

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 51

Ordered by the House May 27
Including Senate Amendments dated April 5 and House Amendments
dated May 27

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Department of Education)

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 designation of Department of Education as education provider of certain programs for purposes of provisions related to reports of suspected abuse or suspected sexual conduct.

Modifies investigatory procedures for department upon receipt of reports of suspected sexual conduct.

Expands eligibility of persons who can be designated as licensed administrator for purposes of receiving and responding to reports of suspected abuse or suspected sexual conduct.

Allows department to share information received by department related to reports of abuse in certain circumstances and under certain restrictions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to interpersonal boundary invasions affecting youth; creating new provisions; amending
3 ORS 339.370, 339.391, 419B.019, 419B.020 and 419B.035; repealing section 4, chapter ___, Oregon
4 Laws 2021 (Enrolled House Bill 2136); and declaring an emergency.

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

6 **SECTION 1.** ORS 339.370 is amended to read:

7 339.370. As used in ORS 339.370 to 339.400:

8 (1) "Abuse" has the meaning given that term in ORS 419B.005.

9 (2) "Agent" means a person acting as an agent for an education provider in a manner that re-
10 quires the person to have direct, unsupervised contact with students.

11 (3) "Contractor" means a person providing services to an education provider under a contract
12 in a manner that requires the person to have direct, unsupervised contact with students.

13 (4)(a) "Education provider" means:

14 (A) A school district, as defined in ORS 332.002.

15 (B) The Oregon School for the Deaf.

16 (C) An educational program under the Youth Corrections Education Program.

17 (D) A public charter school, as defined in ORS 338.005.

18 (E) An education service district, as defined in ORS 334.003.

19 (F) Any state-operated program that provides educational services to students.

20 (G) A private school.

21 (b) "Education provider" does not include:

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 (A) The Oregon Youth Authority;
- 2 (B) The Department of Corrections; or
- 3 (C) The Department of Education, except when functioning as an education provider on behalf
- 4 of[.]

5 [(i)] the Oregon School for the Deaf.[.]

6 [(ii)] *An educational program under the Youth Corrections Education Program; or*

7 [(iii)] *A public charter school, as defined in ORS 338.005, that is sponsored by the Department of*

8 *Education.*]

9 (5) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected

10 abuse or suspected sexual conduct that:

11 (a) Is based on interviews with the person who initiated the report, the person who may have

12 been subjected to abuse or sexual conduct, witnesses and the person who is the subject of the re-

13 port; and

14 (b) Results in a finding that the report:

15 (A) Is a substantiated report;

16 (B) Cannot be substantiated; or

17 (C) Is not a report of abuse or sexual conduct.

18 (6) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

19 (7) "License" includes a license, registration or certificate issued by the Teacher Standards and

20 Practices Commission.

21 (8) "**Licensed administrator**" means a person who is employed as an administrator of an

22 **education provider and who:**

23 (a) **Holds an administrative license issued by the Teacher Standards and Practices Com-**

24 **mission; or**

25 (b) **Does not hold an administrative license issued by the commission because the person**

26 **is employed by an education provider that does not require administrators to be licensed by**

27 **the commission.**

28 [(8)] (9) "Private school" means a school that provides to students instructional programs that

29 are not limited solely to dancing, drama, music, religious or athletic instruction.

30 [(9)] (10) "School board" means the entity charged with adopting policies for an education pro-

31 vider.

32 [(10)] (11) "School employee" means an employee of an education provider.

33 [(11)(a)] (12)(a) "Sexual conduct" means verbal or physical conduct or verbal, written or elec-

34 tronic communications by a school employee, a contractor, an agent or a volunteer that involve a

35 student and that are:

36 (A) Sexual advances or requests for sexual favors directed toward the student; or

37 (B) Of a sexual nature that are directed toward the student or that have the effect of unrea-

38asonably interfering with the student's educational performance, or of creating an intimidating, hos-

39tile or offensive educational environment.

40 (b) "Sexual conduct" does not include touching:

41 (A) That is necessitated by the nature of the school employee's job duties or by the services

42 required to be provided by the contractor, agent or volunteer; and

43 (B) For which there is no sexual intent.

44 [(12)] (13) "Student" means any person:

45 (a) Who is:

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

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

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

6 [(13)] (14) "Substantiated report" means a report of abuse or sexual conduct that a law
7 enforcement agency, the Department of Human Services, the Teacher Standards and Practices
8 Commission, the Department of Education or an education provider has reasonable cause to believe,
9 based on the available evidence after conducting an investigation, is founded.

