DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

August 16, 1990

Robin Selig
Attorney at Law
Suite 1020/310 SW 4th Avenue
Portland, OR 97204

John Ellis, Assistant
Administrator
Support Enforcement Division
Department of Justice
500 Justice Building
Salem, OR 97310

Re: Petition for Public Records Disclosure Order; Support Enforcement Division Records

Dear Ms. Selig and Mr. Ellis:

This letter is the Attorney General's order on Ms. Selig's petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505.[1] The petition, which we received on August 9,[2] asks the Attorney General to order the Support Enforcement Division (SED) to disclose specified records in SED's file on Ms. Selig's client, Verita Gill, a child support obligee as to whom SED performs support enforcement services. For the reasons stated below, we grant the petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain limitations and exemptions. The relevant statute here is ORS 25.260, which prohibits disclosure of SED records except in narrow circumstances, as follows:

> "(1) For the protection of applicants for an recipients of support enforcement services, the Support Enforcement Division, the district attorney and the Department of Human Resources shall not disclose or use the contents of any records, files, papers or communications for purposes other than

> those directly connected with the establishment and enforcement of support obligations, including criminal nonsupport proceedings, and these records, files, papers and communications are considered confidential. In any judicial proceedings except proceedings directly connected with the establishment or enforcement of a support obligation, including a criminal nonsupport proceeding, their contents are considered privileged communications.
>
> "(2) Violation of subsection (1) of this section is punishable, upon conviction, by a fine of not more than $1,000 or by imprisonment in the county jail for not more than 60 days, or by both." (Emphasis added.)

Neither this office nor an Oregon appellate court has construed this statute. However, the statute on which ORS 25.260 was modeled, ORS 411.320, has been analyzed in Stivahtis v. Juras, 13 Or App 519, 511 P2d 421 (1973). In that case, the court held that ORS 411.320, governing records of public assistance recipients, does not permit the Public Welfare Division (now the Adult and Family Services Division) to withhold from a public assistance recipient the recipient's own file.

The language of ORS 25.260 is essentially identical to the language of ORS 411.320 and, therefore, the rationale of Stivahtis v. Juras applies with equal force here. So long as Ms. Selig presents to SED a release signed by her client, she is entitled to inspect records in her client's file.

Mr. Ellis has suggested that Ms. Selig contact Assistant Attorney General Chelsea Mohnike at 229-5706 to arrange for a convenient time to inspect these records.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:CEM:RDW/7533Y

---

[1] Because the Support Enforcement Division is part of the Department of Justice, it may be somewhat strained to view the request as a petition, as opposed to merely a request for