

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 960**

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “338.115,”.
2 In line 3, delete “419B.015” and insert “342.176, 419B.015, 419B.020”.
3 Delete lines 5 through 28 and delete pages 2 through 11 and insert:
4 **“SECTION 1.** ORS 339.370 is amended to read:
5 “339.370. As used in ORS 339.370 to 339.400:
6 “(1) ‘Abuse’ has the meaning given that term in ORS 419B.005.
7 “[2) ‘*Disciplinary records*’ means the records related to a personnel disci-
8 *pline action or materials or documents supporting that action.*]
9 “[3) (2) ‘Education provider’ means:
10 “(a) A school district, as defined in ORS 332.002.
11 “(b) The Oregon School for the Deaf.
12 “(c) An educational program under the Youth Corrections Education
13 Program.
14 “(d) A public charter school, as defined in ORS 338.005.
15 “(e) An education service district, as defined in ORS 334.003.
16 “(f) Any state-operated program that provides educational services to
17 kindergarten through grade 12 students.
18 “(g) A private school.
19 “[4) (3) ‘Investigation’ means a detailed inquiry into the factual
20 allegations of a report of suspected abuse or sexual conduct that:
21 “(a) Is based on interviews with the [*complainant*] **person who initiated**

1 **the report, the person who may have been subjected to abuse or sexual**
2 **conduct**, witnesses and the [*school employee or student*] **person** who is the
3 subject of the report; and

4 “(b) If the subject of the report is a school employee **and the entity**
5 **conducting the investigation is an education provider**, meets any nego-
6 tiated standards of an employment contract or agreement.

7 “[5] (4) ‘Law enforcement agency’ has the meaning given that term in
8 ORS 419B.005.

9 “[6] (5) ‘Private school’ means a school that provides to kindergarten
10 through grade 12 students instructional programs that are not limited solely
11 to dancing, drama, music, religious or athletic instruction.

12 “[7] (6) ‘School board’ means the governing board or governing body of
13 an education provider.

14 “[8] (7) ‘School employee’ means an employee of an education provider.

15 “[9(a)] (8)(a) ‘Sexual conduct’ means any verbal or physical conduct by
16 a school employee that:

17 “(A) Is sexual in nature;

18 “(B) Is directed toward a kindergarten through grade 12 student;

19 “(C) Has the effect of unreasonably interfering with a student’s educa-
20 tional performance; and

21 “(D) Creates an intimidating, hostile or offensive educational environ-
22 ment.

23 “(b) ‘Sexual conduct’ does not include abuse.

24 “[10] ‘*Substantiated report*’ means a report of abuse or sexual conduct
25 *that:*]

26 “[a] *An education provider has reasonable cause to believe is founded*
27 *based on the available evidence after conducting an investigation; and]*

28 “[b] *Involves conduct that the education provider determines is sufficiently*
29 *serious to be documented in the school employee’s personnel file or the*
30 *student’s education record.]*

1 “(9) ‘Student’ means any person:

2 “(a) Who is:

3 “(A) In any grade from prekindergarten through grade 12; or

4 “(B) Twenty-one years of age or younger and receiving educational
5 or related services from an education provider that is not a post-
6 secondary institution of education; or

7 “(b) Who was previously known as a student by the person engaging
8 in the sexual conduct and who left school or graduated from high
9 school within 90 days prior to the sexual conduct.

10 “(10) ‘Substantiated report’ means a report of abuse or sexual con-
11 duct that an education provider, a law enforcement agency, the De-
12 partment of Human Services or the Department of Education has
13 reasonable cause to believe, based on the available evidence after
14 conducting an investigation, is founded.

15 “SECTION 2. ORS 339.372 is amended to read:

16 “339.372. Each school board shall adopt policies on the reporting of abuse
17 and sexual conduct by school employees and the reporting of abuse by stu-
18 dents. The policies shall:

19 “(1) Specify that abuse and sexual conduct by school employees and abuse
20 by students are not tolerated;

21 “(2) Specify that all school employees and students are subject to the
22 policies;

23 “(3) Require all school employees who have reasonable cause to believe
24 that another school employee has engaged in abuse or sexual conduct or that
25 a student has engaged in abuse to **report**:

26 “[(a) Report suspected abuse to a law enforcement agency, the Department
27 of Human Services or a designee of the department as required by ORS
28 419B.010 and 419B.015; and]

29 “[(b)] (a) [Report suspected abuse or sexual conduct] To the person desig-
30 nated as provided by subsection (4) of this section[;] **all reports of sus-**

1 **pected abuse or sexual conduct; and**

2 **“(b) To a law enforcement agency, the Department of Human Ser-**
3 **vices or a designee of the department, as required by ORS 419B.010 and**
4 **419B.015, all reports of suspected abuse, regardless of whether a report**
5 **was made as required under paragraph (a) of this subsection.**

6 **“(4) Designate a person, and an alternate in the event the designated**
7 **person is the suspected abuser, to receive reports of suspected abuse or sex-**
8 **ual conduct by school employees or suspected abuse by students and specify**
9 **the procedures to be followed by that person upon receipt of a report, in-**
10 **cluding making a report of suspected sexual conduct to the Depart-**
11 **ment of Education;**

12 **“(5) Specify the procedures to be followed during an investigation**
13 **by an education provider, including notification to school employees**
14 **that:**

15 **“(a) All reports of suspected abuse or sexual conduct by school**
16 **employees will be investigated;**

17 **“(b) Investigations will be completed regardless of any changes in**
18 **the employment relationship or duties of the school employee about**
19 **whom a report was made; and**

20 **“(c) Investigations will be conducted as provided by ORS 339.388;**

21 **“[(5)] (6) Require the posting in each school building of:**

22 **“(a) The name and contact information for the person designated for the**
23 **school building to receive reports of suspected abuse or sexual conduct by**
24 **school employees or suspected abuse by students and the procedures the**
25 **person will follow upon receipt of a report; and**

26 **“(b) The contact information for making a report of suspected**
27 **abuse to a law enforcement agency, the Department of Human Ser-**
28 **vices or a designee of the department as required by ORS 419B.010 and**
29 **419B.015 and a statement that the duty to report abuse is a personal**
30 **duty regardless of any reports made as required under paragraph (a)**

1 **of this subsection;**

2 “[6] (7) Specify that the initiation of a report in good faith about sus-
3 pected abuse or sexual conduct may not adversely affect any terms or con-
4 ditions of employment or the work environment of the complainant;

5 “[7] (8) Specify that the school board or any school employee will not
6 discipline a student for the initiation of a report in good faith about sus-
7 pected abuse or sexual conduct by a school employee or suspected abuse by
8 a student;

9 “[8] (9) Require notification by the education provider to the person who
10 initiated the report about actions taken by the education provider based on
11 the report; and

12 “[9] (10) Require the education provider to furnish to a school employee
13 at the time of hire the following:

14 “(a) A description of conduct that may constitute abuse or sexual conduct;
15 and

16 “(b) A description of **the background checks conducted under ORS**
17 **339.374 (5) and** the information [*and records*] that will be disclosed as pro-
18 vided by ORS 339.378 [*or 339.388 (8)*] if a report of suspected abuse or sexual
19 conduct is substantiated.

20 **“SECTION 3.** ORS 339.374 is amended to read:

21 “339.374. Except as provided in ORS 339.384, before an education provider
22 may hire an applicant for a position with the education provider, the edu-
23 cation provider shall:

24 “(1) Require the applicant to provide:

25 “(a) A list of the applicant’s current and former employers who are edu-
26 cation providers.

27 “(b) A written authorization that authorizes the applicant’s current and
28 former employers that are education providers to disclose the information
29 requested under subsection (2) of this section.

