

B-Engrossed House Bill 2677

Ordered by the House June 11
Including House Amendments dated April 15 and June 11

Sponsored by Representative CHOTZEN, Senator PROZANSKI, Representative ANDERSEN (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to laws about when juvenile court records may be expunged. (Flesch Readability Score: 71.7).

Modifies the procedure for the expunction of certain juvenile records. Directs the juvenile department to initiate the statutory expunction process for juvenile records relating to acts that if committed by adults would constitute misdemeanors involving violence. Creates exceptions.

Modifies venue for juvenile court expunction proceedings.

Expands expunction eligibility for records relating to felonies.

Modifies requirement for notifying victim in juvenile proceedings of expunction process.

Increases the appropriation from the General Fund to the Oregon Youth Authority to support expunction processing.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to juvenile records; creating new provisions; amending ORS 419A.260, 419A.261, 419A.262,
3 419A.267, 419A.269, 419A.271 and 419C.273; and prescribing an effective date.

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

5 **SECTION 1.** ORS 419A.261 is amended to read:

6 419A.261. (1)(a) An expunction proceeding under **subsection (2) of** this section shall be com-
7 menced in the county where the subject person [*resided at the time of*] **had** the most recent contact.

8 **(b) An expunction proceeding under subsection (3) or (4) of this section shall be com-**
9 **menced in the county where the subject person had the most recent adjudication.**

10 (2)(a) A juvenile department shall file with the juvenile court an application for expunction of
11 the records of a person the juvenile department determines meets the criteria under paragraph (b)
12 of this subsection within 90 days following [*the later of*]:

13 (A) The date that the person attains 18 years of age; or

14 (B) If the subject person was 18 years of age or older on January 2, 2022, the date that the ju-
15 venile department receives a request to file the application for expunction from the subject person.

16 (b) Upon application of either a person who is the subject of a record or a juvenile department,
17 the juvenile court shall issue a judgment granting expunction, without a hearing, if:

18 **(A) The subject person has attained 18 years of age;**

19 [(A)] **(B)** The subject person had contact with the juvenile department;

20 [(B)] **(C)** The subject person has never been found to be within the jurisdiction of the juvenile
21 court under ORS 419C.005;

22 [(C)] **(D)** There is no petition pending alleging that the subject person is subject to the juvenile
23 court's jurisdiction under ORS 419C.005;

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)] (E) The subject person has not been waived to criminal court pursuant to a hearing under
2 ORS 419C.349 or 419C.352 **unless the waiver did not result in a conviction or resulted in a**
3 **conviction that has been set aside;**

4 [(E)] (F) The subject person does not have an open referral for a case by informal means; and

5 [(F)] (G) The subject person has not had contact with the juvenile department resulting in a
6 conviction under ORS 137.707 **unless the conviction has been set aside.**

7 (3)(a) A juvenile department shall file with the juvenile court an application for expunction of
8 the records of a person the juvenile department determines meets the criteria under paragraph
9 [(b)] (c) of this subsection within 90 days following the later of:

10 (A) The date that the person attains 18 years of age;

11 (B) The date of the person's termination if the person was within the jurisdiction of the juvenile
12 court under ORS 419C.005 on their 18th birthday; or

13 (C) If the subject person was 18 years of age or older on [*the operative date of this section*]
14 **January 1, 2024**, the date the juvenile department receives a request to file the application for
15 expunction from the subject person.

16 **(b) If records of an adjudication that occurred before January 1, 2024, are eligible for**
17 **expunction under this subsection, the juvenile department shall make a reasonable effort to**
18 **notify the victim when an application for expunction is filed under this subsection.**

19 [(b)] (c) Upon application of either a person who is the subject of a record or a juvenile de-
20 partment, the juvenile court shall issue a judgment granting expunction, without a hearing, if:

21 **(A) The subject person has attained 18 years of age;**

22 **(B) The subject person is not currently within the jurisdiction of the juvenile court under**
23 **ORS 419C.005;**

24 [(A)] (C) The subject person had contact with the juvenile department that resulted in the sub-
25 ject person being found to be within the jurisdiction of the juvenile court under ORS 419C.005 for
26 acts that, if committed by an adult, would constitute one or more violations or misdemeanors **other**
27 **than misdemeanors involving violence;**

28 [(B)] (D) The subject person has not been found to be within the jurisdiction of the juvenile
29 court under ORS 419C.005 for an act that, if committed by an adult, would constitute a felony **un-**
30 **less, if the felony is not an offense listed in ORS 419A.260 (1)(e)(J), the court modified the**
31 **order of jurisdiction under ORS 419C.610 to reflect that the act, if committed by an adult,**
32 **would constitute a misdemeanor;**

33 [(C)] (E) There is no petition pending alleging that the subject person is subject to the juvenile
34 court's jurisdiction under ORS 419C.005;

35 [(D)] (F) The subject person does not owe restitution;

