

Enrolled Senate Bill 1536

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Oregon Judicial Department)

CHAPTER

AN ACT

Relating to disclosure of certain court records in proceedings involving children; creating new provisions; amending ORS 109.319, 419A.200, 419A.252, 419A.255 and 419A.256 and sections 12 and 13, chapter 417, Oregon Laws 2013; and declaring an emergency.

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

SECTION 1. ORS 419A.252 is amended to read:

419A.252. As used in this section and ORS 419A.253, 419A.255 and 419A.256:

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

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

[3] "*Record of the case*" or "*record of each case*":]

[a] *Includes but is not limited to:*

(3) "**Public defense provider**" means an attorney or a law firm designated by the office of public defense services established under ORS 151.216 to potentially represent a child, ward, youth, youth offender or the parent or guardian of a child, ward, youth or youth offender in a juvenile court proceeding.

(4) "**Record of the case**" or "**record of each case,**" whether maintained in paper or electronic form, includes but is not limited to the following and includes records filed in juvenile court proceedings commenced before January 1, 2014, when the records are substantially similar to the following:

[A] (a) The summons and other process;

[B] (b) Petitions;

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

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

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

[F] (f) Orders and judgments of the court, including supporting documentation;

[G] (g) Transcripts under ORS 419A.256;

[(H)] **(h)** Exhibits and materials offered as exhibits whether or not received in evidence; and
[(I)] **(i)** Other documents that become part of the record of the case by operation of law.

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

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

[(a)] **(5) “Supplemental confidential file,” whether maintained in paper or electronic form,** includes reports and other material relating to the child, ward, youth or youth offender’s history and prognosis, including but not limited to reports filed under ORS 419B.440, **and includes similar reports and other materials filed in juvenile court proceedings commenced before January 1, 2014,** that:

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

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

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

SECTION 2. ORS 419A.255, as operative until July 1, 2014, is amended to read:

419A.255. (1)(a) The clerk of the court shall [*keep a supplemental confidential file for each case and*] **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:

(A) The judge of the juvenile court and those acting under the judge’s direction;

(B) The child;

(C) The ward;

(D) The youth;

(E) The youth offender;

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

(G) The guardian ad litem for the parent;

[(H) *The surrogate;*]

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

[(J) *Service providers in the case;*]

[(K) *The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;*]

[(L) *The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (K) of this paragraph;*]

(H) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(J) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (I) of this paragraph;

(K) The surrogate;

(L) Service providers in the case;

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

(N) The juvenile department;

(O) The Department of Human Services; and

(P) The Oregon Youth Authority.

(c) The following are entitled to copies of the record of the case:

(A) The judge of the juvenile court and those acting under the judge’s direction;

(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);

(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under ORS 419B.875 (2) or 419C.285 (2); and

(D) Persons listed in paragraph (b)(J) to (P) of this subsection.

(2)(a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the **record of the case or the supplemental confidential file** [*or record of the case*] are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection **except that inspection is permitted as set forth in subsection (1)(b) of this section and paragraph (b) of this subsection. The offer or admission of reports and other material in the record of the case or the supplemental confidential file as exhibits in a hearing or trial does not waive or otherwise change the privileged status of the reports and other material, except for purposes of the hearing or trial in which the reports and other material are offered or admitted.** Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth offender's history and prognosis **that were maintained in the supplemental confidential file** become part of the record of the case but are subject to paragraph (e) of this subsection.

(b) A supplemental confidential file is open to inspection by the following:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) The parent or guardian of the child or ward in a dependency case;

(C) The guardian ad litem for the parent of a child or ward in a dependency case;

(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;

(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;

[*(F) Service providers in the case;*]

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

[*(i) The child;*]

[*(ii) The ward;*]

[*(iii) The youth;*]

[*(iv) The youth offender;*]

[*(v) The parent or guardian of the child, ward, youth or youth offender; or*]

[*(vi) The guardian ad litem for the parent;*]

(F) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(G) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(H) The surrogate;

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

[*(J) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;*]

(I) Service providers in the case;

(J) The attorneys or prospective appellate attorneys for:

(i) The child;

(ii) The ward;

(iii) The youth;

(iv) The youth offender;

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

(vi) The guardian ad litem for the parent;

(vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency case; or

(viii) The court appointed special advocate and a representative of a CASA Volunteer Program as defined in ORS 458.580;

- (K) The district attorney or assistant attorney general representing a party in the case;
- (L) The juvenile department;
- (M) The Department of Human Services; and
- (N) The Oregon Youth Authority.

