Exemptions  
Relating to Education Information**

[ORS 40.245](#) – school employee-student privilege

[ORS 326.565](#) – student records

[ORS 329.471](#) – PII in relation to performance-based assessments

[ORS 332.061](#) – info considered in hearings to expel a student or examine confidential records

[ORS 336.184](#) – Oregon Student Information Protection Act

[ORS 341.290](#) – community college faculty records

**Exemption Statute and Title: [ORS 40.245](#) School Employee-Student Privilege**

**Summary:** Establishes a privilege in civil actions for conversations between school staff and a student relating to the personal affairs of the student or family of the student, if disclosure would tend to damage or incriminate the student or family. Also establishes a privilege for communications from a student to a school counselor in civil and criminal actions in which the student is a party concerning the past use, abuse or sale of drugs, controlled substances or alcoholic liquor.

**Relevant Text: [ORS 40.245](#)**

(1) A certificated staff member of an elementary or secondary school shall not be examined in any civil action or proceeding, as to any conversation between the certificated staff member and a student which relates to the personal affairs of the student or family of the student, and which if disclosed would tend to damage or incriminate the student or family. Any violation of the privilege provided by this subsection may result in the suspension of certification of the professional staff member as provided in [ORS 342.175](#), [342.177](#) and [342.180](#).

(2) A certificated school counselor regularly employed and designated in such capacity by a public school shall not, without the consent of the student, be examined as to any communication made by the student to the counselor in the official capacity of the counselor in any civil action or proceeding or a criminal action or proceeding in which such student is a party concerning the past use, abuse or sale of drugs, controlled substances or alcoholic liquor. Any violation of the privilege provided by this subsection may result in the suspension of certification of the professional school counselor as provided in [ORS 342.175](#), [342.177](#) and [342.180](#). However, in the event that the student's condition presents a clear and imminent danger to the student or to others, the counselor shall report this fact to an appropriate responsible authority or take such other emergency measures as the situation demands.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 326.565](#) Standards for Student Records**

**Summary:** Directs the State Board of Education to adopt rules governing student education records. Implementing rules generally make student records confidential and exempt from public disclosure. Note that access to student records is restricted by the federal government; i.e., Federal Education Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA).

**Relevant Text: [ORS 326.565](#)**

(1) The State Board of Education shall adopt by rule standards for the creation, use, custody and disclosure, including access, of student education records held by a school district or another public or private educational entity that provides educational services to students in any grade from kindergarten through grade 12. Consistent with the requirements of applicable state and federal law, the standards:

- (a) Shall include requirements under which a school district or other educational entity will transfer student education records pursuant to [ORS 326.575](#).
- (b) May be applied differently to persons 18 years of age or older.

**\*\*NOTE\*\*** The implementing rules are found in [OAR 581-021-0220 to 581-021-0440](#). In particular, OAR 581-021-0280, **Fees for Copies of Education Records**, states “(1) Student records are public records \*\*\* but are exempt from disclosure except as authorized by OAR 581-021-0220 through 581-021-0440.”

**Enumerated Exceptions or Public Interest Balancing Test?** The implementing rules contain a number of exceptions – particularly for access by parents, eligible students, and their representatives – but none that permit disclosure to the general public.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

-[PRO Collins](#) (6/5/2001) (denying a parent’s petition in part for the disclosure of a record that contained information about another student)

**Exemption Statute and Title: [ORS 329.471](#) Availability of Personally Identifiable Information in Relation to Results of Performance-Based Assessment**

**Summary:** Prohibits the public disclosure of PII relating to the specific or comparative results of a performance-based assessment.

**Relevant Text:** [ORS 329.471](#)

(1) Except as provided by subsection (2) of this section, a school district employee or volunteer may not post, publish or otherwise make publicly available in a nonsecure setting any personally identifiable information in relation to the specific or comparative results of a performance-based assessment.

(2) A school district employee may post, publish or otherwise make publicly available in a nonsecure setting the information described in subsection (1) of this section if consent to post, publish or otherwise make publicly available the information as allowed by state and federal law is provided by:

- (a) The student who took the assessment, if the student is 18 years of age or older; or
- (b) The parent or guardian of the student who took the assessment, if the student is under 18 years of age.

**Enumerated Exceptions or Public Interest Balancing Test?** Disclosure permitted with consent.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 332.061](#) Hearing to Expel Minor Students or to Examine Confidential Records**

**Summary:** Prohibits the public disclosure of certain information considered by school boards during executive sessions that relates to the expulsion of a student or to the examination of a student's confidential records.