36 [(E)] (G) The subject person has not had contact with the juvenile department resulting in a
37 conviction under ORS 137.707 **unless the conviction has been set aside;** and

38 [(F)] (H) The subject person has not been waived to criminal court pursuant to a hearing under
39 ORS 419C.349 or 419C.352 **unless the waiver did not result in a conviction or resulted in a**
40 **conviction that has been set aside.**

41 (4)(a) A juvenile department shall file with the juvenile court an application for
42 expunction of the records of a person the juvenile department determines meets the criteria
43 under paragraph (d) of this subsection within 90 days following the later of:

44 (A) Four years after the person's most recent termination;

45 (B) The date the person attains 18 years of age; or

1 (C) If the subject person was 18 years of age or older on January 1, 2026, the date the
2 juvenile department receives a request to file the application for expunction from the subject
3 person.

4 (b)(A) The juvenile department or, if the application is filed by the subject person, the
5 subject person shall serve a copy of the application on the district attorney in the county in
6 which the expunction proceeding is commenced. Not later than 30 days after service, the
7 district attorney may file with the court a written objection if the district attorney reason-
8 ably believes that the subject person does not meet the criteria under paragraph (d) of this
9 subsection. The objection must state which criteria the district attorney asserts the subject
10 person does not meet.

11 (B) If records of an adjudication that occurred before January 1, 2026, are eligible for
12 expunction under this subsection, the juvenile department shall make a reasonable effort to
13 notify the victim when an application for expunction is filed under this subsection.

14 (c)(A) A juvenile department may not file an application for expunction under paragraph
15 (a)(A) or (B) of this subsection if the subject person was found to be within the jurisdiction
16 of the juvenile court under ORS 419C.005 for acts that, if committed by an adult, would
17 constitute:

- 18 (i) Arson in the first degree under ORS 164.325 (1)(a)(B) or (C);
- 19 (ii) Robbery in the first degree under ORS 164.415;
- 20 (iii) Robbery in the second degree under ORS 164.405;
- 21 (iv) Assault in the second degree under ORS 163.175;
- 22 (v) Kidnapping in the second degree under ORS 163.225; or
- 23 (vi) Using a child in a display of sexually explicit conduct under ORS 163.670.

24 (B) Nothing in this paragraph prohibits the subject person under paragraph (a)(C) of this
25 subsection or a subject person from filing an application for expunction under ORS 419A.262.

26 (d) Not later than 60 days following the filing of an application for expunction by either
27 a person who is the subject of a record or a juvenile department, the juvenile court shall
28 issue a judgment granting expunction, without a hearing, if:

29 (A) Four years have passed since the date of the subject person's most recent termi-
30 nation and the subject person has attained 18 years of age;

31 (B) The subject person had contact with the juvenile department that resulted in the
32 subject person being found to be within the jurisdiction of the juvenile court under ORS
33 419C.005 for acts that, if committed by an adult, would constitute one or more misdemeanors
34 involving violence or one or more felonies;

35 (C) Since the date of the most recent termination, the person has not been convicted of
36 a felony or a Class A misdemeanor that has not been set aside;

37 (D) No proceedings seeking a criminal conviction or an adjudication in a juvenile court
38 are pending against the person;

39 (E) The person is not within the jurisdiction of any juvenile court on the basis of a peti-
40 tion alleging an act or behavior described in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005;

41 (F) The juvenile department is not aware of any pending investigation of the conduct of
42 the person by any law enforcement agency;

43 (G) The subject person does not owe restitution;

44 (H) The subject person has not had contact with the juvenile department resulting in a
45 conviction under ORS 137.707 that has not been set aside under ORS 137.221, 137.223 or

1 **137.225; and**

2 **(I) The subject person has not been waived to criminal court pursuant to a hearing under**
3 **ORS 419C.349 or 419C.352 resulting in a conviction that has not been set aside under ORS**
4 **137.221, 137.223 or 137.225.**

5 [(4)] **(5)** If the juvenile court denies the application for expunction under this section:

6 (a) The court must specify in the judgment denying the application for expunction the reason for
7 the denial;

8 (b) The juvenile department or the subject person may file a new application for expunction
9 under this subsection; and

10 (c) If the juvenile department submitted the application that was denied, the juvenile department
11 shall make reasonable efforts to send to the subject person the following:

12 (A) Notice of the court's decision and a copy of the judgment denying the application for
13 expunction; and

14 (B) Notice of the person's right to an attorney, right to file a new application for expunction
15 under this subsection and right to request expunction under ORS 419A.262.

16 [(5)(a)] **(6)(a)** When an expunction proceeding under this section is commenced by application
17 of the person whose records are to be expunged, the person shall set forth as part of the application
18 the names of the juvenile courts, juvenile departments, institutions and law enforcement and other
19 agencies that the person has reason to believe possess an expungible record of the person. The ju-
20 venile department shall provide the names and addresses of the juvenile courts, juvenile depart-
21 ments, institutions and law enforcement and other agencies that a reasonable search of department
22 files indicates have expungible records.