30 “(c) A written statement of whether the applicant:

1 “(A) Has been the subject of a substantiated report of abuse or sexual
2 conduct; or

3 “(B) Is the subject of an ongoing investigation related to a report of
4 suspected abuse or sexual conduct.

5 “(2) Conduct a review of the employment history of the applicant by
6 contacting the three most recent employers of the applicant who are educa-
7 tion providers and requesting[:]

8 “[*(a)*] the following information:

9 “[*(A)*] **(a)** The dates of employment of the applicant by the education
10 provider;

11 “[*(B)*] **(b)** Whether the applicant was the subject of any substantiated re-
12 ports, **or is the subject of any ongoing investigations**, of abuse or sexual
13 conduct related to the applicant’s employment with the education provider;

14 “[*(C)*] **(c)** The dates of any substantiated reports;

15 “[*(D)*] **(d)** The definitions of abuse and sexual conduct used by the edu-
16 cation provider when the education provider determined that any reports
17 were substantiated; and

18 “[*(E)*] **(e)** The standards used by the education provider to determine
19 whether any reports were substantiated.

20 “[*(b)* Any disciplinary records required to be released as provided by ORS
21 339.388 (8).]

22 “(3) For an applicant who is licensed, registered or certified with the
23 Teacher Standards and Practices Commission, access online information
24 provided by the commission to verify:

25 “(a) That the applicant is licensed, registered or certified by the commis-
26 sion; and

27 “(b) Whether the commission has provided any information relating to
28 conduct by the applicant that may constitute abuse or sexual conduct.

29 “(4) Conduct a nationwide criminal records check if required by ORS
30 326.603.

1 “(5) **Conduct a child and adult protective services records check**
2 **with the Department of Human Services and a sexual conduct registry**
3 **check with the Department of Education.**

4 “**SECTION 4.** ORS 339.378 is amended to read:

5 “339.378. (1) Not later than 20 days after receiving a request under ORS
6 339.374, an education provider that has or has had an employment relation-
7 ship with the applicant shall disclose the information requested [*and any*
8 *disciplinary records that must be disclosed as provided by ORS 339.388 (8)*].

9 “(2) An education provider may disclose the information on a standardized
10 form and is not required to provide any additional information related to a
11 substantiated report of abuse or sexual conduct other than the information
12 that is required by ORS 339.374 (2).

13 “(3) Information received under this section is confidential and is not a
14 public record as defined in ORS 192.311. An education provider may use the
15 information only for the purpose of evaluating an applicant’s eligibility to
16 be hired.

17 “**SECTION 5.** ORS 339.384 is amended to read:

18 “339.384. (1) An education provider may not hire an applicant who does
19 not comply with the requirements of ORS 339.374 (1). A refusal to hire an
20 applicant under this subsection removes the applicant from any education
21 provider policies, any collective bargaining provisions regarding dismissal
22 procedures and appeals and any provisions of ORS 342.805 to 342.937.

23 “(2) An education provider may hire an applicant on a conditional basis
24 pending the education provider’s review of **information received from the**
25 **background checks under ORS 339.374 (5) and** information [*and records*]
26 received under ORS 339.378.

27 “(3) An education provider may not deny an applicant employment solely
28 because:

29 “(a) A current or former employer of an applicant fails or refuses to
30 comply with the requirements of ORS 339.378; or

1 “(b) The applicant has or had an out-of-state employer and the laws or
2 rules of that state prevent the release of information [*or records*] requested
3 under ORS 339.378.

4 **“SECTION 6.** ORS 339.388 is amended to read:

5 “339.388. (1)(a) A school employee having reasonable cause to believe that
6 a child with whom the employee comes in contact has suffered abuse by an-
7 other school employee or by a student, or that another school employee or
8 a student with whom the employee comes in contact has abused a child, shall
9 immediately report the information to:

10 “(A) The person designated in the policy adopted under ORS 339.372; and

11 “(B) A law enforcement agency, the Department of Human Services or a
12 designee of the department as required by ORS 419B.010 and 419B.015.

13 “(b) A school employee having reasonable cause to believe that a student
14 with whom the employee comes in contact has been subjected to sexual
15 conduct by another school employee, or that another school employee with
16 whom the employee comes in contact has engaged in sexual conduct, shall
17 immediately report the information to the person designated in the policy
18 adopted under ORS 339.372.

19 “(2) A person who receives a report under subsection (1) of this section
20 shall follow the procedures required by the policy adopted by the school
21 board under ORS 339.372, **including making a report of suspected sexual**
22 **conduct to the Department of Education for the purpose of section 10**
23 **of this 2019 Act.**

24 “(3)(a) Except as provided in [*subsection (4) of this section*] **paragraph (c)**
25 **of this subsection**, when an education provider receives a report of sus-
26 pected abuse or sexual conduct by one of its employees, and the education
27 provider’s designee determines that there is reasonable cause to support the
28 report, the education provider:

29 “(A) In the case of suspected abuse, shall:

30 “(i) Place the school employee on paid administrative leave; **and**

1 “(ii) **Take all necessary actions to ensure the student’s safety dur-**
2 **ing an investigation, regardless of whether the investigation is con-**
3 **ducted by the education provider, the Department of Human Services,**
4 **a law enforcement agency or the Department of Education; or**

5 “(B) In the case of suspected sexual conduct, may place the school em-
6 ployee on paid administrative leave or in a position that does not involve
7 direct, unsupervised contact with children.

8 “(b) A school employee who is placed on paid administrative leave under
9 paragraph (a)(A) of this subsection shall remain on administrative leave un-
10 til:

11 “[(A) *The Department of Human Services or a law enforcement agency de-*
12 *termines that the report cannot be substantiated or that the report will not be*
13 *pursued; or]*

14 “[(B) *The Department of Human Services or a law enforcement agency de-*
15 *termines that the report is substantiated and the education provider takes the*
16 *appropriate disciplinary action against the school employee.]*

17 “(A) **For a report of suspected abuse, the Department of Human**
18 **Services or a law enforcement agency determines that the report:**

19 “(i) **Cannot be substantiated or is not a report of abuse; or**

20 “(ii) **Is substantiated and the education provider takes the appro-**
21 **priate disciplinary action against the school employee.**

22 “(B) **For a report of suspected sexual conduct, the Department of**
23 **Education determines that the report:**

24 “(i) **Cannot be substantiated or is not a report of sexual conduct;**
25 **or**

26 “(ii) **Is substantiated and the education provider takes the appro-**
27 **priate disciplinary action against the school employee.**

28 “[(4)] (c) An education provider may reinstate a school employee placed
29 on paid administrative leave for suspected abuse as provided under [*sub-*
30 *section (3) of this section*] **paragraph (b) of this subsection** or may take the

1 appropriate disciplinary action against the employee if the Department of
2 Human Services or a law enforcement agency is unable to determine, based
3 on a report of suspected abuse, whether abuse occurred.