(c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee.

(d) The following are entitled to copies of material maintained in the supplemental confidential file:

- (A) The judge of the juvenile court and those acting under the judge's direction;
- (B) Service providers in the case;
- (C) School superintendents and their designees in cases under ORS 419C.005;
- (D) Attorneys designated under subsection [(1)(b)(L)] **(2)(b)(J)** of this section;
- (E) The district attorney or assistant attorney general representing a party in the case;
- (F) The juvenile department;
- (G) The Department of Human Services;
- (H) The Oregon Youth Authority; and

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates.

(e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.

(3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in [subsection (2)] **subsections (1)(b) and (2)(b)** of this section, **respectively**, without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

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

(b) In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from the juvenile court.

(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or obtains copies of reports, materials or documents under this subsection or under subsection (1) or (2) of this section, the person may not use or disclose the reports, materials or documents, except:

- (A) As provided in this subsection or under subsection (1) or (2) of this section;
- (B) In the juvenile court proceeding for which the reports, materials or documents were sought or disclosed;
- (C) With the consent of the court; or
- (D) As provided in ORS 419A.253.

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A

person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or youth offender.

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

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under this subsection does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

(a) The name and date of birth of the youth or youth offender;

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

(c) The date, time and place of any juvenile court proceeding in which the youth or youth offender is involved;

(d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

(f) The names and addresses of the youth or youth offender's parents or guardians; and

(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

(a) The youth's name and age and whether the youth is employed or in school;

(b) The youth offense for which the youth was taken into custody;

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

(d) The identity of the investigating and arresting agency; and

(e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county juvenile department may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure, unless otherwise directed by the court.

(9) Nothing in this section limits access to any juvenile court records by an appellate court reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for appellate court access to juvenile records.

(10) In addition to any other provision in this section, the Judicial Department may permit county or statewide access to juvenile court records or information by county juvenile departments, the Department of Human Services, the Oregon Youth Authority, district attorney offices, the office of the Attorney General, the office of public defense services, prospective appellate attorneys or public defense providers subject to the following restrictions:

(a) A prospective appellate attorney or public defense provider granted access under this subsection must agree, pursuant to a written agreement with the Judicial Department, to access:

(A) Party information only for purposes of conflicts screening procedures; and

(B) Other records or information about a client only as reasonably necessary for the representation of that client in any juvenile case in which the client is a party, subject to applicable state and federal confidentiality laws.

(b) Any other person or entity granted access under this subsection must agree, pursuant to a written agreement with the department, to access records or information only as authorized and allowed by this section, subject to applicable state and federal confidentiality laws.

(c) The State Court Administrator shall prescribe standards and procedures to implement the provisions of this subsection.

(d) Any person or entity granted access to juvenile court records or information under this subsection must preserve the confidentiality of that information as required under this section.

[(10)] **(11)** A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within the jurisdiction of the court, or a motion requesting an implementation plan other than return of a ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country as provided under ORS 419B.851 (3).

[(11)] **(12)** Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a guardian.

[(12)] **(13)** The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward.

(14) Nothing in this section prohibits the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or a presiding judge from permitting access to juvenile court records, including the record of the case and the supplemental confidential file in a juvenile court proceeding, or audio or video recordings of a juvenile court proceeding, by researchers or evaluators for the purposes of developing statistics and performing analyses or audits on the effectiveness, cost and other areas of public interest regarding juvenile court programs and activities in accordance with child welfare and juvenile justice state plans and programs related to Title IV-B and IV-E of the Social Security Act and to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq). The Chief Justice shall, by rule or order, establish standards and guidelines for the release of juvenile court information for research and evaluation purposes to ensure confidentiality consistent with state and federal law and to promote consistent statewide application of this subsection. Statistics and analyses released by researchers and evaluators under this subsection may not contain any information that identifies any individual person involved in a juvenile court proceeding.