23 (b) When an expunction proceeding under this section is commenced by application of the juve-
24 nile department, the application shall set forth the names and addresses of the juvenile courts, ju-
25 venile departments, institutions and law enforcement and other agencies that a reasonable search
26 of department files indicates have expungible records and those provided by the subject person.

27 [(6)(a)] **(7)(a)** The juvenile court or juvenile department shall send a copy of an expunction
28 judgment entered under this section to each agency subject to the judgment. Attached to the
29 expunction judgment must be information, to remain confidential, regarding the record to be
30 expunged and the date of the record.

31 (b) Upon receipt of a copy of the judgment, the agency shall comply and, within 60 days fol-
32 lowing the date of receipt, return the copy to the juvenile court or the juvenile department with an
33 indorsement indicating compliance.

34 (c) The juvenile department may, upon an agency's written request, provide the agency with an
35 extension of time to comply with paragraph (b) of this subsection. The duration of the extension may
36 not exceed the later of 30 days or, if an audit or grievance under the Interstate Compact for Juve-
37 niles relating to the subject person's records is pending, the date the audit or grievance is con-
38 cluded. If the juvenile department grants an extension under this paragraph, the juvenile department
39 shall notify the juvenile court of the extension.

40 [(7)] **(8)** When all agencies subject to an expunction judgment have indicated their compliance
41 or in any event no later than the later of 90 days following the date the judgment was delivered as
42 required by subsection [(6)] **(7)** of this section or, if the juvenile department granted an extension
43 of time under subsection [(6)(c)] **(7)(c)** of this section, [90] **30** days following the expiration of the
44 extension of time, the juvenile court shall provide the person who is the subject of the record with
45 a copy of the expunction judgment, a list of complying and noncomplying agencies, and a written

1 notice of rights and effects of expunction. The juvenile court and juvenile department then shall
2 expunge forthwith all records which they possess and which are subject to the judgment, except the
3 original expunction judgment and the list of complying and noncomplying agencies which must be
4 preserved under seal.

5 [(8)] (9) In addition to those agencies identified in ORS 419A.260 [(1)(d)] (1)(e), the juvenile,
6 circuit, municipal and justice courts, and the district and city attorneys of this state, are bound by
7 an expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing an
8 expunction judgment.

9 **SECTION 2.** ORS 419A.260 is amended to read:

10 419A.260. (1) As used in ORS 419A.260 to 419A.271:

11 (a) "Contact" means any instance in which a person's act or behavior, or alleged act or behav-
12 ior, which could result in a referral to a juvenile department or a juvenile court's assumption of
13 jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or 419C.005 comes to the attention of an agency
14 specified in paragraph [(d)] (e) of this subsection.

15 (b) "Expunction" means:

16 (A) The removal by destruction of a judgment or order related to a contact and all records and
17 references associated with a subject person;

18 (B) The removal by sealing of a judgment or order related to a contact and all records and
19 references associated with a subject person;

20 (C) The removal by redaction of a subject person's name and all personal identifiers and all
21 references to the subject person within a record; or

22 (D) If a record is kept by the Department of Human Services the department's affixing to the
23 front of the file containing the record a stamp or statement identifying the name of the individual,
24 the date of expunction and instruction that no further reference may be made to the record that is
25 subject to the expunction notice or order.

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

27 (d) **"Misdemeanor involving violence" means a misdemeanor described in ORS 163.160,**
28 **163.187, 163.190, 163.195 or 166.155 (1)(b).**

29 [(d)] (e) "Record" includes a fingerprint or photograph file, report, exhibit or other material
30 which contains information relating to a person's contact with any law enforcement agency, juvenile
31 court or juvenile department, the Psychiatric Security Review Board, the Department of Human
32 Services, the Oregon Youth Authority or the Oregon Health Authority and is kept manually,
33 through the use of electronic data processing equipment, or by any other means by a law enforce-
34 ment or public investigative agency, a juvenile court or juvenile department or an agency of the
35 State of Oregon. "Record" does not include:

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

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

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

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

43 (E) Records related to a support obligation;

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

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

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

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

5 (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be
6 within the jurisdiction of the court based upon the person's commission of an act which if done by
7 an adult would constitute one of the following offenses:

8 (i) Aggravated murder under ORS 163.095;

9 (ii) Murder in any degree under ORS 163.107 or 163.115;

10 (iii) Attempt, solicitation or conspiracy to commit murder in any degree or aggravated murder;

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

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

13 (vi) Criminally negligent homicide under ORS 163.145;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (xxi) Promoting prostitution under ORS 167.012;

29 (xxii) Compelling prostitution under ORS 167.017;

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

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

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

34 (K) Blood samples, buccal samples and other physical evidence and identification information
35 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,
36 181A.155 or 419C.473;

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

38 (M) Records of a law enforcement agency or public investigative agency concerning an open or
39 otherwise unresolved investigation.

