

Senate Bill 267

Sponsored by Senator GELSER (Pre-session filed.)

SUMMARY

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

Provides that victim of sexual assault or domestic violence crime has right to obtain law enforcement records relating to crime.

Requires law enforcement agencies to provide copy of reports and records of child abuse and neglect investigation to victim, or victim's attorney, upon request.

A BILL FOR AN ACT

1
2 Relating to crime victim right to obtain certain records; creating new provisions; and amending ORS
3 419B.035.

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

5 **SECTION 1. (1)(a) A victim of a sexual assault crime or a crime constituting domestic**
6 **violence has the right to obtain law enforcement agency records relating to the crime unless**
7 **the provision of the records to the victim would compromise an active investigation.**

8 **(b) Reports or records disclosed under this section must be disclosed in accordance with**
9 **ORS 192.410 to 192.505.**

10 **(2) As used in this section:**

11 **(a) "Domestic violence" has the meaning given that term in ORS 135.230.**

12 **(b) "Law enforcement agency" has the meaning given that term in ORS 133.741.**

13 **(c) "Sexual assault crime" means an offense described in ORS 163.355 to 163.427.**

14 **SECTION 2. ORS 419B.035 is amended to read:**

15 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and
16 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
17 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
18 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
19 ment of Human Services shall make the records available to:

20 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of
21 subsequent investigation of child abuse;

22 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
23 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
24 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
25 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
26 tion, care or treatment;

27 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
28 ceeding;

29 (d) Citizen review boards established by the Judicial Department for the purpose of periodically
30 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile

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

1 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
2 participants in case reviews;

3 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
4 that a child has been subjected to child abuse or neglect;

5 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-
6 ties;

7 (g) The Office of Children's Advocate;

8 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
9 342.176 involving any child or any student in grade 12 or below;

10 (i) Any person, upon request to the Department of Human Services, if the reports or records
11 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
12 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
13 disclosed in accordance with ORS 192.410 to 192.505; and

14 (j) The Office of Child Care for purposes of ORS 329A.030 (8)(g).

15 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-
16 partment of Human Services may exempt from disclosure the names, addresses and other identifying
17 information about other children, witnesses, victims or other persons named in the report or record
18 if the department determines, in written findings, that the safety or well-being of a person named in
19 the report or record may be jeopardized by disclosure of the names, addresses or other identifying
20 information, and if that concern outweighs the public's interest in the disclosure of that information.

21 (b) If the Department of Human Services does not have a report or record of abuse regarding
22 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
23 161.015, the department may disclose that information.

24 (3) The Department of Human Services may make reports and records compiled under the pro-
25 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,
26 agency, organization or other entity when the department determines that such disclosure is neces-
27 sary to administer its child welfare services and is in the best interests of the affected child, or that
28 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect
29 children from abuse and neglect or for research when the Director of Human Services gives prior
30 written approval. The Department of Human Services shall adopt rules setting forth the procedures
31 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this
32 section. The name, address and other identifying information about the person who made the report
33 may not be disclosed pursuant to this subsection and subsection (1) of this section.

34 (4)(a) A law enforcement agency may make reports and records compiled under the provisions
35 of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city
36 attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement
37 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
38 to child abuse and neglect.

39 **(b) A law enforcement agency shall make reports and records compiled under the pro-**
40 **visions of ORS 419B.010 to 419B.050 available to the named victim in a child abuse and neglect**
41 **case, or the victim's attorney, upon written request. Reports or records disclosed under this**
42 **paragraph must be disclosed in accordance with ORS 192.410 to 192.505.**

43 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
44 case relating to child abuse or neglect, shall make reports and records in the case available upon
45 request to any law enforcement agency or community corrections agency in this state, to the De-

1 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
2 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
3 or other form of conditional or supervised release. A law enforcement agency may make reports and
4 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
5 community corrections, corrections or parole agencies in an open case when the law enforcement
6 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
7 The name, address and other identifying information about the person who made the report may not
8 be disclosed under this subsection or subsection (6)(b) of this section.

9 (6)(a) Any record made available to a law enforcement agency or community corrections agency
10 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-
11 vision or to a physician, physician assistant or nurse practitioner in this state, as authorized by
12 subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board,
13 physician, physician assistant or nurse practitioner. Any record or report disclosed by the Depart-
14 ment of Human Services to other persons or entities pursuant to subsections (1) and (3) of this sec-
15 tion shall be kept confidential.

16 (b) Notwithstanding paragraph (a) of this subsection:

17 (A) A law enforcement agency, a community corrections agency, the Department of Corrections
18 and the State Board of Parole and Post-Prison Supervision may disclose records made available to
19 them under subsection (5) of this section to each other, to law enforcement, community corrections,
20 corrections and parole agencies of other states and to authorized treatment providers for the pur-
21 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-
22 vision or other form of conditional or supervised release.

23 (B) A person may disclose records made available to the person under subsection (1)(i) of this
24 section if the records are disclosed for the purpose of advancing the public interest.

25 (7) An officer or employee of the Department of Human Services or of a law enforcement agency
26 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section
27 may not release any information not authorized by subsections (1) to (6) of this section.

28 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
29 181A.010.

30 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.
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