SECTION 3. ORS 419A.255, as amended by section 11, chapter 417, Oregon Laws 2013, is amended to read:

419A.255. (1)(a) The clerk of the court shall [*keep a supplemental confidential file for each case and*] **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:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) The child;

(C) The ward;

(D) The youth;

(E) The youth offender;

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

(G) The guardian ad litem for the parent;

[(H) *The surrogate;*]

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

[(J) Service providers in the case;]

[(K) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;]

[(L) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (K) of this paragraph;]

(H) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(J) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (I) of this paragraph;

(K) The surrogate;

(L) Service providers in the case;

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

(N) The juvenile department;

(O) The Department of Human Services;

(P) The Oregon Youth Authority; and

(Q) Any other person allowed by the court.

(c) The following are entitled to copies of the record of the case:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);

(C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under ORS 419B.875 (2) or 419C.285 (2);

(D) Persons listed in paragraph (b)(J) to (P) of this subsection; and

(E) Any other person allowed by the court.

(2)(a) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis in the **record of the case or the supplemental confidential file** [or record of the case] are privileged and, except at the request of the child, ward, youth or youth offender, shall be withheld from public inspection **except that inspection is permitted as set forth in subsection (1)(b) of this section and paragraph (b) of this subsection. The offer or admission of reports and other material in the record of the case or the supplemental confidential file as exhibits in a hearing or trial does not waive or otherwise change the privileged status of the reports and other material, except for purposes of the hearing or trial in which the reports and other material are offered or admitted.** Once offered as an exhibit, reports and other material relating to the child, ward, youth or youth offender's history and prognosis **that were maintained in the supplemental confidential file** become part of the record of the case but are subject to paragraph (e) of this subsection.

(b) A supplemental confidential file is open to inspection by the following:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) The parent or guardian of the child or ward in a dependency case;

(C) The guardian ad litem for the parent of a child or ward in a dependency case;

(D) The parent or guardian of the youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;

(E) The guardian ad litem for the parent of a youth or youth offender in a delinquency case if the youth or youth offender consents to, or the court authorizes, inspection;

[(F) Service providers in the case;]

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

[(i) The child;]

[(ii) The ward;]

[(iii) The youth;]

[(iv) The youth offender;]

[(v) The parent or guardian of the child, ward, youth or youth offender; or]

[(vi) The guardian ad litem for the parent;]

(F) A person allowed to intervene in a proceeding involving the child, ward, youth or youth offender;

(G) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;

(H) The surrogate;

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

[(J) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates;]

(I) Service providers in the case;

(J) The attorneys or prospective appellate attorneys for:

(i) The child;

(ii) The ward;

(iii) The youth;

(iv) The youth offender;

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

(vi) The guardian ad litem for the parent;

(vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency case; or

(viii) The court appointed special advocate and a representative of a CASA Volunteer Program as defined in ORS 458.580;

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

(L) The juvenile department;

(M) The Department of Human Services;

(N) The Oregon Youth Authority; and

(O) Any other person allowed by the court.

(c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee.

(d) The following are entitled to copies of material maintained in the supplemental confidential file:

(A) The judge of the juvenile court and those acting under the judge's direction;

(B) Service providers in the case;

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

(D) Attorneys designated under subsection *[(1)(b)(L)] (2)(b)(J)* of this section;

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

(F) The juvenile department;

(G) The Department of Human Services;

(H) The Oregon Youth Authority;

(I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 458.580, when reasonably necessary for the appointment or supervision of court appointed special advocates; and

(J) Any other person allowed by the court.

(e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's

designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.

(3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in [subsection (2)] **subsections (1)(b) and (2)(b)** of this section, **respectively**, without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

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

(b) In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from the juvenile court.

(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or obtains copies of reports, materials or documents under this subsection or under subsection (1) or (2) of this section, the person may not use or disclose the reports, materials or documents, except:

(A) As provided in this subsection or under subsection (1) or (2) of this section;

(B) In the juvenile court proceeding for which the reports, materials or documents were sought or disclosed;

(C) With the consent of the court; or

(D) As provided in ORS 419A.253.

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile department. A person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or youth offender.