40 [(e)] (f) "Termination" means:

41 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,
42 the final disposition of a case by informal means, by a decision not to place the person on probation
43 or make the person a ward of the court after the person has been found to be within the court's
44 jurisdiction or by a discontinuance of probation, of the court's wardship or of the jurisdiction of the
45 Psychiatric Security Review Board, the Oregon Health Authority or the Department of Human Ser-

1 vices.

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

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

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

13 (b) At the time of termination;

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

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

17 **SECTION 3.** ORS 419A.262 is amended to read:

18 419A.262. (1) An expunction proceeding under this section shall be commenced in the county
19 where the subject person [*resided at the time of the most recent termination*] **had the most recent**
20 **adjudication or, if the subject person did not have an adjudication, where the subject person**
21 **had the most recent contact.**

22 (2) Except as provided in ORS 419A.261, upon application of either a person who is the subject
23 of a record or a juvenile department, or upon its own motion, the juvenile court shall order
24 expunction if, after a hearing when the matter is contested, it finds that:

25 (a) At least four years have elapsed since the date of the person's most recent termination and
26 the person has attained 18 years of age;

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

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

31 (d) The person is not within the jurisdiction of any juvenile court on the basis of a petition al-
32 leging 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 the
34 person by any law enforcement agency; and

35 (f) The person does not owe restitution.

36 (3)(a) Notwithstanding subsection (2) of this section, upon application of a person who is the
37 subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile
38 department, or upon its own motion, the juvenile court, after a hearing when the matter is contested
39 under subsection [(13)] (11) of this section, shall order expunction if it finds that:

40 (A) The application requests expunction of only that part of the person's record that involves
41 a charge, allegation or adjudication based on conduct that if done by an adult would constitute the
42 crime of prostitution under ORS 167.007; and

43 (B) The person was under 18 years of age at the time of the conduct.

44 (b) Except as provided in subsections [(13) and (14)] (11) and (12) of this section, there is no
45 waiting period required before the juvenile court orders expunction under this subsection.

1 *[(4) In the case of an application by the juvenile department or of the court acting upon its own*
2 *motion, expunction may not be ordered under subsection (2) or (3) of this section if actual notice of*
3 *expunction has not been given to the person in accordance with subsection (12) of this section unless*
4 *the person has reached 21 years of age.]*

5 *[(5)] (4)* When a person who is the subject of a record kept by a juvenile court or juvenile de-
6 partment reaches 18 years of age, the juvenile court, after a hearing when the matter is contested,
7 shall order expunction if:

8 (a)(A) The person never has been found to be within the jurisdiction of the court; *[or]*

9 **(B) The person has not had contact with the juvenile department resulting in a con-**
10 **viction under ORS 137.707 unless the conviction has been set aside; and**

11 **(C) The subject person has not been waived to criminal court pursuant to a hearing un-**
12 **der ORS 419C.349 or 419C.352 unless the waiver did not result in a conviction or resulted in**
13 **a conviction that has been set aside; or**

14 (b) The conditions of subsection (2) or (3) of this section have been met.

15 *[(6) Expunction may not be ordered under this section if actual notice of expunction has not been*
16 *given to the person in accordance with subsection (12) of this section unless the person has reached 21*
17 *years of age.]*

18 *[(7)] (5)* *[Subsections (5) and (6) of this section apply]* **Subsection (4) of this section applies** only
19 to cases resulting in termination after September 13, 1975.

20 *[(8)] (6)* Notwithstanding subsections (2), *[(3) and (5) to (7)]* **to (5)** of this section, upon applica-
21 tion of a person who is the subject of a record kept by a juvenile court or juvenile department, upon
22 application of the juvenile department, or upon its own motion, the juvenile court, after a hearing
23 when the matter is contested, may order expunction of all or any part of the person's record if it
24 finds that to do so would be in the best interests of the person and the public. *[In the case of an*
25 *application by the juvenile department or of the court acting upon its own motion, expunction may not*
26 *be ordered if actual notice of expunction has not been given to the person in accordance with subsection*
27 *(12) of this section unless the person has reached 21 years of age.]*

28 *[(9)] (7)* Notwithstanding ORS 419A.260 *[(1)(d)(J)]* **(1)(e)(J)**, a person who has been found to be
29 within the jurisdiction of the juvenile court based on an act that if committed by an adult would
30 constitute:

31 (a) Rape in the third degree under ORS 163.355, sodomy in the third degree under ORS 163.385
32 or sexual abuse in the third degree under ORS 163.415, or an attempt to commit those crimes, may
33 apply for an order of expunction under this section. The court shall order expunction of the records
34 in the case if, after a hearing when the matter is contested, the court finds that the person:

35 (A) Meets the requirements of subsection (2) of this section;

36 (B) Is not required to report as a sex offender; and

37 (C) Has not been convicted of, found guilty except for insanity of or found to be within the ju-
38 risdiction of the juvenile court based on a crime listed in ORS 419A.260 *[(1)(d)(J)]* **(1)(e)(J)**, other
39 than the adjudication that is the subject of the motion.