4 **“(4)(a) As applicable, investigations of suspected abuse or sexual
5 conduct will be:**

6 **“(A) Led by the Department of Human Services, a law enforcement
7 agency or the Department of Education; and**

8 **“(B) Based upon protocols and procedures of the Department of
9 Human Services, a law enforcement agency or the Department of Ed-
10 ucation.**

11 **“(b) An education provider must cooperate with any entities in-
12 volved in an investigation under paragraph (a) of this subsection, in-
13 cluding suspending any investigations being conducted by the
14 education provider at the request of the entity.**

15 **“(c) Notwithstanding paragraph (b) of this subsection, an education
16 provider may not require a person to disclose any information that
17 may tend to convict the person of a crime or subject the person to
18 penalty or forfeiture.**

19 **“(d) An education provider may take into consideration the findings
20 of any entity involved in an investigation under paragraph (a) of this
21 subsection for the purpose of the education provider’s investigation
22 under subsection (5) of this section and any disciplinary action taken
23 by the education provider.**

24 **“(5)(a) In addition to any investigations conducted by a law
25 enforcement agency, the Department of Human Services or the De-
26 partment of Education, an education provider shall conduct an inves-
27 tigation in response to a report of suspected abuse or sexual conduct
28 by a school employee. The education provider shall immediately begin
29 an investigation after receiving a report of suspected abuse or sexual
30 conduct and any investigations conducted by the education provider**

1 **must be completed as provided by paragraph (b) of this subsection.**

2 **“(b)(A) Except as provided by subparagraph (B) of this paragraph,**
3 **a final determination related to an investigation conducted by an ed-**
4 **ucation provider must be made within 60 calendar days following the**
5 **date on which the person designated under ORS 339.372 received the**
6 **report of suspected abuse or sexual conduct.**

7 **“(B) If requested to suspend an investigation as provided by sub-**
8 **section (4)(b) of this section, an education provider is not required to**
9 **make a final determination until 60 calendar days after receipt of a**
10 **disposition of an investigation led by an entity identified in subsection**
11 **(4)(a) of this section.**

12 **“(C) Notwithstanding subparagraphs (A) and (B) of this paragraph,**
13 **the prescribed timeline for a final determination may be extended if,**
14 **for good cause, a longer period of time is necessary.**

15 **“(c) If, in the course of an investigation by the education provider,**
16 **the education provider becomes aware of new information that gives**
17 **rise to a reasonable cause to believe that abuse or sexual conduct oc-**
18 **curred, the education provider shall ensure that a report is made to:**

19 **“(A) A law enforcement agency, the Department of Human Services**
20 **or a designee of the department, as required by ORS 419B.010 and**
21 **419B.015, for suspected abuse; or**

22 **“(B) The Department of Education, for suspected sexual conduct.**

23 **“(d) The education provider shall report in writing the findings of**
24 **an investigation to the person about whom a report was made.**

25 **“[(5)] (6) If, following an investigation, an education provider determines**
26 **that a report of suspected abuse or sexual conduct by a school employee is**
27 **a substantiated report, the education provider shall:**

28 **“[(a) Inform the school employee that the education provider has determined**
29 **that the report has been substantiated.]**

30 **“[(b)] (a) Provide the school employee with information about the appro-**

1 puate appeal process for the determination made by the education provider.
2 The appeal process may be the process provided by a collective bargaining
3 agreement or a process administered by a neutral third party and paid for
4 by the school district.

5 “[*(c)*] **(b)** Following notice of a school employee’s decision not to appeal
6 the determination **of an education provider** or following the determination
7 of an appeal that sustained the substantiated report, create a record of the
8 substantiated report and place the record in [*the personnel file of*] **any files**
9 **maintained by the education provider on** the school employee. Records
10 created pursuant to this paragraph are confidential and are not public re-
11 cords as defined in ORS 192.311. An education provider may use the record
12 as a basis for providing the information required to be disclosed under ORS
13 339.378.

14 “[*(d)*] **(c)** Inform the school employee that information about substanti-
15 ated reports may be disclosed to a potential employer as provided by [*sub-*
16 *section (8) of this section and*] ORS 339.378.

17 “[*(6)(a)*] **(7)(a)** Notwithstanding the requirements of subsections (3)[, (4)
18 *and (5)*] **and (6)** of this section, an education provider that is a private
19 school:

20 “(A) May discipline or terminate a school employee according to:

21 “(i) The provisions of [*subsections (3) and (4)*] **subsection (3)** of this sec-
22 tion; or

23 “(ii) The standards and policies of the private school if the standards and
24 policies provide the same or greater safeguards for the protection of children
25 compared to the safeguards described in [*subsections (3) and (4)*] **subsection**
26 **(3)** of this section.

27 “(B) May follow the procedures described in subsection [*(5)*] **(6)** of this
28 section or may follow any appeals process established by the private school
29 related to suspected child abuse or sexual conduct.

30 “(b) A private school that chooses to discipline or terminate a school

1 employee according to the standards and policies of the school must provide
2 the information required to be disclosed under ORS 339.378.

3 “[7] **(8)(a)** Upon request from a law enforcement agency, the Department
4 of Human Services, **the Department of Education** or the Teacher Stan-
5 dards and Practices Commission, a school district shall provide the records
6 of investigations of suspected abuse by a school employee or former school
7 employee.

8 **“(b) Notwithstanding paragraph (a) of this subsection, a school**
9 **district may not provide any information disclosed by the person**
10 **against whom a report was made if:**

11 **“(A) The information may be used to convict the person of a crime**
12 **or subject the person to penalty or forfeiture; and**

13 **“(B) The person has not authorized the provision of the informa-**
14 **tion.**

15 *“(8)(a) The disciplinary records of a school employee or former school em-*
16 *ployee convicted of a crime listed in ORS 342.143 are not exempt from disclo-*
17 *sure under ORS 192.345 or 192.355.]*

18 *“(b) If a school employee is convicted of a crime listed in ORS 342.143, the*
19 *education provider that is the employer of the employee shall disclose the dis-*
20 *ciplinary records of the employee to any person upon request.]*

21 *“(c) If a former school employee is convicted of a crime listed in ORS*
22 *342.143, the education provider that was the employer of the former employee*
23 *when the crime was committed shall disclose the disciplinary records of the*
24 *former employee to any person upon request.]*

25 *“(9) Prior to disclosure of a disciplinary record under subsection (8) of this*
26 *section, an education provider shall remove any personally identifiable infor-*
27 *mation from the record that would disclose the identity of a child, a crime*
28 *victim or a school employee or former school employee who is not the subject*
29 *of the disciplinary record.]*

30 **“SECTION 7. ORS 339.392 is amended to read:**

1 “339.392. (1) An education provider may not enter into a collective bar-
2 gaining agreement, an employment contract, an agreement for resignation
3 or termination, a severance agreement or any other contract or agreement
4 that:

5 “(a) Has the effect of **impairing or terminating an ongoing investi-**
6 **gation, or** suppressing information relating to an ongoing investigation, re-
7 lated to a report of suspected abuse or sexual conduct [*or*];

8 “(b) **Has the effect of suppressing information** relating to a substan-
9 tiated report of abuse or sexual conduct by a current or former employee;

10 “[*b*] (c) Affects the duties of the education provider to report suspected
11 abuse or sexual conduct or to discipline a current or former employee for a
12 substantiated report of abuse or sexual conduct;

13 “[*c*] (d) Impairs the ability of the education provider to discipline an
14 employee for a substantiated report of abuse or sexual conduct; or

15 “[*d*] (e) Requires the education provider to expunge substantiated in-
16 formation about abuse or sexual conduct from any documents maintained by
17 an education provider.

18 “(2) Any provision of an employment contract or agreement that is con-
19 trary to this section is void and unenforceable.

20 “(3) Nothing in this section prevents an education provider from entering
21 into a collective bargaining agreement that includes:

22 “(a) Standards for investigation of a report of abuse or sexual conduct;
23 or

24 “(b) An appeal process from the determination by an education provider
25 that a report of abuse or sexual conduct has been substantiated as provided
26 in ORS 339.388 (5).

27 “**SECTION 8. (1) The amendments to ORS 339.370, 339.372, 339.374,**
28 **339.378, 339.384 and 339.388 by sections 1 to 6 of this 2019 Act apply to**
29 **reports of suspected abuse or sexual conduct received on or after the**
30 **effective date of this 2019 Act.**

1 “(2) The amendments to ORS 339.392 by section 7 of this 2019 Act
2 apply to agreements and contracts entered into on or after the effec-
3 tive date of this 2019 Act.