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

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under this subsection does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

(a) The name and date of birth of the youth or youth offender;

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

(c) The date, time and place of any juvenile court proceeding in which the youth or youth offender is involved;

(d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

- (f) The names and addresses of the youth or youth offender's parents or guardians; and
- (g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

- (a) The youth's name and age and whether the youth is employed or in school;
- (b) The youth offense for which the youth was taken into custody;
- (c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;
- (d) The identity of the investigating and arresting agency; and
- (e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(8) Except as provided in ORS 419A.300 and 420.048, only the juvenile court and the county juvenile department may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure, unless otherwise directed by the court.

(9) Nothing in this section limits access to any juvenile court records by an appellate court reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for appellate court access to juvenile records.

(10) In addition to any other provision in this section, the Judicial Department may permit county or statewide access to juvenile court records or information by county juvenile departments, the Department of Human Services, the Oregon Youth Authority, district attorney offices, the office of the Attorney General, the office of public defense services, prospective appellate attorneys or public defense providers subject to the following restrictions:

(a) A prospective appellate attorney or public defense provider granted access under this subsection must agree, pursuant to a written agreement with the Judicial Department, to access:

(A) Party information only for purposes of conflicts screening procedures; and

(B) Other records or information about a client only as reasonably necessary for the representation of that client in any juvenile case in which the client is a party, subject to applicable state and federal confidentiality laws.

(b) Any other person or entity granted access under this subsection must agree, pursuant to a written agreement with the department, to access records or information only as authorized and allowed by this section, subject to applicable state and federal confidentiality laws.

(c) The State Court Administrator shall prescribe standards and procedures to implement the provisions of this subsection.

(d) Any person or entity granted access to juvenile court records or information under this subsection must preserve the confidentiality of that information as required under this section.

~~[(10)]~~ **(11)** A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within the jurisdiction of the court, or a motion requesting an implementation plan other than return of a ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country as provided under ORS 419B.851 (3).

~~[(11)]~~ **(12)** Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a guardian.

~~[(12)]~~ **(13)** The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward.

(14) Nothing in this section prohibits the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or a presiding judge from permitting access to juvenile court records, including the record of the case and the supplemental confidential file in a juvenile

court proceeding, or audio or video recordings of a juvenile court proceeding, by researchers or evaluators for the purposes of developing statistics and performing analyses or audits on the effectiveness, cost and other areas of public interest regarding juvenile court programs and activities in accordance with child welfare and juvenile justice state plans and programs related to Title IV-B and IV-E of the Social Security Act and to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq). The Chief Justice shall, by rule or order, establish standards and guidelines for the release of juvenile court information for research and evaluation purposes to ensure confidentiality consistent with state and federal law and to promote consistent statewide application of this subsection. Statistics and analyses released by researchers and evaluators under this subsection may not contain any information that identifies any individual person involved in a juvenile court proceeding.

SECTION 4. ORS 419A.256 is amended to read:

419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, [audiotape or videotape] **audio recording or video recording** has been prepared in any proceeding under ORS chapter 419C, the victim may obtain a copy by paying the actual cost of preparation.

(2) If the court finds that the child, ward, youth, youth offender or parent or guardian of the child, ward, youth or youth offender is without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court shall order, upon motion, the transcript or part of the transcript to be furnished. The transcript or part of the transcript furnished under this subsection must be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A) to (P).

(4) With a finding of good cause and subject to any conditions the court finds appropriate, the court may provide a copy of the audio or video recording of a juvenile court proceeding to persons described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to (P).

SECTION 5. ORS 419A.256, as amended by section 4 of this 2014 Act, is amended to read:

419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or video recording has been prepared in any proceeding under ORS chapter 419C, the victim may obtain a copy by paying the actual cost of preparation.

(2) If the court finds that the child, ward, youth, youth offender or parent or guardian of the child, ward, youth or youth offender is without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court shall order, upon motion, the transcript or part of the transcript to be furnished. The transcript or part of the transcript furnished under this subsection must be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A) to [(P)] **(Q)**.

(4) With a finding of good cause and subject to any conditions the court finds appropriate, the court may provide a copy of the audio or video recording of a juvenile court proceeding to persons described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to [(P)] **(Q)**.