**Relevant Text:** [ORS 332.061](#)

Notwithstanding [ORS 192.610](#) to [192.690](#) governing public meetings:

(1) Any hearing held by a district school board or its hearings officer on any of the following matters shall be conducted in executive session of the board or privately by the hearings officer unless the student or the student's parent or guardian requests a public hearing:

- (a) Expulsion of a minor student from a public elementary or secondary school.
- (b) Matters pertaining to or examination of the confidential records of a student.

(2) If an executive session is held by a district school board or a private hearing is held by its hearings officer under this section, the following shall not be made public:

- (a) The name of the minor student.
- (b) The issue, including a student's confidential records.
- (c) The discussion.
- (d) The school board member's vote on the issue.

(3) The school board members may vote in an executive session conducted pursuant to this section.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 336.184](#) Oregon Student Information Protection Act**

**Summary:** Prohibits operators of internet websites, online services, online applications or mobile applications marketed for school programs from disclosing PII and other materials regarding students who use the services.

**Relevant Text:**

(3)(a) An operator may not knowingly engage in any of the following activities with respect to the operator's site, service or application:

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(E) Disclose covered information, unless the disclosure is made [for various required or business-related purposes, none of which would permit disclosure to the general public]

**Key Terms:**

ORS 336.184(2)(a) "Covered information" means personally identifiable information or materials that regard a student in this state and that are in any media or format that meet any of the following:

(A) Are created or provided by a student, or the student's parent or legal guardian, to an operator in the course of the student's, parent's or legal guardian's use of the operator's site, service or application for kindergarten through grade 12 purposes;

(B) Are created for an operator or provided to an operator by an employee or agent of the kindergarten through grade 12 school, school district or education service district for kindergarten through grade 12 purposes; or

(C) Are gathered by an operator and personally identify a student, or are linked to information that personally identifies a student, including, but not limited to:

(i) Information in the student's educational record or electronic mail;

(ii) The student's first and last name, home address, telephone number, electronic mail address or other information that allows physical or online contact; or

(iii) The student's discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, Social Security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photographs, voice recordings or geolocation information.

ORS 336.184(2)(c) “Operator” means the operator of an Internet website, online service, online application or mobile application with actual knowledge that the site, service or application:

(A) Is used primarily for kindergarten through grade 12 school purposes; and

(B) Was designed and marketed for kindergarten through grade 12 school purposes, to the extent that the site, service or application is operating in that capacity.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 341.290](#) General Powers**

**Summary:** Prohibits the disclosure community college faculty records relating to conduct, personal and academic evaluations, disciplinary actions, and personal matters without the consent of the faculty member.

**Relevant Text: [ORS 341.290](#)**

The board of education of a community college district shall be responsible for the general supervision and control of any and all community colleges operated by the district. Consistent with any applicable rules of the Higher Education Coordinating Commission, the board of education of a community college district may:

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(17) Prescribe rules for the use and access to public records of the district that are consistent with [ORS 192.314](#), and education records of students under applicable state and federal law and rules of the commission. Whenever a student has attained 18 years of age or is attending an institution of post-secondary education, the permission or consent required of and the rights accorded to a parent of the student regarding education records shall thereafter be required of and accorded to only the student. However, faculty records relating to matters such as conduct, personal and academic evaluations, disciplinary actions, if any, and other personal matters shall not be made available to public inspection for any purpose except with the consent of the person who is the subject of the record or upon order of a court of competent jurisdiction.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**

**This bill has received an Open Government Impact Statement, meaning it will change current law around public records.**

When considering this bill Oregon Sunshine Committee recommends you take into account the following considerations:

**Please consider whether this new exemption to public records is truly necessary.**

There are already more than 600 exemptions to public records in Oregon law. The Oregon Sunshine Committee is tasked with reviewing these exemptions and making recommendations on how to make public records more accessible. Adding more exemptions not only makes that work more cumbersome but also undermines the principle of open government that underlies our public records framework.

**To the extent that the subject of this bill requires certain information to be exempt from public inspection, please consider using one of the pre-existing public records exemptions instead of creating a new one.**

There is likely already an exemption that covers the topic being discussed in the proposed bill. Citing reference to current law will reduce confusion for record holders and record seekers as they navigate the many pre-existing public records exemptions. The existing public records exemptions catalog can be found here: <https://justice.oregon.gov/PublicRecordsExemptions/>

**If a new exemption must be created, please consider a public interest balancing test.**

Public interest balancing tests allow records that should not be freely available to the public to still be released in cases where there is a specific reason why the specific record being requested should be released. This is often to a reporter or public interest organization that is doing the work of holding government agencies accountable to their mission.

**Finally, the Sunshine Committee has already made recommendations regarding numerous categories of public records. Please peruse our recommendations to see if the public record exemption in question has already been discussed. They can be found here: <https://www.doj.state.or.us/wp-content/uploads/2026/01/Combined-Reports-of-the-Oregon-Sunshine-Committee.pdf>**