4 “SECTION 9. Section 10 of this 2019 Act is added to and made a part
5 of ORS 339.370 to 339.400.

6 “SECTION 10. (1) When the Department of Education receives a
7 report of suspected sexual conduct under ORS 339.388 or section 15 of
8 this 2019 Act, the department shall immediately cause an investigation
9 to be made. An investigation and final determination related to the
10 report must be made within 60 calendar days following the date on
11 which the report was filed with the Department of Education. The
12 timeline prescribed by this subsection may be extended by up to 30
13 days if the Department of Education determines that a longer period
14 of time is necessary for good cause, including a request from a law
15 enforcement agency or the Department of Human Services to suspend
16 an investigation.

17 “(2) For a report of suspected sexual conduct that may include
18 abuse, the Department of Education shall:

19 “(a) Notify the law enforcement agency within the county where
20 the report was made and the local office of the Department of Human
21 Services within the county where the report was made; and

22 “(b) Conduct an investigation concurrently with the law enforce-
23 ment agency and the Department of Human Services based upon the
24 protocols and procedures of the county multidisciplinary child abuse
25 team that has jurisdiction over the report.

26 “(3) For an investigation of a report of suspected sexual conduct,
27 the Department of Education shall appoint an investigator and shall
28 furnish the investigator with appropriate professional and other spe-
29 cial assistance reasonably required to conduct an investigation. An
30 investigator appointed under this subsection is empowered to:

1 “(a) Issue subpoenas to require the attendance of witnesses or the
2 production of documents;

3 “(b) Subpoena witnesses;

4 “(c) Swear witnesses and compel obedience in the same manner as
5 provided under ORS 183.440 (2); and

6 “(d) Request records from a law enforcement agency or the De-
7 partment of Human Services as provided by ORS 419B.035.

8 “(4) An investigation shall be conducted under this section regard-
9 less of any investigations being conducted by an education provider
10 concerning the same report. If the education provider is conducting
11 an investigation concerning the same report, the Department of Edu-
12 cation may conduct the investigation concurrently with the education
13 provider.

14 “(5) If the Department of Education finds that a report is substan-
15 tiated, the department shall:

16 “(a) Notify the education provider that is the employer of the school
17 employee; and

18 “(b) Notify any regulatory board that licenses, registers, certifies
19 or otherwise authorizes the school employee to practice a profession
20 or to provide professional services.

21 “(6)(a) Except as provided in paragraph (b) of this subsection, the
22 documents and materials used in the investigation undertaken under
23 this section, and the report related to the investigation, are confiden-
24 tial and not subject to public inspection.

25 “(b) Records made available to the Department of Education under
26 ORS 419B.035 shall be kept confidential.

27 “(7) The Department of Education shall retain documents and ma-
28 terials related to any report received under this section.

29 “(8) The Department of Education shall establish and maintain a
30 sexual conduct registry related to any substantiated reports and shall

1 **make information on the database available to education providers for**
2 **the purpose of ORS 339.374 (5).**

3 **“(9)(a) The Department of Education may impose a civil penalty on**
4 **an education provider and on any agents of the education provider who**
5 **willingly fail to cooperate with an investigation conducted under this**
6 **section.**

7 **“(b) The Department of Education shall adopt by rule a schedule**
8 **of civil penalties for violations under this subsection. A civil penalty**
9 **may not exceed \$1,000 per violation.**

10 **“(c) All civil penalties recovered under this subsection shall be ap-**
11 **plied to the costs of the Department of Education’s investigation and**
12 **any administrative proceedings that result from the investigation.**

13 **“SECTION 11. ORS 342.176 is amended to read:**

14 **“342.176. (1)(a) A person may file a complaint with the Teacher Standards**
15 **and Practices Commission regarding a person licensed by the commission.**

16 **“(b) Prior to beginning an investigation based on a complaint filed under**
17 **paragraph (a) of this subsection, the commission may require verification**
18 **that attempts were made to resolve the complaint through the complaint**
19 **process of the school district that employs the person against whom the**
20 **complaint was filed. The commission may not require verification if the**
21 **complaint concerns the safety of a student, as defined in ORS 339.370,**
22 **including an allegation of sexual conduct or abuse.**

23 **“(c) After receiving [sufficient] any required verification as provided by**
24 **paragraph (b) of this subsection, the Teacher Standards and Practices Com-**
25 **mission shall promptly undertake an investigation upon receipt of a com-**
26 **plaint or information that may constitute grounds for:**

27 **“(A) Refusal to issue a license or registration, as provided under ORS**
28 **342.143;**

29 **“(B) Suspension or revocation of a license or registration, discipline of a**
30 **person holding a license or registration, or suspension or revocation of the**

1 right to apply for a license or registration, as provided under ORS 342.175;
2 or

3 “(C) Discipline for failure to provide appropriate notice prior to resigna-
4 tion, as provided under ORS 342.553.

5 “(2)(a) The commission may appoint an investigator and shall furnish the
6 investigator with appropriate professional and other special assistance rea-
7 sonably required to conduct the investigation, and the investigator is em-
8 powered to issue subpoenas to require the attendance of witnesses or the
9 production of documents over the signature of the executive director of the
10 commission, subpoena witnesses over the signature of the executive director,
11 swear witnesses and compel obedience in the same manner as provided under
12 ORS 183.440 (2).

13 **“(b) If, in the course of an investigation, the commission becomes**
14 **aware of information that gives rise to reasonable cause to believe**
15 **that abuse or sexual conduct occurred, the commission shall ensure**
16 **that a report is made to:**

17 **“(A) A law enforcement agency, the Department of Human Services**
18 **or a designee of the department, as required by ORS 419B.010 and**
19 **419B.015, for suspected abuse; or**

20 **“(B) The Department of Education, for suspected sexual conduct.**

21 “(3) Following completion of the investigation, the executive director or
22 the executive director’s designee shall report in writing any findings and
23 recommendations to:

24 “(a) The commission, meeting in executive session, at its next regular
25 meeting following completion of the investigation; and

26 “(b) The person against whom the charge is made, following consideration
27 by the commission.

28 “(4)(a) Except as provided in paragraph (b) of this subsection, the docu-
29 ments and materials used in the investigation undertaken as provided by this
30 section and the report related to the investigation are confidential and not

1 subject to public inspection unless the commission makes a final determi-
2 nation to:

3 “(A) Refuse to issue a license or registration, as provided under ORS
4 342.143;

5 “(B) Suspend or revoke a license or registration, discipline a person
6 holding a license or registration, or suspend or revoke the right to apply for
7 a license or registration, as provided under ORS 342.175; or

8 “(C) Discipline a person for failure to provide appropriate notice prior to
9 resignation, as provided under ORS 342.553.

10 “(b) Records made available to the commission under ORS 419B.035 (1)(h)
11 shall be kept confidential.

12 “(5) If the commission finds from the report that there is sufficient cause
13 to justify holding a hearing under ORS 342.177, the commission shall notify
14 in writing:

15 “(a) The person charged, enclosing a statement of the charges and a no-
16 tice of opportunity for hearing;

17 “(b) The complainant; and

18 “(c) The employing district or public charter school, if any.

19 “(6) If the commission finds from the report that there is not sufficient
20 cause to justify holding a hearing under ORS 342.177, the commission shall
21 notify in writing:

22 “(a) The person charged;

23 “(b) The complainant; and

24 “(c) The employing district or public charter school, if any.