SECTION 6. ORS 419A.200 is amended to read:

419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights

or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

(C) An [audiotape or videotape] **audio or video recording** prepared of an oral proceeding on appeal, in the same manner as permitted under ORS 419A.256 (1)(b), [and] (3) **and** (4).

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

SECTION 7. ORS 109.319 is amended to read:

109.319. (1) The clerk or court administrator of any court having jurisdiction over adoption proceedings shall keep a separate record of the case for each adoption proceeding filed with the court. Adoption proceedings shall not be entered upon the general records of the court.

(2) The clerk, court administrator or other person having custody of the records, papers and files in the court's record of an adoption case shall cause all records, papers and files relating to the adoption proceeding that are filed with the court, both prior to entry of judgment and after entry of judgment, to be sealed in the court's record of the adoption case. The clerk, court administrator or any other person having custody of records, papers and files in the court's record of an adoption case shall not unseal the court's record of the adoption case or allow inspection or copying of or disclose any information in the records, papers and files in the court's record of the adoption case to any person or entity, except as provided in this section or pursuant to ORS 109.305 to 109.410 or 109.425 to 109.507.

(3) Prior to entry of judgment in an adoption proceeding, and after entry of judgment in an adoption proceeding but prior to the minor child who is the subject of the adoption proceeding attaining 18 years of age, the following may inspect and copy sealed records, papers and files in the court's record of an adoption case without a court order:

(a) Judges of the court operating under the Judicial Department and court staff or other persons operating under the direction of the judges;

(b) Petitioners and their attorneys of record; and

(c) The Department of Human Services.

(4) After entry of judgment in an adoption proceeding and after the minor child who is the subject of the adoption proceeding has attained 18 years of age, the following may inspect and copy sealed records, papers and files in the court's record of the adoption case without a court order:

(a) Judges of the court operating under the Judicial Department and court staff or other persons operating under the direction of the judges;

(b) The person who was the minor child in the adoption proceeding, except that the person who was the minor child in the adoption proceeding may not inspect or copy the home study or evidence of a home study approved under ORS 109.309 (7) except pursuant to a court order and with good cause;

(c) Petitioners and their attorneys of record; and

(d) The Department of Human Services.

(5)(a) After entry of judgment in an adoption proceeding and after the minor child who is the subject of the adoption proceeding has attained 18 years of age, an individual whose consent for the adoption is required under ORS 109.321 may file a motion with the court to inspect and copy sealed records, papers and files in the court's record of the adoption case.

(b) Except as provided in paragraph (c) of this subsection, the court shall grant the motion except for good cause but must exclude from inspection and copying:

(A) For adoption cases filed on or after January 1, 2014:

[(A)] (i) The Adoption Summary and Segregated Information Statement [and any exhibits attached to the statement that are contained in the court's record of the adoption case; or] filed in accordance with ORS 109.317; and

[(B) For adoption cases filed before January 1, 2014, any information, record, document or exhibit described in ORS 109.317.]

(ii) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(B) For adoption cases filed before January 1, 2014:

(i) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(ii) A home study or written evidence that a home study was approved;

(iii) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted;

(iv) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents; and

(v) Addresses, phone numbers and Social Security numbers of persons or entities described in ORS 109.317 (1)(a) to (d) that are contained in the court's record of the adoption case.

(c) If the Department of Human Services consented or has the authority to consent to the adoption of a minor child under ORS 109.325 or 419B.529:

(A) A parent who has signed a release and surrender to the department under ORS 418.270, that was accepted by the department, or whose parental rights were terminated under ORS 419B.500 and 419B.502 to 419B.524, may file a motion with the court to inspect or copy sealed records, papers and

files maintained in the court's record of the adoption case but may not be granted the right to inspect or copy:

(i) For adoption cases filed on or after January 1, 2014:

[(i)] **(I) The Adoption Summary and Segregated Information Statement [and exhibits attached to the statement; or] filed in accordance with ORS 109.317; and**

(II) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(ii) For adoption cases filed before January 1, 2014, *any information, record, document or exhibit described in ORS 109.317.]:*

(I) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(II) A home study or written evidence that a home study was approved;

(III) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted; and

(IV) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents.

