

# House Bill 3378

Sponsored by Representative SMITH WARNER

## 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**.

Allows expunction of certain juvenile records under certain conditions, including passage of 10 years from date of most recent termination, absence of conviction for felony or Class A misdemeanor and no pending proceedings for criminal conviction or juvenile adjudication.

## A BILL FOR AN ACT

1  
2 Relating to juvenile expunction proceedings; creating new provisions; and amending ORS 419A.260.

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

4 **SECTION 1.** ORS 419A.260 is amended to read:

5 419A.260. (1) As used in this section and ORS 419A.262:

6 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-  
7 ior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to  
8 (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this sub-  
9 section.

10 (b) "Expunction" means:

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

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

19 (c) "Person" includes a person under 18 years of age.

20 (d) "Record" includes a fingerprint or photograph file, report, exhibit or other material, **and a**  
21 **record described in subsection (3) of this section**, which contains information relating to a  
22 person's contact with any law enforcement agency, juvenile court or juvenile department, the Psy-  
23 chiatric Security Review Board, the Department of Human Services or the Oregon Health Authority  
24 and is kept manually, through the use of electronic data processing equipment, or by any other  
25 means by a law enforcement or public investigative agency, a juvenile court or juvenile department  
26 or an agency of the State of Oregon. "Record" does not include:

27 (A) A transcript of a student's Youth Corrections Education Program academic record;

28 (B) Material on file with a public agency which is necessary for obtaining federal financial  
29 participation regarding financial assistance or services on behalf of a person who has had a contact;

30 (C) Records kept or disseminated by the Department of Transportation, State Marine Board and  
31 State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

**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 (D) Police and court records related to an order of waiver where the matter is still pending in  
 2 the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

3 (E) Records related to a support obligation;

4 (F) Medical records other than those related to a finding of responsible except for insanity under  
 5 ORS 419C.411;

6 (G) Records of a proposed or adjudicated termination of parental rights and adoptions;

7 (H) Any law enforcement record of a person who currently does not qualify for expunction or  
 8 of current investigations or cases waived to the adult court;

9 (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

10 (J) Any records in cases under ORS 419C.005, **except for records described in subsection (3)**  
 11 **of this section**, in which a juvenile court found a person to be within the jurisdiction of the court  
 12 based upon the person's commission of an act which if done by an adult would constitute one of the  
 13 following offenses:

14 (i) Aggravated murder under ORS 163.095;

15 (ii) Murder under ORS 163.115;

16 (iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;

17 (iv) Manslaughter in the first degree under ORS 163.118;

18 (v) Manslaughter in the second degree under ORS 163.125;

19 (vi) Criminally negligent homicide under ORS 163.145;

20 (vii) Assault in the first degree under ORS 163.185;

21 (viii) Criminal mistreatment in the first degree under ORS 163.205;

22 (ix) Kidnapping in the first degree under ORS 163.235;

23 (x) Rape in the third degree under ORS 163.355;

24 (xi) Rape in the second degree under ORS 163.365;

25 (xii) Rape in the first degree under ORS 163.375;

26 (xiii) Sodomy in the third degree under ORS 163.385;

27 (xiv) Sodomy in the second degree under ORS 163.395;

28 (xv) Sodomy in the first degree under ORS 163.405;

29 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;

30 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;

31 (xviii) Sexual abuse in the third degree under ORS 163.415;

32 (xix) Sexual abuse in the second degree under ORS 163.425;

33 (xx) Sexual abuse in the first degree under ORS 163.427;

34 (xxi) Promoting prostitution under ORS 167.012;

35 (xxii) Compelling prostitution under ORS 167.017;

36 (xxiii) Aggravated driving while suspended or revoked under ORS 163.196;

37 (xxiv) Aggravated vehicular homicide under ORS 163.149; or

38 (xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the  
 39 second degree and criminally negligent homicide;

40 (K) Blood samples, buccal samples and other physical evidence and identification information  
 41 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,  
 42 181A.155 or 419C.473; or

43 (L) Records maintained in the Law Enforcement Data System under ORS 163A.035.

44 (e) "Termination" means:

45 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,

1 the final disposition of a case by informal means, by a decision not to place the person on probation  
 2 or make the person a ward of the court after the person has been found to be within the court's  
 3 jurisdiction or by a discontinuance of probation, of the court's wardship or of the jurisdiction of the  
 4 Psychiatric Security Review Board, the Oregon Health Authority or the Department of Human Ser-  
 5 vices.

6 (B) For a person who is the subject of a record kept by a law enforcement or public investi-  
 7 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final  
 8 disposition of the person's most recent contact with a law enforcement agency.

9 (2) The juvenile court or juvenile department shall make reasonable effort to provide written  
 10 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or  
 11 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's  
 12 parent, of the procedures for expunction of a record, the right to counsel under this chapter, the  
 13 legal effect of an expunction order and the procedures for seeking relief from the duty to report as  
 14 a sex offender provided under ORS 163A.130, at the following times:

15 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-  
 16 ment;

17 (b) At the time of termination;

18 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile  
 19 department or motion on a juvenile court; and

20 (d) At the time of notice of execution of an expunction order.

21 **(3) Notwithstanding subsection (1)(d)(J) of this section, a record includes records in cases**  
 22 **under ORS 419C.005 in which a juvenile court found a person to be within the jurisdiction of**  
 23 **the court based upon the person's commission of an act which if done by an adult would**  
 24 **constitute one of the offenses listed in subsection (1)(d)(J)(i) to (xxv) of this section if the**  
 25 **court finds, following a hearing, that:**

26 **(a) At least 10 years have passed since the date of the person's most recent termination;**

27 **(b) Since the date of the person's most recent termination, the person has not been**  
 28 **convicted of a felony or a Class A misdemeanor;**

29 **(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court**  
 30 **are pending against the person;**

31 **(d) The person is not within the jurisdiction of any juvenile court on the basis of a peti-**  
 32 **tion alleging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005;**

33 **(e) The juvenile department is not aware of any pending investigation of the conduct of**  
 34 **the person by any law enforcement agency; and**

35 **(f) The person is not currently required to report as a sex offender.**

36 **SECTION 2. The amendments to ORS 419A.260 by section 1 of this 2017 Act apply to**  
 37 **expunction proceedings commenced on or after the effective date of this 2017 Act.**