25 “(7) Notwithstanding ORS 192.660 (6), the commission may make its
26 findings under this section in executive session. However, the provisions of
27 ORS 192.660 (4) apply to the sessions.

28 **“SECTION 12. The amendments to ORS 342.176 by section 11 of this**
29 **2019 Act apply to complaints received on or after the effective date of**
30 **this 2019 Act.**

1 **“SECTION 13.** ORS 338.115 is amended to read:
2 “338.115. (1) Statutes and rules that apply only to school district boards,
3 school districts or other public schools do not apply to public charter
4 schools. However, the following laws do apply to public charter schools:
5 “(a) Federal law;
6 “(b) ORS 30.260 to 30.300 (tort claims);
7 “(c) ORS 192.311 to 192.478 (public records law);
8 “(d) ORS 192.610 to 192.690 (public meetings law);
9 “(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
10 “(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
11 “(g) ORS 326.565, 326.575 and 326.580 (student records);
12 “(h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
13 “(i) ORS 329.045 (academic content standards and instruction);
14 “(j) ORS 329.451 (high school diploma, modified diploma, extended diploma
15 and alternative certificate);
16 “(k) ORS 329.496 (physical education);
17 “(L) The statewide assessment system developed by the Department of
18 Education for mathematics, science and English under ORS 329.485 (2);
19 “(m) ORS 336.840 (use of personal electronic devices);
20 “(n) ORS 337.150 (textbooks);
21 “(o) ORS 339.119 (consideration for educational services);
22 “(p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
23 “(q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
24 “(r) ORS 339.326 (notice concerning students subject to juvenile court
25 petitions);
26 “(s) ORS 339.370[, 339.372, 339.388 and] **to** 339.400 (reporting of abuse and
27 sexual conduct and training on prevention and identification of abuse and
28 sexual conduct);
29 “(t) ORS 342.856 (core teaching standards);
30 “(u) ORS chapter 657 (Employment Department Law);

1 “(v) ORS 659.850, 659.855 and 659.860 (discrimination);
2 “(w) Any statute or rule that establishes requirements for instructional
3 time provided by a school during each day or during a year;
4 “(x) Statutes and rules that expressly apply to public charter schools;
5 “(y) Statutes and rules that apply to a special government body, as de-
6 fined in ORS 174.117, or a public body, as defined in ORS 174.109;
7 “(z) Health and safety statutes and rules;
8 “(aa) Any statute or rule that is listed in the charter; and
9 “(bb) This chapter.
10 “(2) Notwithstanding subsection (1) of this section, a charter may specify
11 that statutes and rules that apply only to school district boards, school dis-
12 tricts and other public schools may apply to a public charter school.
13 “(3) If a statute or rule applies to a public charter school, then the terms
14 ‘school district’ and ‘public school’ include public charter school as those
15 terms are used in that statute or rule.
16 “(4) A public charter school may not violate the Establishment Clause of
17 the First Amendment to the United States Constitution or section 5, Article
18 I of the Oregon Constitution, or be religion based.
19 “(5)(a) A public charter school shall maintain an active enrollment of at
20 least 25 students.
21 “(b) For a public charter school that provides educational services under
22 a cooperative agreement described in ORS 338.080, the public charter school
23 is in compliance with the requirements of this subsection if the public
24 charter school provides educational services under the cooperative agreement
25 to at least 25 students, without regard to the school districts in which the
26 students are residents.
27 “(6) A public charter school may sue or be sued as a separate legal entity.
28 “(7) The sponsor, members of the governing board of the sponsor acting
29 in their official capacities and employees of a sponsor acting in their official
30 capacities are immune from civil liability with respect to all activities re-

1 lated to a public charter school within the scope of their duties or employ-
2 ment.

3 “(8) A public charter school may enter into contracts and may lease fa-
4 cilities and services from a school district, education service district, public
5 university listed in ORS 352.002, other governmental unit or any person or
6 legal entity.

7 “(9) A public charter school may not levy taxes or issue bonds under
8 which the public incurs liability.

9 “(10) A public charter school may receive and accept gifts, grants and
10 donations from any source for expenditure to carry out the lawful functions
11 of the school.

12 “(11) The school district in which the public charter school is located
13 shall offer a high school diploma, a modified diploma, an extended diploma
14 or an alternative certificate to any public charter school student who meets
15 the district’s and state’s standards for a high school diploma, a modified di-
16 ploma, an extended diploma or an alternative certificate.

17 “(12) A high school diploma, a modified diploma, an extended diploma or
18 an alternative certificate issued by a public charter school grants to the
19 holder the same rights and privileges as a high school diploma, a modified
20 diploma, an extended diploma or an alternative certificate issued by a non-
21 chartered public school.

22 “(13) Prior to beginning operation, the public charter school shall show
23 proof of insurance to the sponsor as specified in the charter.

24 “(14) A public charter school may receive services from an education
25 service district in the same manner as a nonchartered public school in the
26 school district in which the public charter school is located.

27 **“SECTION 14. Section 15 of this 2019 Act is added to and made a**
28 **part of ORS 419B.005 to 419B.050.**

29 **“SECTION 15. (1) As used in this section:**

30 **“(a) ‘Education provider’ has the meaning given that term in ORS**

1 **339.370.**

2 **“(b) ‘School employee’ means a person who is an employee of an**
3 **education provider and who interacts with a student because of the**
4 **person’s status as an employee of an education provider.**

5 **“(c) ‘Student’ has the meaning given that term in ORS 339.370.**

6 **“(2) If the Department of Human Services or a law enforcement**
7 **agency receives a report of suspected abuse by a school employee of a**
8 **child who is a student, an investigation must be completed as de-**
9 **scribed in ORS 419B.005 to 419B.050.**

10 **“(3)(a) The Department of Human Services shall notify the Depart-**
11 **ment of Education of any reports received under subsection (2) of this**
12 **section.**

13 **“(b) The name and address of, and other identifying information**
14 **about, the person who made the report may not be disclosed under this**
15 **subsection, but the Department of Human Services shall make avail-**
16 **able any information necessary to ensure the safety of the child who**
17 **is a student. Any person or entity to whom notification is made under**
18 **this subsection may not release any information not authorized by this**
19 **subsection.**

20 **“(c) The Department of Human Services shall make the notification**
21 **required by paragraph (a) of this subsection within three business days**
22 **of receiving the report of abuse and the Department of Education shall**
23 **immediately notify the appropriate education providers to ensure the**
24 **safety of the child.**

25 **“(4) An investigation shall be conducted under this section regard-**
26 **less of any other investigations being conducted regarding the same**
27 **report.**

28 **“SECTION 16. Section 15 of this 2019 Act applies to reports of sus-**
29 **pected abuse received on or after the effective date of this 2019 Act.**

30 **“SECTION 17. ORS 419B.005 is amended to read:**

1 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
2 quires otherwise:

3 “(1)(a) ‘Abuse’ means:

4 “(A) Any assault, as defined in ORS chapter 163, of a child and any
5 physical injury to a child which has been caused by other than accidental
6 means, including any injury which appears to be at variance with the ex-
7 planation given of the injury.

8 “(B) Any mental injury to a child, which shall include only observable
9 and substantial impairment of the child’s mental or psychological ability to
10 function caused by cruelty to the child, with due regard to the culture of the
11 child.

12 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
13 unlawful sexual penetration and incest, as those acts are described in ORS
14 chapter 163.

15 “(D) Sexual abuse, as described in ORS chapter 163.

