



Open Government Impact Statement

80th Oregon Legislative Assembly
2019 Regular Session

Measure: SB 373-A

Only impacts on Original or Engrossed
Versions are Considered Official

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Date: 4/29/2019

SUMMARY

Expands public records law references that govern confidentiality of records maintained by Psychiatric Security Review Board.

Takes effect on 91st day following adjournment sine die.

OPEN GOVERNMENT IMPACT

Legislative Counsel has not adopted standards for drafting measures that establish exemptions from disclosure of public records.

This measure further restricts the public disclosure of records maintained by the Psychiatric Security Review Board for individuals under the board's jurisdiction. The board is required to maintain medical, social and criminal histories for all persons under its jurisdiction. The confidentiality of those records is determined by ORS 192.338, 192.345 and 192.355. Medical and mental health records maintained by the board are exempt from public disclosure if disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. Currently, the board has the burden of proving that the information is exempt from disclosure. Under this measure, the confidentiality of medical and mental health records would also be subject to ORS 192.398, which shifts the burden to the requester to show that public interest requires disclosure in the particular instance. Other records would be exempt from disclosure if disclosure would interfere with the rehabilitation of the person if the public interest in confidentiality clearly outweighs the public interest in disclosure. For other records the board would still have the burden of proving that the information is exempt from disclosure.

If those public records that could be subject to public disclosure were instead subject to mandatory disclosure under public records law, the public would be able to receive complete medical, mental health, social and criminal histories of persons found guilty except for insanity including those that had been previously released from the board's jurisdiction.