40 (b) A sex crime that is a Class C felony may apply for an order of expunction under this section.
41 The court shall order expunction of the records in the case if, after a hearing when the matter is
42 contested, the court finds that:

43 (A) The person meets the requirements of subsection (2) of this section;

44 (B) The person was under 16 years of age at the time of the offense;

45 (C) The person is:

1 (i) Less than two years and 180 days older than the victim; or

2 (ii) At least two years and 180 days older, but less than three years and 180 days older, than
3 the victim and the expunction is in the interests of justice and of benefit to the person and the
4 community;

5 (D) The victim's lack of consent was due solely to incapacity to consent by reason of being less
6 than a specified age;

7 (E) The victim was at least 12 years of age at the time of the offense;

8 (F) Each finding described in this paragraph involved the same victim; and

9 (G) The person has not been convicted of, found guilty except for insanity of or found to be
10 within the jurisdiction of the juvenile court based on a crime listed in ORS 419A.260 [(1)(d)(J)]
11 (1)(e)(J) or an offense the court is prohibited from setting aside under ORS 137.225, other than the
12 adjudication that is the subject of the motion.

13 [(10)] (8) When an expunction proceeding under this section is commenced by application of the
14 person whose records are to be expunged, the person shall set forth as part of the application the
15 names of the juvenile courts, juvenile departments, institutions and law enforcement and other
16 agencies that the person has reason to believe possess an expungible record of the person. The ju-
17 venile department shall provide the names and addresses of the juvenile courts, juvenile depart-
18 ments, institutions and law enforcement and other agencies that a reasonable search of department
19 files indicates have expungible records.

20 [(11)] (9) When an expunction proceeding is commenced by application of the juvenile depart-
21 ment or upon the court's own motion, the application or motion shall set forth the names and ad-
22 dresses of the juvenile courts, juvenile departments, institutions and law enforcement and other
23 agencies that a reasonable search of department files indicates have expungible records and those
24 provided by the subject person.

25 [(12)(a)] (10)(a) Notice and a copy of an application for expunction under this section shall be
26 given to:

27 (A) The district attorney of the county in which the expunction proceeding is commenced and
28 the district attorney of each county in which the record sought to be expunged is kept; and

29 (B) The person who is the subject of the record if the person has not initiated the expunction
30 proceeding.

31 (b) A district attorney who receives notice under this subsection shall notify the victim of the
32 acts that resulted in the disposition that is the subject of the application for expunction and shall
33 mail a copy of the application for expunction to the victim's last known address.

34 [(13)(a)] (11)(a) Within 30 days of receiving the notice of application for expunction under sub-
35 section [(12)] (10) of this section, a district attorney shall give written notice of any objection and
36 the grounds therefor to the person whose records are to be expunged and to the juvenile court.

37 (b) Except as provided in subsection [(14)(c)] (12)(c) of this section, if no objection is filed the
38 court may decide the issue of expunction either without a hearing or after full hearing under sub-
39 sections [(14) to (17)] (12) to (15) of this section.

40 [(14)] (12) When an expunction is pending under this section, the court may proceed with or
41 without a hearing, except that:

42 (a) The court may not enter an expunction judgment without a hearing if a timely objection to
43 expunction has been filed under subsection [(13)] (11) of this section;

44 (b) The court may not deny an expunction without a hearing if the proceeding is based on an
45 application of the subject; and

1 (c) The court shall proceed without a hearing if:

2 (A) No objection is filed under subsection [(13)] (11) of this section;

3 (B) The application requests expunction of only that part of the person's record that involves
4 a charge, allegation or adjudication based on conduct that if done by an adult would constitute the
5 crime of prostitution under ORS 167.007; and

6 (C) The person was under 18 years of age at the time of the conduct.

7 [(15)(a)] (13)(a) Notice of a hearing on a pending expunction shall be served on the subject and
8 any district attorney filing a timely objection under subsection [(13)] (11) of this section.

9 (b) When a district attorney receives notice of a hearing for expunction of a record concerning
10 a youth or adjudicated youth proceeding under ORS chapter 419C, if the victim of the acts that re-
11 sulted in the disposition that is the subject of the application for expunction requests, the district
12 attorney shall mail notice of the hearing to the victim's last-known address.

13 [(16)] (14) The court shall conduct a hearing on an expunction pending under this section in
14 accord with the provisions of ORS 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and 419B.908.
15 Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as defined in
16 ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting
17 expunction.

18 [(17)(a)] (15)(a) At the conclusion of a hearing on an expunction pending under this section, the
19 court shall issue judgment granting or denying expunction.

20 (b) The court's denial of an application for expunction under subsections (2) to [(9)] (7) of this
21 section does not preclude the subject person from filing an application for expunction under any
22 other applicable subsection of this section.