16 “(E) Sexual exploitation, including but not limited to:

17 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
18 chapter 163, and any other conduct which allows, employs, authorizes, per-
19 mits, induces or encourages a child to engage in the performing for people
20 to observe or the photographing, filming, tape recording or other exhibition
21 which, in whole or in part, depicts sexual conduct or contact, as defined in
22 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
23 a child or rape of a child, but not including any conduct which is part of
24 any investigation conducted pursuant to ORS 419B.020 or which is designed
25 to serve educational or other legitimate purposes; and

26 “(ii) Allowing, permitting, encouraging or hiring a child to engage in
27 prostitution as described in ORS 167.007 or a commercial sex act as defined
28 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
29 or to engage in commercial sexual solicitation as described in ORS 167.008.

30 “(F) Negligent treatment or maltreatment of a child, including but not

1 limited to the failure to provide adequate food, clothing, shelter or medical
2 care that is likely to endanger the health or welfare of the child.

3 “(G) Threatened harm to a child, which means subjecting a child to a
4 substantial risk of harm to the child’s health or welfare.

5 “(H) Buying or selling a person under 18 years of age as described in ORS
6 163.537.

7 “(I) Permitting a person under 18 years of age to enter or remain in or
8 upon premises where methamphetamines are being manufactured.

9 “(J) Unlawful exposure to a controlled substance, as defined in ORS
10 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
11 fined in ORS 475B.015, that subjects a child to a substantial risk of harm to
12 the child’s health or safety.

13 **“(K) Any sexual contact between a student and a school employee,
14 as those terms are defined in ORS 339.370.**

15 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline
16 results in one of the conditions described in paragraph (a) of this subsection.

17 “(2) ‘Child’ means an unmarried person who:

18 “(a) Is under 18 years of age; or

19 “(b) Is under 21 years of age and residing in or receiving care or services
20 at a child-caring agency as that term is defined in ORS 418.205.

21 “(3) ‘Higher education institution’ means:

22 “(a) A community college as defined in ORS 341.005;

23 “(b) A public university listed in ORS 352.002;

24 “(c) The Oregon Health and Science University; and

25 “(d) A private institution of higher education located in Oregon.

26 **“(4)(a) ‘Investigation’ means a detailed inquiry into or assessment
27 of the safety and well-being of a child alleged to have experienced
28 abuse.**

29 **“(b) ‘Investigation’ does not include screening activities conducted
30 upon the receipt of a report.**

1 “[~~4~~] (5) ‘Law enforcement agency’ means:
2 “(a) A city or municipal police department.
3 “(b) A county sheriff’s office.
4 “(c) The Oregon State Police.
5 “(d) A police department established by a university under ORS 352.121
6 or 353.125.
7 “(e) A county juvenile department.
8 “[~~5~~] (6) ‘Public or private official’ means:
9 “(a) Physician or physician assistant licensed under ORS chapter 677 or
10 naturopathic physician, including any intern or resident.
11 “(b) Dentist.
12 “(c) School employee, including an employee of a higher education insti-
13 tution.
14 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
15 aide, home health aide or employee of an in-home health service.
16 “(e) Employee of the Department of Human Services, Oregon Health Au-
17 thority, Early Learning Division, Youth Development Division, Office of
18 Child Care, the Oregon Youth Authority, a local health department, a com-
19 munity mental health program, a community developmental disabilities pro-
20 gram, a county juvenile department, a child-caring agency as that term is
21 defined in ORS 418.205 or an alcohol and drug treatment program.
22 “(f) Peace officer.
23 “(g) Psychologist.
24 “(h) Member of the clergy.
25 “(i) Regulated social worker.
26 “(j) Optometrist.
27 “(k) Chiropractor.
28 “(L) Certified provider of foster care, or an employee thereof.
29 “(m) Attorney.
30 “(n) Licensed professional counselor.

- 1 “(o) Licensed marriage and family therapist.
- 2 “(p) Firefighter or emergency medical services provider.
- 3 “(q) A court appointed special advocate, as defined in ORS 419A.004.
- 4 “(r) A child care provider registered or certified under ORS 329A.030 and
5 329A.250 to 329A.450.
- 6 “(s) Member of the Legislative Assembly.
- 7 “(t) Physical, speech or occupational therapist.
- 8 “(u) Audiologist.
- 9 “(v) Speech-language pathologist.
- 10 “(w) Employee of the Teacher Standards and Practices Commission di-
11 rectly involved in investigations or discipline by the commission.
- 12 “(x) Pharmacist.
- 13 “(y) An operator of a preschool recorded program under ORS 329A.255.
- 14 “(z) An operator of a school-age recorded program under ORS 329A.257.
- 15 “(aa) Employee of a private agency or organization facilitating the pro-
16 vision of respite services, as defined in ORS 418.205, for parents pursuant to
17 a properly executed power of attorney under ORS 109.056.
- 18 “(bb) Employee of a public or private organization providing child-related
19 services or activities:
- 20 “(A) Including but not limited to youth groups or centers, scout groups
21 or camps, summer or day camps, survival camps or groups, centers or camps
22 that are operated under the guidance, supervision or auspices of religious,
23 public or private educational systems or community service organizations;
24 and
- 25 “(B) Excluding community-based, nonprofit organizations whose primary
26 purpose is to provide confidential, direct services to victims of domestic vi-
27 olence, sexual assault, stalking or human trafficking.
- 28 “(cc) A coach, assistant coach or trainer of an amateur, semiprofessional
29 or professional athlete, if compensated and if the athlete is a child.
- 30 “(dd) Personal support worker, as defined by rule adopted by the Home

1 Care Commission.

2 “(ee) Home care worker, as defined in ORS 410.600.

3 **“SECTION 18.** ORS 419B.005, as amended by section 21, chapter 75,
4 Oregon Laws 2018, is amended to read:

5 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
6 quires otherwise:

7 “(1)(a) ‘Abuse’ means:

8 “(A) Any assault, as defined in ORS chapter 163, of a child and any
9 physical injury to a child which has been caused by other than accidental
10 means, including any injury which appears to be at variance with the ex-
11 planation given of the injury.

12 “(B) Any mental injury to a child, which shall include only observable
13 and substantial impairment of the child’s mental or psychological ability to
14 function caused by cruelty to the child, with due regard to the culture of the
15 child.

16 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
17 unlawful sexual penetration and incest, as those acts are described in ORS
18 chapter 163.

19 “(D) Sexual abuse, as described in ORS chapter 163.

20 “(E) Sexual exploitation, including but not limited to:

21 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
22 chapter 163, and any other conduct which allows, employs, authorizes, per-
23 mits, induces or encourages a child to engage in the performing for people
24 to observe or the photographing, filming, tape recording or other exhibition
25 which, in whole or in part, depicts sexual conduct or contact, as defined in
26 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
27 a child or rape of a child, but not including any conduct which is part of
28 any investigation conducted pursuant to ORS 419B.020 or which is designed
29 to serve educational or other legitimate purposes; and

30 “(ii) Allowing, permitting, encouraging or hiring a child to engage in

1 prostitution as described in ORS 167.007 or a commercial sex act as defined
2 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
3 or to engage in commercial sexual solicitation as described in ORS 167.008.

4 “(F) Negligent treatment or maltreatment of a child, including but not
5 limited to the failure to provide adequate food, clothing, shelter or medical
6 care that is likely to endanger the health or welfare of the child.

7 “(G) Threatened harm to a child, which means subjecting a child to a
8 substantial risk of harm to the child’s health or welfare.

9 “(H) Buying or selling a person under 18 years of age as described in ORS
10 163.537.

11 “(I) Permitting a person under 18 years of age to enter or remain in or
12 upon premises where methamphetamines are being manufactured.

13 “(J) Unlawful exposure to a controlled substance, as defined in ORS
14 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
15 fined in ORS 475B.015, that subjects a child to a substantial risk of harm to
16 the child’s health or safety.