(B) The court may grant the motion for good cause. The name, address, **phone number, Social Security number** or other identifying information of any individual or entity other than the parent filing the motion contained in the records, papers and files must be redacted and may not be disclosed as part of the inspection or copying allowed under this paragraph.

(6) Except as provided in subsection (5)(c) of this section, an individual or entity that signed a record, paper or document in a file contained in the court's record of the adoption case is entitled to inspect and obtain a copy of that record, paper or document without a court order. The signature of any other individual or entity on the same record, paper or document must be redacted or otherwise not disclosed as part of the inspection and copying permitted under this subsection.

(7) The Department of Human Services or an Oregon licensed child-caring agency as defined in ORS 418.205 may, without a court order, access, use or disclose records, papers and files in the court's record of an adoption case that are in the possession of the department or the agency for the purpose of providing adoption services or the administration of child welfare services that the department or agency is authorized to provide under applicable federal or state law.

(8) Except as otherwise provided in this section, a court may grant a motion and enter an order allowing inspection, copying or other disclosure of records, papers and files in the court's record of an adoption case for good cause.

(9) Nothing contained in this section shall prevent the clerk or court administrator from certifying or providing copies of a judgment of adoption to the petitioner in an adoption proceeding, to the petitioner's attorney of record or to the Department of Human Services.

(10) The provisions of this section do not apply to the disclosure of information under ORS 109.425 to 109.507.

(11) The court may impose and collect fees for copies and services provided under this section, including but not limited to filing, inspection and research fees.

(12) Unless good cause is shown, when the court grants a motion to inspect, copy or otherwise disclose records, papers and files in the court's record of an adoption case, the court shall order a prohibition or limitation on redisclosure of the records, papers and files, or of information contained in the records, papers and files.

(13) When inspection, copying or disclosure is allowed under this section, the court may require appropriate and reasonable verification of the identity of the requesting person to the satisfaction of the court.

SECTION 8. Section 12, chapter 417, Oregon Laws 2013, is amended to read:

Sec. 12. The amendments to ORS 419A.255 by section 11 [of this 2013 Act], chapter 417, Oregon Laws 2013, and section 3 of this 2014 Act and the amendments to ORS 419A.256 by section 5 of this 2014 Act:

(1) Become operative on [July 1, 2014] **September 30, 2015**; and

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

SECTION 9. Section 13, chapter 417, Oregon Laws 2013, is amended to read:

Sec. 13. (1) [Section 1 of this 2013 Act] **ORS 419A.252** and the amendments to ORS 419A.015, 419A.200, 419A.253, [419A.255,] 419A.256, 419A.257, 419A.300, 419B.367 and 420.048 by sections 2 and 4 to 10, chapter 417, Oregon Laws 2013, [of this 2013 Act] apply to juvenile court proceedings commenced before, on or after [the effective date of this 2013 Act] **January 1, 2014**.

(2) The amendments to ORS 419A.255 (1)(a) by section 3, chapter 417, Oregon Laws 2013, apply to juvenile court proceedings commenced on or after January 1, 2014.

(3) The amendments to ORS 419A.255 (1)(b) and (2) to (12) by section 3, chapter 417, Oregon Laws 2013, apply to juvenile court proceedings commenced before, on or after January 1, 2014.

SECTION 10. (1) The amendments to ORS 419A.255 (1)(a) by section 2 of this 2014 Act apply to juvenile court proceedings commenced on or after the effective date of this 2014 Act.

(2) The amendments to ORS 109.319, 419A.200, 419A.252, 419A.255 (1)(b) and (2) to (12) and 419A.256 and sections 12 and 13, chapter 417, Oregon Laws 2013, by sections 1, 2, 4 and 6 to 9 of this 2014 Act apply to juvenile court proceedings commenced before, on or after the effective date of this 2014 Act.

SECTION 11. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by Senate February 18, 2014

Received by Governor:

Repassed by Senate March 5, 2014

.....M.,....., 2014

Approved:

.....
Robert Taylor, Secretary of Senate

.....M.,....., 2014

.....
Peter Courtney, President of Senate

.....
John Kitzhaber, Governor

Passed by House March 3, 2014

Filed in Office of Secretary of State:

.....M.,....., 2014

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Secretary of State