23 [(18)(a)] (16)(a) The juvenile court or juvenile department shall send a copy of an expunction
24 judgment to each agency subject to the judgment. Attached to the expunction judgment must be
25 information, to remain confidential, regarding the record to be expunged and the date of the record.

26 (b) Upon receipt of a copy of the judgment granting an application for expunction under this
27 section, the agency shall comply and, within 60 days of the date of receipt, return the copy to the
28 juvenile court or juvenile department with an indorsement indicating compliance.

29 (c) The juvenile department may, upon an agency's written request, provide the agency with an
30 extension of time to comply with paragraph (b) of this subsection. The duration of the extension may
31 not exceed the later of 30 days or, if an audit or grievance under the Interstate Compact for Juve-
32 niles relating to the subject person's records is pending, the date the audit or grievance is con-
33 cluded. If the juvenile department grants an extension under this paragraph, the juvenile department
34 shall notify the juvenile court of the extension.

35 [(19)] (17) When all agencies subject to an expunction judgment have indicated their compliance
36 or in any event no later than the later of 90 days following the date the judgment was delivered as
37 required by subsection [(18)] (16) of this section or, if the juvenile department granted an extension
38 of time under subsection [(18)(c)] (16)(c) of this section, [90] 30 days following the expiration of the
39 extension of time, the juvenile court shall provide the person who is the subject of the record with
40 a copy of the expunction judgment, a list of complying and noncomplying agencies, and a written
41 notice of rights and effects of expunction. The juvenile court and juvenile department then shall
42 expunge forthwith all records which they possess and which are subject to the judgment, except the
43 original expunction judgment and the list of complying and noncomplying agencies which must be
44 preserved under seal.

45 [(20)] (18) In addition to those agencies identified in ORS 419A.260 [(1)(d)] (1)(e), the juvenile,

1 circuit, municipal and justice courts, and the district and city attorneys of this state, are bound by
2 an expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing an
3 expunction judgment.

4 **SECTION 4.** ORS 419A.267 is amended to read:

5 419A.267. (1) A juvenile department in the county where the subject person [*resided at the time*
6 *of*] **had** the most recent contact shall issue a notice of expunction of a subject person's records if
7 the subject person:

8 (a) Has had contact with the juvenile department;

9 (b) Has never been the subject of a petition alleging that the subject person is subject to the
10 juvenile court's jurisdiction under ORS 419C.005;

11 (c) Has never been found to be within the jurisdiction of the juvenile court under ORS 419C.005;

12 (d) Does not have an open referral for a case by informal means; and

13 (e) Has not had contact with the juvenile department resulting in a conviction under ORS
14 137.707 **unless the conviction has been set aside.**

15 (2) The juvenile department shall issue the notice described in subsection (1) of this section
16 within 90 days following the later of:

17 (a) The date the subject person attains 18 years of age; or

18 (b) If the subject person was 18 years of age or older on January 2, 2022, the date the juvenile
19 department receives a request for expunction from the subject person.

20 (3) The juvenile department shall send the notice described in subsection (1) of this section to
21 each agency that the juvenile department determines, after a reasonable search of the juvenile
22 department's files, may be in possession of records relating to the subject person. The notice must
23 notify the recipient agency that the agency has 60 days from the date of receipt to expunge the
24 subject person's records.

25 (4)(a) Upon receipt of a notice of expunction, an agency shall comply and, within 60 days of the
26 date of receipt, return a copy of the notice to the juvenile department with an indorsement indi-
27 cating compliance.

28 (b) The juvenile department may, upon an agency's written request, provide the agency with an
29 extension of time to comply with paragraph (a) of this subsection. The duration of the extension may
30 not exceed the later of 30 days or, if an audit or grievance under the Interstate Compact for Juve-
31 niles relating to the subject person's records is pending, the date the audit or grievance is con-
32 cluded.

33 (c) If an agency fails to comply with the requirements of paragraph (a) of this subsection, the
34 juvenile department shall petition the juvenile court in the county in which the juvenile department
35 is located for an order compelling the agency to comply.

36 (5) When all agencies subject to the notice of expunction have indicated their compliance or in
37 any event no later than the later of 90 days following the date the notice was delivered as required
38 by subsection (3) of this section or, if the juvenile department granted an extension of time under
39 subsection (4) of this section, [90] **30** days following the expiration of the extension of time, the ju-
40 venile department shall provide the subject person with a copy of the notice of expunction, a list
41 of complying and noncomplying agencies, and a written notice of rights and effects of expunction.
42 The juvenile department then shall expunge forthwith all records in its possession that are subject
43 to the notice of expunction, except the juvenile department shall retain a record of the expunction
44 processes under this section and keep the record confidential.

