

A-Engrossed
Senate Bill 324

Ordered by the Senate May 4
Including Senate Amendments dated May 4

Sponsored by Senator WALKER

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.

Removes exception requiring confidentiality under certain conditions for terms of settlement or compromise of action involving public body and terms of mediation agreement involving public body.

Allows public body to enter into settlement or compromise that requires terms or conditions to be confidential if federal law requires confidentiality. Allows court to order that terms or conditions of settlement or compromise be confidential if court finds, in writing, that specific privacy interests of victim of sexual abuse or person under 18 outweigh public's interest in terms or conditions.

A BILL FOR AN ACT

1
2 Relating to confidentiality involving public body; creating new provisions; and amending ORS 17.095
3 and 36.230.

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

5 **SECTION 1.** ORS 17.095 is amended to read:

6 17.095. (1) *[No]* **A** public body, or officer, employee or agent of a public body, who is a defendant
7 in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100,
8 *[shall]* **may not** enter into any settlement or compromise of the action if the settlement or compro-
9 mise requires that the terms **or conditions** of the settlement or compromise be confidential.

10 *[(2) Notwithstanding subsection (1) of this section, the court may, after an expedited examination*
11 *in chambers, order that terms and conditions of a settlement or compromise of an action be confidential*
12 *if the court determines, by written findings, that specific privacy interests of a private individual out-*
13 *weigh the public's interest in the terms of the settlement or compromise.]*

14 **(2) Notwithstanding subsection (1) of this section:**

15 **(a) A public body, or officer, employee or agent of a public body, may enter into a**
16 **settlement or compromise that requires the terms or conditions to be confidential if federal**
17 **law requires terms or conditions of that settlement or compromise to be confidential. Only**
18 **terms and conditions that are required to be confidential under federal law may be confi-**
19 **dential in the settlement or compromise.**

20 **(b) A court may order that the terms or conditions of a settlement or compromise that**
21 **reveal the identity of a person be confidential if:**

22 **(A) The person whose identity is revealed is a victim of sexual abuse or is under 18 years**
23 **of age; and**

24 **(B) The court determines, by written findings, that the specific privacy interests of the**
25 **person outweigh the public's interest in the terms or conditions.**

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 (3) Any public body, or officer, employee or agent of a public body, who is a defendant in an
2 action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, shall file
3 with the court a full and complete disclosure of the terms and conditions of any settlement or
4 compromise of the claims against the public body, its officers, employees or agents. The disclosure
5 shall be filed prior to the dismissal of the action.

6 (4) For the purposes of this section:

7 (a) "Action" means a legal proceeding that has been commenced as provided in ORCP 3; and

8 (b) "Public body" has that meaning given in ORS 30.260.

9 **SECTION 2.** ORS 36.230 is amended to read:

10 36.230. (1) Except as provided in this section, mediation agreements are not confidential if a
11 public body is a party to the mediation or if the mediation is one in which a state agency is medi-
12 ating a dispute as to which the state agency has regulatory authority.

13 (2) If a public body is a party to a mediation agreement, any provisions of the agreement that
14 are exempt from disclosure as a public record under ORS 192.410 to 192.505 are confidential.

15 (3) If a public body is a party to a mediation agreement, and the agreement is subject to the
16 provisions of ORS 17.095, the terms of the agreement are confidential to the extent that those terms
17 are [ordered by a court to be] confidential under ORS 17.095 (2).

18 (4) If a public body is a party to a mediation agreement arising out of a workplace interpersonal
19 dispute:

20 (a) The agreement is confidential if the public body is not a state agency, unless the public body
21 adopts a policy that provides otherwise;

22 (b) The agreement is confidential if the public body is a state agency only to the extent that the
23 state agency has adopted a rule under ORS 36.224 that so provides; and

24 (c) Any term of an agreement that requires an expenditure of public funds, other than expen-
25 ditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that
26 remain the property of the public body, may not be made confidential by a rule or policy of a public
27 body.

28 **SECTION 3. The amendments to ORS 17.095 and 36.230 by sections 1 and 2 of this 2005**
29 **Act apply to actions and mediations commenced on or after the effective date of this 2005**
30 **Act.**

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