

Changes to Juvenile and Adoption Court Records Release Rules

Senate Bill 1536: Effective March 13, 2014

Summary

For the 2014 legislative session, the Oregon Judicial Department (OJD) submitted the legislative proposal that became SB 1536 as a follow up to SB 622 (2013), which was an Oregon Law Commission bill revising access rules for juvenile court records. Senate Bill 1536 (2014) clarifies statutory and Chief Justice access rules to court records for audio and video recordings, research and evaluation, and for county or statewide access to certain users. It also makes it clear that access rules are the same for all juvenile cases, regardless of the filing date. In addition, amendments to SB 1536 further clarify birth parent access rights to adoption records in response to some drafting issues presented by the passage of Senate Bill 623 (2013), now codified in ORS 109.319.

Juvenile Court Records

Sections 1 through 6 address access issues for juvenile court records. The key provisions are as follows:

- Uniform Access Rules for Pre and Post 2014 Cases. Section 9 of the bill makes the access rules for juvenile cases filed before and after January 1, 2014, uniform. All of the disclosure, inspection and copying provisions of ORS 419A.255 apply to all cases regardless of when the case was filed, with the exception of access for “other persons” discussed below. While the access provisions are now the same, courts are not required to maintain a record of the case and supplemental confidential file for cases filed prior to January 1, 2014.
- County and Statewide Records Access for Attorneys, DHS, OYA, and Juvenile Departments. New ORS 419A.255(10) allows OJD to permit county or statewide access to juvenile court records by the following: county juvenile departments, Department of Human Services, Oregon Youth Authority, district attorney offices, Office of the Attorney General, Office of Public Defense Services, prospective appellate attorneys, and public defense providers. This access is broader than the case-specific access rights provided under ORS 419A.255(1), allowing attorneys to conduct conflict checks before appointment, and allowing access to related juvenile cases. Those desiring access under this provision will be required to sign an agreement with the Judicial Department. OSCA’s Legal Division is currently in the process of developing those agreements.
- Records Releases for Research and Evaluation. New ORS 419A.255(14) clarifies that the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, or a presiding judge may permit records access to researchers or evaluators. This provision allows the Chief Justice to establish standards and guidelines for the release of records in these circumstances. See CJO 14-007 (attached).
- Audio and Video Recordings. New ORS 419A.256(4) allows the court to provide copies of audio and video recordings, upon a finding of good cause, to a judge or court staff, a court appointed special advocate (CASA) or representative of CASA program, attorneys and prospective appellate attorneys for individual parties, the district attorney or assistant attorney general, the Department of Human Services, and the Oregon Youth

Authority. The court may provide the records subject to any conditions the court finds appropriate, including return or destruction of the records. Courts who encounter frequent requests for this type of information may want to consider using an administrative order delineating situations which constitute good cause, and allowing certain specified court staff to release the records when the requisite showing has been made.

- Access for Other Persons Not Already Specified in ORS 419A.255. Senate Bill 622 permitted “any other person allowed by the court” to inspect or copy materials in the record of the case or the supplemental confidential court file, but delayed the operative date of that provision to July 1, 2014. When this date was initially selected, the Oregon Law Commission anticipated statewide standards and provisions would be needed in 2014. However, pending litigation on this topic has prevented several key OJD and Oregon Law Commission participants from discussing the new provisions. Senate Bill 1536 moves the operative date to September 30, 2015, allowing for further deliberation and possible legislation, during the 2015 session. In summary, courts may allow access to records under this provision for cases filed on or after September 30, 2015.

Adoption Court Records

Section 7 of SB 1536 clarifies redaction requirements for adoption court records when the adoption petition was filed prior to January 1, 2014, and the court has granted a birth parent access to court records. Under ORS 109.319(5)(b)(B) and 109.319(5)(c)(A)(ii), courts were required to redact all information described in ORS 109.317 (Adoption Summary and Segregated Information Statement) if the underlying adoption case was filed prior to 1/1/14. Senate Bill 1536 changes that, providing that only the following information must be removed or redacted:

- UCCJEA information provided pursuant to ORS 109.767;
- For consenting birth parents: addresses, phone numbers and social security numbers of the petitioner, child and the person whose consent was required (ORS 109.321), or for whom the written consent requirement was waived, not required, or substituted for as provided in ORS 109.317(1)(d);
- For parents whose rights have been terminated/surrendered under ORS Chapters 418 or 419: name, address, phone number and social security number of any individual or entity other than the parent.

Revised Materials

In response to the legislative changes discussed above, several revised forms have been posted on the JCIP website:

- SB 622: Juvenile Court Records (Summary of Access Rules)
- SB 622: Frequently Asked Questions
- Notice to Birth Parents Regarding Adoption Records
- Senate Bill 623 (2013) and Senate Bill 1536 (2014): Summary of Records Release Requirements in Court Adoption Cases

These materials can be accessed through the JCIP website:

http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/jcip/Pages/SB622_SB623Modules.aspx

