

DRAFT

SUMMARY

Creates privilege against disclosure for specified confidential communications and records created or maintained by Legislative Equity Office principal outreach officer. Provides exceptions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to privileged communications; creating new provisions; amending ORS 40.252; and declaring an emergency.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 40.225 to 40.295.

SECTION 2. (1) As used in this section:

(a) “Confidential communication” means a communication between a principal outreach officer and an individual reporting information or seeking consultative services from the principal outreach officer.

(b) “Harassment” has the meaning given that term in legislative branch personnel rules that establish a standard of conduct that applies to legislators, legislative staff, executive or judicial branch staff that regularly are present in the State Capitol or regularly interact with the legislative branch, lobbyists who are required to be registered under ORS 171.740, or contractors, including employees of contractors, who regularly perform services in the State Capitol.

(c) “Legislative branch” means the legislative department, as defined in ORS 174.114.

(d) “Principal outreach officer” means the principal outreach officer

1 of the Legislative Equity Office established under chapter _____,
2 Oregon Laws 2019 (Enrolled _____ Bill _____) (LC 3736), and any staff
3 of the principal outreach officer.

4 (2) A person who reports information to the principal outreach of-
5 ficer that concerns harassment in the State Capitol that the person
6 has experienced or witnessed has a privilege to refuse to disclose and
7 to prevent any other person from disclosing:

8 (a) Confidential communication to or from the principal outreach
9 officer; and

10 (b) Records that are created or maintained by the principal out-
11 reach officer in the course of reporting information that concerns
12 harassment in the State Capitol.

13 (3) A person who consults with the principal outreach officer for the
14 purpose of understanding what options are available for reporting
15 harassment or filing a harassment complaint, or for discussing
16 whether described conduct is harassment, has a privilege to refuse to
17 disclose and to prevent any other person from disclosing:

18 (a) Confidential communication to or from the principal outreach
19 officer; and

20 (b) Records that are created or maintained by the principal out-
21 reach officer in the course of providing counsel or services to the
22 person.

23 (4) This section does not prohibit the disclosure of:

24 (a) Any information if the principal outreach officer reasonably
25 believes that the disclosure is necessary to prevent immediate physical
26 harm or other harm described in ORS 40.252; or

27 (b) Aggregate, nonpersonally identifying data.

28 (5) This section applies to civil, criminal and administrative pro-
29 ceedings and to legislative branch disciplinary proceedings.

30 SECTION 3. ORS 40.252 is amended to read:

31 40.252. (1) In addition to any other limitations on privilege that may be

1 imposed by law, there is no privilege under ORS 40.225, 40.230, 40.250 or
2 40.264 **or section 2 of this 2019 Act** for communications if:

3 (a) In the professional judgment of the person receiving the communi-
4 cations, the communications reveal that the declarant has a clear and seri-
5 ous intent at the time the communications are made to subsequently commit
6 a crime involving physical injury, a threat to the physical safety of any
7 person, sexual abuse or death or involving an act described in ORS 167.322;

8 (b) In the professional judgment of the person receiving the communi-
9 cations, the declarant poses a danger of committing the crime; and

10 (c) The person receiving the communications makes a report to another
11 person based on the communications.

12 (2) The provisions of this section do not create a duty to report any
13 communication to any person.

14 (3) A person who discloses a communication described in subsection (1)
15 of this section, or fails to disclose a communication described in subsection
16 (1) of this section, is not liable to any other person in a civil action for any
17 damage or injury arising out of the disclosure or failure to disclose.

18 **SECTION 4. This 2019 Act being necessary for the immediate pres-**
19 **ervation of the public peace, health and safety, an emergency is de-**
20 **clared to exist, and this 2019 Act takes effect on its passage.**