10 [(14)] (15) "Volunteer" means a person acting as a volunteer for an education provider in a
11 manner that requires the person to have direct, unsupervised contact with students.

12 **SECTION 1a. If House Bill 2136 becomes law, section 4, chapter __, Oregon Laws 2021**
13 **(Enrolled House Bill 2136) (amending ORS 339.370), is repealed and ORS 339.370, as amended**
14 **by section 1 of this 2021 Act, is amended to read:**

15 339.370. As used in ORS 339.370 to 339.400:

16 (1) "Abuse" has the meaning given that term in ORS 419B.005.

17 (2) "Agent" means a person acting as an agent for an education provider in a manner that re-
18 quires the person to have direct, unsupervised contact with students.

19 (3) **"Commission licensee" has the meaning given that term in ORS 342.120.**

20 [(3)] (4) "Contractor" means a person providing services to an education provider under a con-
21 tract in a manner that requires the person to have direct, unsupervised contact with students.

22 [(4)(a)] (5)(a) "Education provider" means:

23 (A) A school district, as defined in ORS 332.002.

24 (B) The Oregon School for the Deaf.

25 (C) An educational program under the Youth Corrections Education Program.

26 (D) A public charter school, as defined in ORS 338.005.

27 (E) An education service district, as defined in ORS 334.003.

28 (F) Any state-operated program that provides educational services to students.

29 (G) A private school.

30 (b) "Education provider" does not include:

31 (A) The Oregon Youth Authority;

32 (B) The Department of Corrections; or

33 (C) The Department of Education, except when functioning as an education provider on behalf
34 of the Oregon School for the Deaf.

35 [(5)] (6) "Investigation" means a detailed inquiry into the factual allegations of a report of sus-
36 pected abuse or suspected sexual conduct that:

37 (a) Is based on interviews with the person who initiated the report, the person who may have
38 been subjected to abuse or sexual conduct, witnesses and the person who is the subject of the re-
39 port; and

40 (b) Results in a finding that the report:

41 (A) Is a substantiated report;

42 (B) Cannot be substantiated; or

43 (C) Is not a report of abuse or sexual conduct.

44 [(6)] (7) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

45 [(7) "License" includes a license, registration or certificate issued by the Teacher Standards and

1 *Practices Commission.*]

2 (8) "Licensed administrator" means a person who is employed as an administra-
3 tion provider and who:

4 (a) Holds an administrative license issued by the Teacher Standards and Practices Commission
5 **under ORS 342.125 (3)(f) or (g)**; or

6 (b) Does not hold an administrative license issued by the commission because the person is em-
7 ployed by an education provider that does not require administrators to be licensed by the com-
8 mission.

9 (9) "Private school" means a school that provides to students instructional programs that are
10 not limited solely to dancing, drama, music, religious or athletic instruction.

11 (10) "School board" means the entity charged with adopting policies for an education provider.

12 (11) "School employee" means an employee of an education provider.

13 (12)(a) "Sexual conduct" means verbal or physical conduct or verbal, written or electronic
14 communications by a school employee, a contractor, an agent or a volunteer that involve a student
15 and that are:

16 (A) Sexual advances or requests for sexual favors directed toward the student; or

17 (B) Of a sexual nature that are directed toward the student or that have the effect of unrea-
18 sonably interfering with the student's educational performance, or of creating an intimidating, hos-
19 tile or offensive educational environment.

20 (b) "Sexual conduct" does not include touching:

21 (A) That is necessitated by the nature of the school employee's job duties or by the services
22 required to be provided by the contractor, agent or volunteer; and

23 (B) For which there is no sexual intent.

24 (13) "Student" means any person:

25 (a) Who is:

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

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

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

31 (14) "Substantiated report" means a report of abuse or sexual conduct that a law enforcement
32 agency, the Department of Human Services, the Teacher Standards and Practices Commission, the
33 Department of Education or an education provider has reasonable cause to believe, based on the
34 available evidence after conducting an investigation, is founded.

35 (15) "Volunteer" means a person acting as a volunteer for an education provider in a manner
36 that requires the person to have direct, unsupervised contact with students.