17 “**(K) Any sexual contact between a student and a school employee,**
18 **as those terms are defined in ORS 339.370.**

19 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline
20 results in one of the conditions described in paragraph (a) of this subsection.

21 “(2) ‘Child’ means an unmarried person who:

22 “(a) Is under 18 years of age; or

23 “(b) Is under 21 years of age and residing in or receiving care or services
24 at a child-caring agency as that term is defined in ORS 418.205.

25 “(3) ‘Higher education institution’ means:

26 “(a) A community college as defined in ORS 341.005;

27 “(b) A public university listed in ORS 352.002;

28 “(c) The Oregon Health and Science University; and

29 “(d) A private institution of higher education located in Oregon.

30 “**(4)(a) ‘Investigation’ means a detailed inquiry into or assessment**

1 **of the safety and well-being of a child alleged to have experienced**
2 **abuse.**

3 **“(b) ‘Investigation’ does not include screening activities conducted**
4 **upon the receipt of a report.**

5 “[~~4~~] (5) ‘Law enforcement agency’ means:

6 “(a) A city or municipal police department.

7 “(b) A county sheriff’s office.

8 “(c) The Oregon State Police.

9 “(d) A police department established by a university under ORS 352.121
10 or 353.125.

11 “(e) A county juvenile department.

12 “[~~5~~] (6) ‘Public or private official’ means:

13 “(a) Physician or physician assistant licensed under ORS chapter 677 or
14 naturopathic physician, including any intern or resident.

15 “(b) Dentist.

16 “(c) School employee, including an employee of a higher education insti-
17 tution.

18 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
19 aide, home health aide or employee of an in-home health service.

20 “(e) Employee of the Department of Human Services, Oregon Health Au-
21 thority, Early Learning Division, Youth Development Division, Office of
22 Child Care, the Oregon Youth Authority, a local health department, a com-
23 munity mental health program, a community developmental disabilities pro-
24 gram, a county juvenile department, a child-caring agency as that term is
25 defined in ORS 418.205 or an alcohol and drug treatment program.

26 “(f) Peace officer.

27 “(g) Psychologist.

28 “(h) Member of the clergy.

29 “(i) Regulated social worker.

30 “(j) Optometrist.

- 1 “(k) Chiropractor.
- 2 “(L) Certified provider of foster care, or an employee thereof.
- 3 “(m) Attorney.
- 4 “(n) Licensed professional counselor.
- 5 “(o) Licensed marriage and family therapist.
- 6 “(p) Firefighter or emergency medical services provider.
- 7 “(q) A court appointed special advocate, as defined in ORS 419A.004.
- 8 “(r) A child care provider registered or certified under ORS 329A.030 and
- 9 329A.250 to 329A.450.
- 10 “(s) Member of the Legislative Assembly.
- 11 “(t) Physical, speech or occupational therapist.
- 12 “(u) Audiologist.
- 13 “(v) Speech-language pathologist.
- 14 “(w) Employee of the Teacher Standards and Practices Commission di-
- 15 rectly involved in investigations or discipline by the commission.
- 16 “(x) Pharmacist.
- 17 “(y) An operator of a preschool recorded program under ORS 329A.255.
- 18 “(z) An operator of a school-age recorded program under ORS 329A.257.
- 19 “(aa) Employee of a private agency or organization facilitating the pro-
- 20 vision of respite services, as defined in ORS 418.205, for parents pursuant to
- 21 a properly executed power of attorney under ORS 109.056.
- 22 “(bb) Employee of a public or private organization providing child-related
- 23 services or activities:
- 24 “(A) Including but not limited to youth groups or centers, scout groups
- 25 or camps, summer or day camps, survival camps or groups, centers or camps
- 26 that are operated under the guidance, supervision or auspices of religious,
- 27 public or private educational systems or community service organizations;
- 28 and
- 29 “(B) Excluding community-based, nonprofit organizations whose primary
- 30 purpose is to provide confidential, direct services to victims of domestic vi-

1 olence, sexual assault, stalking or human trafficking.

2 “(cc) A coach, assistant coach or trainer of an amateur, semiprofessional
3 or professional athlete, if compensated and if the athlete is a child.

4 “(dd) Personal support worker, as defined in ORS 410.600.

5 “(ee) Home care worker, as defined in ORS 410.600.

6 **“SECTION 19.** ORS 419B.020 is amended to read:

7 “419B.020. (1) If the Department of Human Services or a law enforcement
8 agency receives a report of child abuse, the department or the agency shall
9 immediately:

10 “(a) Cause an investigation to be made to determine the nature and cause
11 of the abuse of the child; and

12 “(b) [*Notify*] **Make the following notifications:**

13 **“(A) To the Office of Child Care if the alleged child abuse occurred in**
14 **a child care facility as defined in ORS 329A.250[.]; or**

15 **(B) To the Department of Education if the alleged child abuse oc-**
16 **curred in a school or related to a school-sponsored activity.**

17 **“(2) The Department of Human Services shall ensure that an in-**
18 **vestigation required by subsection (1) of this section is completed for**
19 **each report of child abuse, even if the report of child abuse was re-**
20 **ceived by a law enforcement agency.**

21 “[2)] **(3) If the abuse reported in subsection (1) of this section is alleged**
22 **to have occurred at a child care facility or in a school or related to a**
23 **school-sponsored activity:**

24 “(a) The department and the law enforcement agency shall jointly deter-
25 mine the roles and responsibilities of the department and the agency in their
26 respective investigations; and

27 “(b) The department and the agency shall each report the outcomes of
28 their investigations to the Office of Child Care **or to the Department of**
29 **Education.**

30 “[3)] **(4) If the law enforcement agency conducting the investigation finds**

1 reasonable cause to believe that abuse has occurred, the law enforcement
2 agency shall notify by oral report followed by written report the local office
3 of the Department **of Human Services**. The department shall provide pro-
4 tective social services of its own or of other available social agencies if
5 necessary to prevent further abuses to the child or to safeguard the child's
6 welfare.

7 “[4] (5) If a child is taken into protective custody by the department, the
8 department shall promptly make reasonable efforts to ascertain the name and
9 address of the child's parents or guardian.

10 “[5)(a)] (6)(a) If a child is taken into protective custody by the depart-
11 ment or a law enforcement official, the department or law enforcement offi-
12 cial shall, if possible, make reasonable efforts to advise the parents or
13 guardian immediately, regardless of the time of day, that the child has been
14 taken into custody, the reasons the child has been taken into custody and
15 general information about the child's placement, and the telephone number
16 of the local office of the department and any after-hours telephone numbers.

17 “(b) Notice may be given by any means reasonably certain of notifying
18 the parents or guardian, including but not limited to written, telephonic or
19 in-person oral notification. If the initial notification is not in writing, the
20 information required by paragraph (a) of this subsection also shall be pro-
21 vided to the parents or guardian in writing as soon as possible.

22 “(c) The department also shall make a reasonable effort to notify the
23 noncustodial parent of the information required by paragraph (a) of this
24 subsection in a timely manner.

25 “(d) If a child is taken into custody while under the care and supervision
26 of a person or organization other than the parent, the department, if possible,
27 shall immediately notify the person or organization that the child has been
28 taken into protective custody.

29 “[6)] (7) If a law enforcement officer or the department, when taking a
30 child into protective custody, has reasonable cause to believe that the child

1 has been affected by sexual abuse and rape of a child as defined in ORS
2 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely
3 to disappear, the court may authorize a physical examination for the pur-
4 poses of preserving evidence if the court finds that it is in the best interest
5 of the child to have such an examination. Nothing in this section affects the
6 authority of the department to consent to physical examinations of the child
7 at other times.