45 **SECTION 5.** ORS 419A.269 is amended to read:

1 419A.269. (1) Upon issuance of a notice of expunction under ORS 419A.267 or entry of an
2 expunction judgment under ORS 419A.261 or 419A.262, the contact that is the subject of the
3 expunged record may not be disclosed by any agency. An agency that is subject to a notice of
4 expunction or an expunction judgment shall respond to any inquiry about the contact by indicating
5 that no record or reference concerning the contact exists.

6 (2) A person who is the subject of a record that has been expunged under ORS 419A.261,
7 419A.262 or 419A.267 may assert that the record never existed and that the contact that was the
8 subject of the record never occurred without incurring a penalty for perjury or false swearing under
9 the laws of this state.

10 (3)(a) The juvenile department may destroy any records in the juvenile department's possession
11 relating to the subject person's contact under ORS 419B.100 if the records are duplicate copies of
12 records maintained by the Department of Human Services. The destruction of records related to the
13 subject person's contact under ORS 419B.100 pursuant to this paragraph does not constitute
14 expunction.

15 (b) The juvenile department **is not required to maintain and** may destroy any records in the
16 juvenile department's possession relating to the subject person's record of a motor vehicle, boating
17 or game violation waived to the criminal or municipal court pursuant to ORS 419C.370. The de-
18 struction of records related to the subject person's record of a motor vehicle, boating or game vi-
19 olation pursuant to this paragraph does not constitute expunction.

20 (4) Juvenile courts, by court rule or by order related to a particular matter, may direct that
21 records concerning a subject person be destroyed. No records may be destroyed until at least three
22 years have elapsed after the date of the subject's most recent termination. In the event the record
23 has been expunged, the expunction judgment and list of complying and noncomplying agencies may
24 not be destroyed, but shall be preserved under seal. The destruction of records under this sub-
25 section does not constitute expunction.

26 (5) A notice of expunction or an expunction judgment and the list of complying and noncom-
27 plying agencies shall be disclosed only on order of the court that would have had jurisdiction to
28 compel compliance with the notice of expunction or that originated the expunction judgment, based
29 on a finding that review of a particular case furthers compliance with the expunction provisions of
30 ORS 419A.260 to 419A.271.

31 (6) A person who, in the person's official capacity with a juvenile department, sends a notice
32 of expunction for an ineligible individual or fails to send a notice of expunction for an eligible in-
33 dividual under ORS 419A.267 has immunity from any liability, civil or criminal, that might otherwise
34 be incurred or imposed for making the disclosure or failing to make the disclosure, except when the
35 person who sends the notice has knowledge that the individual is ineligible or when the person who
36 fails to send the notice has knowledge that the individual is eligible.

37 (7) A person subject to a notice of expunction or expunction judgment has a right of action
38 against any person who intentionally violates the confidentiality provisions of this section. In the
39 proceeding, punitive damages up to an amount of \$1,000 may be sought in addition to any actual
40 damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

41 (8) Intentional violation of the confidentiality provisions of this section by a public employee is
42 cause for dismissal.

43 (9) A person who releases all or part of an expunged record commits a Class A violation.

44 **SECTION 6.** ORS 419A.271 is amended to read:

45 419A.271. (1) *If a person who is the subject of a record for which expunction under ORS 419A.261*

1 *has been denied or that is eligible for expunction under ORS 419A.262 wishes to apply for expunction*
2 *and if the person is without funds to employ suitable counsel possessing skills and experience*
3 *commensurate with the nature and complexity of the expunction process, the person may request the*
4 *juvenile court having jurisdiction over the expunction process under ORS 419A.262 (1) to appoint*
5 *counsel to represent the person in the expunction proceeding.] At the request of a person who is*
6 **the subject of a record, the juvenile court shall appoint counsel for the person in accordance**
7 **with the provisions of ORS 419B.195, 419B.198, 419C.200, 419C.206 or 419C.457 to aid the person**
8 **in an expunction proceeding under ORS 419A.260 to 419A.271, including in the completion of**
9 **an application for expunction and representation in any hearings on the application for**
10 **expunction.**

11 (2) The juvenile court shall inform a person requesting court-appointed counsel under this sec-
12 tion of the person's right to be represented by suitable counsel possessing skills and experience
13 commensurate with the nature and complexity of the expunction process, to consult with counsel
14 prior to the filing of an application for expunction under ORS 419A.262 and prior to a hearing on
15 the matter and to have suitable counsel appointed at state expense. *[Upon request of the person, the*
16 *juvenile court shall appoint counsel in accordance with the provisions of ORS 419B.195 and 419B.198*
17 *to aid the person in the expunction proceeding, including in the completion of an application for*
18 *expunction and representation in any hearings on the application for expunction.]*

19 (3) When the juvenile court appoints counsel for a person under this section *[and the person is*
20 *determined to be entitled to appointment of counsel at state expense]*, the compensation for counsel and
21 reasonable fees and expenses of investigation, preparation and presentation paid or incurred shall
22 be determined and paid as provided in ORS 135.055.