37 **SECTION 1b. If House Bill 2136 becomes law, the amendments to ORS 339.370 by section**
38 **1a of this 2021 Act become operative on January 1, 2022.**

39 **SECTION 2.** ORS 339.391 is amended to read:

40 339.391. (1)(a) When the Department of Education receives a report of suspected sexual conduct
41 that may have been committed by a school employee, contractor, agent or volunteer that is not li-
42 censed with the Teacher Standards and Practices Commission, the department shall immediately
43 initiate an investigation.

44 (b) An investigation and final determination related to the report received under paragraph (a)
45 of this subsection must be completed and notification of the final determination must be made to the

1 education provider within 90 calendar days following the date on which the report was filed with
2 the department.

3 (c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an investigation
4 and final determination may be extended if the department determines that, for good cause, a longer
5 period of time is necessary.

6 (2) The department shall appoint an investigator and shall furnish the investigator with appro-
7 priate professional and other special assistance reasonably required to conduct an investigation. An
8 investigator appointed under this subsection is empowered to:

9 (a) Issue subpoenas to require the attendance of witnesses or the production of documents;

10 (b) Subpoena witnesses; and

11 (c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440
12 (2).

13 (3)(a) Following the completion of an investigation, the Department of Education shall notify:

14 (A) The person charged;

15 (B) The student and, if applicable, the student's parents **or legal guardians**;

16 (C) The education provider;

17 (D) The person who provided the report of suspected sexual conduct, **if known by the depart-**
18 **ment**; and

19 (E) **For a substantiated report only**, any regulatory board that:

20 (i) Is not the Teacher Standards and Practices Commission [*and that licenses, registers, certifies*
21 *or otherwise authorizes*]; **and**

22 (ii) **The department knows licensed, registered, certified or otherwise authorized** the
23 school employee, contractor, agent or volunteer to practice a profession or to provide professional
24 services.

25 (b) The notification required under paragraph (a) of this subsection shall include the following
26 information as allowed by state and federal law:

27 (A) The statutory authority of the department to conduct the investigation;

28 (B) The procedural background for the investigation;

29 (C) The legal standards and arguments used for the investigation;

30 (D) The department's findings of fact from the investigation;

31 (E) The department's final determination based on the investigation; and

32 (F) The right to an appeal, as provided by subsection (5) of this section.

33 (4)(a) Except as provided in paragraph (b) of this subsection **and subsection (3) of this**
34 **section**, the documents and materials used in the investigation undertaken under this section, and
35 the report related to the investigation, are confidential and not subject to public inspection.

36 (b) To the extent allowed by state and federal law, the department shall make available any
37 documents, materials and reports to:

38 (A) A law enforcement agency or the Department of Human Services if necessary to conduct
39 an investigation under ORS 419B.005 to 419B.050;

40 (B) The Teacher Standards and Practices Commission if necessary for the commission to conduct
41 an investigation under ORS 339.390; and

42 (C) An education provider if necessary for the education provider to take any disciplinary action
43 or changes in the employment relationship or duties of the school employee, contractor, agent or
44 volunteer.

45 (c) The Department of Education shall retain documents and materials related to any report

1 received under this section[, *regardless of whether the department found sufficient cause to justify*
2 *holding a hearing under this section*] **for a period of 75 years.**

3 (5) A person **who is the subject of an investigation under this section** may appeal [*the*] a
4 final determination [*made by the department under this section*] **that the report related to the in-**
5 **vestigation is a substantiated report** as a contested case under ORS chapter 183.

6 (6) The State Board of Education shall adopt any rules necessary for the administration of this
7 section.

8 **SECTION 3. Section 4 of this 2021 Act is added to and made a part of ORS 339.370 to**
9 **339.400.**

10 **SECTION 4. (1) When the Department of Education receives from the Department of**
11 **Human Services notification of a report of abuse or receives a report on the outcomes of an**
12 **investigation of abuse, as provided by ORS 419B.019 or 419B.020, and the notification or re-**
13 **port involves a child and a person who is a school employee, contractor, agent or volunteer,**
14 **the Department of Education may notify, as soon as practicable, any education provider that**
15 **the Department of Education determines must be notified to ensure the safety of children.**

16 (2) When providing notice to an education provider under subsection (1) of this section,
17 the Department of Education:

18 (a) Shall include any information the department determines is necessary to ensure the
19 safety of children, including the name of the school and the name of the person who allegedly
20 committed the suspected abuse.

21 (b) May not disclose the name and address of, or any other identifying information about,
22 the person who made the report of suspected abuse.