8 “[7] (8) A minor child of 12 years of age or older may refuse to consent
9 to the examination described in subsection [(6)] (7) of this section. The ex-
10 amination shall be conducted by or under the supervision of a physician li-
11 censed under ORS chapter 677, a physician assistant licensed under ORS
12 677.505 to 677.525, a naturopathic physician licensed under ORS chapter 685
13 or a nurse practitioner licensed under ORS chapter 678 and, whenever prac-
14 ticable, trained in conducting such examinations.

15 “[8] (9) When the department completes an investigation under this
16 section, if the person who made the report of child abuse provided contact
17 information to the department, the department shall notify the person about
18 whether contact with the child was made, whether the department deter-
19 mined that child abuse occurred and whether services will be provided. The
20 department is not required to disclose information under this subsection if
21 the department determines that disclosure is not permitted under ORS
22 419B.035.

23 **“SECTION 20.** ORS 419B.035 is amended to read:

24 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
25 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-
26 cessibility for public inspection of public records and public documents, re-
27 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
28 are confidential and may not be disclosed except as provided in this section.
29 The Department of Human Services shall make the records available to:

30 “(a) Any law enforcement agency or a child abuse registry in any other

1 state for the purpose of subsequent investigation of child abuse;

2 “(b) Any physician, physician assistant licensed under ORS 677.505 to
3 677.525, naturopathic physician licensed under ORS chapter 685 or nurse
4 practitioner licensed under ORS 678.375 to 678.390, at the request of the
5 physician, physician assistant, naturopathic physician or nurse practitioner,
6 regarding any child brought to the physician, physician assistant,
7 naturopathic physician or nurse practitioner or coming before the physician,
8 physician assistant, naturopathic physician or nurse practitioner for exam-
9 ination, care or treatment;

10 “(c) Attorneys of record for the child or child’s parent or guardian in any
11 juvenile court proceeding;

12 “(d) Citizen review boards established by the Judicial Department for the
13 purpose of periodically reviewing the status of children, youths and youth
14 offenders under the jurisdiction of the juvenile court under ORS 419B.100
15 and 419C.005. Citizen review boards may make such records available to
16 participants in case reviews;

17 “(e) A court appointed special advocate in any juvenile court proceeding
18 in which it is alleged that a child has been subjected to child abuse or neg-
19 lect;

20 “(f) The Office of Child Care for certifying, registering or otherwise reg-
21 ulating child care facilities;

22 “(g) The Office of Children’s Advocate;

23 “(h) The Teacher Standards and Practices Commission for investigations
24 conducted under ORS 342.176 involving any child or any student in grade 12
25 or below;

26 “(i) Any person, upon request to the Department of Human Services, if
27 the reports or records requested regard an incident in which a child, as the
28 result of abuse, died or suffered serious physical injury as defined in ORS
29 161.015. Reports or records disclosed under this paragraph must be disclosed
30 in accordance with ORS 192.311 to 192.478;

1 “(j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and
2 (i); [and]

3 “(k) With respect to a report of abuse occurring at a school or in an ed-
4 ucational setting that involves a child with a disability, Disability Rights
5 Oregon[.]; **and**

6 **“(L) The Department of Education for purposes of investigations**
7 **made under section 10 of this 2019 Act.**

8 “(2)(a) When disclosing reports and records pursuant to subsection (1)(i)
9 of this section, the Department of Human Services may exempt from disclo-
10 sure the names, addresses and other identifying information about other
11 children, witnesses, victims or other persons named in the report or record
12 if the department determines, in written findings, that the safety or well-
13 being of a person named in the report or record may be jeopardized by dis-
14 closure of the names, addresses or other identifying information, and if that
15 concern outweighs the public’s interest in the disclosure of that information.

16 “(b) If the Department of Human Services does not have a report or re-
17 cord of abuse regarding a child who, as the result of abuse, died or suffered
18 serious physical injury as defined in ORS 161.015, the department may dis-
19 close that information.

20 “(3) The Department of Human Services may make reports and records
21 compiled under the provisions of ORS 419B.010 to 419B.050 available to any
22 person, administrative hearings officer, court, agency, organization or other
23 entity when the department determines that such disclosure is necessary to
24 administer its child welfare services and is in the best interests of the af-
25 fected child, or that such disclosure is necessary to investigate, prevent or
26 treat child abuse and neglect, to protect children from abuse and neglect or
27 for research when the Director of Human Services gives prior written ap-
28 proval. The Department of Human Services shall adopt rules setting forth the
29 procedures by which it will make the disclosures authorized under this sub-
30 section or subsection (1) or (2) of this section. The name, address and other

1 identifying information about the person who made the report may not be
2 disclosed pursuant to this subsection and subsection (1) of this section.

3 “(4) A law enforcement agency may make reports and records compiled
4 under the provisions of ORS 419B.010 to 419B.050 available to other law
5 enforcement agencies, district attorneys, city attorneys with criminal
6 prosecutorial functions and the Attorney General when the law enforcement
7 agency determines that disclosure is necessary for the investigation or
8 enforcement of laws relating to child abuse and neglect or necessary to de-
9 termine a claim for crime victim compensation under ORS 147.005 to 147.367.

10 “(5) A law enforcement agency, upon completing an investigation and
11 closing the file in a specific case relating to child abuse or neglect, shall
12 make reports and records in the case available upon request to any law
13 enforcement agency or community corrections agency in this state, to the
14 Department of Corrections or to the State Board of Parole and Post-Prison
15 Supervision for the purpose of managing and supervising offenders in custody
16 or on probation, parole, post-prison supervision or other form of conditional
17 or supervised release. A law enforcement agency may make reports and re-
18 cords compiled under the provisions of ORS 419B.010 to 419B.050 available
19 to law enforcement, community corrections, corrections or parole agencies
20 in an open case when the law enforcement agency determines that the dis-
21 closure will not interfere with an ongoing investigation in the case. The
22 name, address and other identifying information about the person who made
23 the report may not be disclosed under this subsection or subsection (6)(b) of
24 this section.

25 “(6)(a) Any record made available to a law enforcement agency or com-
26 munity corrections agency in this state, to the Department of Corrections
27 or the State Board of Parole and Post-Prison Supervision or to a physician,
28 physician assistant, naturopathic physician or nurse practitioner in this
29 state, as authorized by subsections (1) to (5) of this section, shall be kept
30 confidential by the agency, department, board, physician, physician assistant,

1 naturopathic physician or nurse practitioner. Any record or report disclosed
2 by the Department of Human Services to other persons or entities pursuant
3 to subsections (1) and (3) of this section shall be kept confidential.

4 “(b) Notwithstanding paragraph (a) of this subsection:

5 “(A) A law enforcement agency, a community corrections agency, the
6 Department of Corrections and the State Board of Parole and Post-Prison
7 Supervision may disclose records made available to them under subsection
8 (5) of this section to each other, to law enforcement, community corrections,
9 corrections and parole agencies of other states and to authorized treatment
10 providers for the purpose of managing and supervising offenders in custody
11 or on probation, parole, post-prison supervision or other form of conditional
12 or supervised release.

13 “(B) A person may disclose records made available to the person under
14 subsection (1)(i) of this section if the records are disclosed for the purpose
15 of advancing the public interest.

16 “(7) An officer or employee of the Department of Human Services or of
17 a law enforcement agency or any person or entity to whom disclosure is
18 made pursuant to subsections (1) to (6) of this section may not release any
19 information not authorized by subsections (1) to (6) of this section.

20 “(8) As used in this section, ‘law enforcement agency’ has the meaning
21 given that term in ORS 181A.010.

22 “(9) A person who violates subsection (6)(a) or (7) of this section commits
23 a Class A violation.”.

24