23 **SECTION 7.** ORS 419C.273 is amended to read:

24 419C.273. (1) As used in this section:

25 (a) "Critical stage of the proceeding" means a hearing that:

26 (A) Affects the legal interests of the youth or adjudicated youth;

27 (B) Is held in open court; and

28 (C) Is conducted in the presence of the youth or adjudicated youth.

29 (b) "Critical stage of the proceeding" includes, but is not limited to:

30 (A) Detention and shelter hearings;

31 (B) Hearings to review placements;

32 (C) Hearings to set or change conditions of release;

33 (D) Hearings to transfer proceedings or to transfer parts of proceedings;

34 (E) Waiver hearings;

35 (F) Adjudication and plea hearings;

36 (G) Dispositional hearings, including but not limited to restitution hearings;

37 (H) Review or dispositional review hearings;

38 (I) Hearings on motions to amend, dismiss or set aside petitions, orders or judgments;

39 (J) Probation violation hearings, including probation revocation hearings, when the basis for the
40 alleged violation directly implicates a victim's rights;

41 (K) Hearings for relief from the duty to report under ORS 163A.130; and

42 (L) Expunction hearings.

43 (2)(a) The victim of any act alleged in a petition filed under this chapter may be present at and,
44 upon request, must be informed in advance of critical stages of the proceedings held in open court
45 when the youth or adjudicated youth will be present.

1 (b) The victim must be informed of any constitutional rights of the victim. Except as provided
2 in ORS 147.417, the district attorney or juvenile department must ensure that victims are informed
3 of their constitutional rights.

4 (c) The district attorney or the juvenile department shall notify the victim **of the expunction**
5 **process under ORS 419A.261. The notification must be made** at or before the time of adjudi-
6 cation of an act that, if committed by an adult, would constitute a violation [*or*], misdemeanor **or**
7 **felony** [*of the expunction process under ORS 419A.261*].

8 (3)(a) The victim has the right, upon request, to be notified in advance of or to be heard at:

9 (A) A detention or shelter hearing;

10 (B) A hearing to review the placement of the youth or adjudicated youth; or

11 (C) A dispositional hearing.

12 (b) For a release hearing, the victim has the right:

13 (A) Upon request, to be notified in advance of the hearing;

14 (B) To appear personally at the hearing; and

15 (C) If present, to reasonably express any views relevant to the issues before the court.

16 (4) If the victim is not present at a critical stage of the proceeding, the court shall ask the
17 district attorney or juvenile department whether the victim requested to be notified of critical stages
18 of the proceedings. If the victim requested to be notified, the court shall ask the district attorney
19 or juvenile department whether the victim was notified of the date, time and place of the hearing.

20 (5) Nothing in this section creates a cause of action for compensation or damages. This section
21 may not be used to invalidate an accusatory instrument or adjudication or otherwise terminate any
22 proceeding at any point after the case is commenced or on appeal.

23 **SECTION 8. Notwithstanding any other provision of law, the General Fund appropriation**
24 **made to the Oregon Youth Authority by section 1 (3), chapter __, Oregon Laws 2025 (En-**
25 **rolled House Bill 5041), for the biennium beginning July 1, 2025, for program support, is in-**
26 **creased by \$194,019, to support expunction processing.**

27 **SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on**
28 **expenditures established by section 3 (2), chapter __, Oregon Laws 2025 (Enrolled House Bill**
29 **5041), for the biennium beginning July 1, 2025, as the maximum limits for payment of ex-**
30 **penses from federal funds collected or received by the Oregon Youth Authority, for program**
31 **support, is increased by \$5,960, to support expunction processing.**

32 **SECTION 10. (1) The amendments to ORS 419A.261 (4) by section 1 of this 2025 Act apply**
33 **to the expunction of records created on or after January 1, 2026.**

34 (2) Except as provided in subsection (1) of this section, the amendments to ORS 419A.260,
35 419A.261, 419A.262, 419A.267, 419A.269, 419A.271 and 419C.273 by sections 1 to 7 of this 2025
36 Act apply to the expunction of records created before, on or after January 1, 2026.

37 **SECTION 11. (1) The amendments to ORS 419A.260, 419A.261, 419A.262, 419A.267, 419A.269,**
38 **419A.271 and 419C.273 by sections 1 to 7 of this 2025 Act become operative on January 1, 2026.**

39 (2) The State Court Administrator and the Oregon Youth Authority may take any action
40 before the operative date specified in subsection (1) of this section that is necessary for the
41 administrator or the authority to exercise, on and after the operative date specified in sub-
42 section (1) of this section, all of the duties, functions and powers conferred on the adminis-
43 trator or the authority by the amendments to ORS 419A.260, 419A.261, 419A.262, 419A.267,
44 419A.269, 419A.271 and 419C.273 by sections 1 to 7 of this 2025 Act.

45 **SECTION 12. This 2025 Act takes effect on the 91st day after the date on which the 2025**

1 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

2