23 (3) The Department of Education may provide information related to the notification or
24 report received as described in subsection (1) of this section to the Teacher Standards and
25 Practices Commission if the department determines that:

26 (a) The commission must be notified to ensure the safety of children; and

27 (b) The notification or report involves a person who is licensed by the commission.

28 (4)(a) Notwithstanding ORS 192.311 to 192.478, any information received as provided by
29 this section is not a public record and is not subject to public inspection.

30 (b) Any person or entity who receives information under this section may not release the
31 information, unless as otherwise provided by law.

32 (5) The State Board of Education may adopt rules for the purposes of implementing this
33 section.

34 **SECTION 5. ORS 419B.019 is amended to read:**

35 419B.019. (1) As used in this section:

36 (a) "Agent" means a person who:

37 (A) Acts as an agent for an education provider in a manner that requires the person to have
38 direct, unsupervised contact with children; and

39 (B) Interacts with a child because of the person's status as an agent for an education provider.

40 (b) "Contractor" means a person who:

41 (A) Provides services to an education provider under a contract in a manner that requires the
42 person to have direct, unsupervised contact with children; and

43 (B) Interacts with a child because of the person's status as a contractor for an education pro-
44 vider.

45 (c) "Education provider" has the meaning given that term in ORS 339.370.

1 (d) "School employee" means a person who:

2 (A) Is an employee of an education provider; and

3 (B) Interacts with a child because of the person's status as an employee of an education pro-
4 vider.

5 (e) "Volunteer" means a person who:

6 (A) Acts as a volunteer for an education provider in a manner that requires the person to have
7 direct, unsupervised contact with children; and

8 (B) Interacts with a child because of the person's status as a volunteer of an education provider.

9 (2) A law enforcement agency or the Department of Human Services must conduct an investi-
10 gation as provided by ORS 419B.020 if the law enforcement agency or department receives a report
11 of abuse that involves a child and a person who is a school employee, contractor, agent or volunteer.

12 (3) A law enforcement agency shall notify the department as provided by ORS 419B.015 if the
13 law enforcement agency receives a report described in subsection (2) of this section. The department
14 shall notify a law enforcement agency as provided by ORS 419B.015 if the department receives a
15 report described in subsection (2) of this section. The department shall ensure that an investigation
16 related to the report is conducted if the report is not investigated by a law enforcement agency.

17 (4)(a) Within three business days of receiving a report or notification of a report described in
18 subsection (2) of this section, the department shall notify:

19 **(A) The appropriate education provider to ensure the safety of the child, if the depart-**
20 **ment believes the report of suspected abuse involves the child and a person who is a school**
21 **employee, contractor, agent or volunteer;**

22 [(A)] **(B)** The Teacher Standards and Practices Commission, if the department believes the
23 school employee, contractor, agent or volunteer is licensed, [or] registered **or certified** by the
24 commission; or

25 [(B)] **(C)** The Department of Education, if the Department of Human Services believes the report
26 of suspected abuse:

27 (i) Occurred in a school or was related to a school-sponsored activity; or

28 (ii) Involves a child and a person who is a school employee, contractor, agent or volunteer.

29 (b) For the purpose of notification made under this subsection, the Department of Human Ser-
30 vices may not disclose the name and address of, and other identifying information about, the person
31 who made the report, but the department shall make available any information necessary to ensure
32 the safety of the child, including the name of the school and the name of the person who may have
33 conducted the suspected abuse. **Except as provided by section 4 of this 2021 Act**, any person or
34 entity to whom notification is made under this subsection may not release any information not au-
35 thorized by this subsection.

36 (c) When the Department of Education receives notification under this subsection, the depart-
37 ment shall [*immediately notify the appropriate education providers to ensure the safety of the child*]
38 **act under, and is subject to, section 4 of this 2021 Act.**

39 (5) The Department of Human Services may adopt any rules necessary for the administration
40 of this section.

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

42 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-
43 port of child abuse, the department or the agency shall immediately:

44 (a) Cause an investigation to be made to determine the nature and cause of the abuse of the
45 child; and

1 (b) Make the following notifications:

2 (A) To the Office of Child Care if the alleged child abuse occurred in a child care facility as
3 defined in ORS 329A.250; or

4 (B) To the Department of Education if the alleged child abuse occurred in a school or was re-
5 lated to a school-sponsored activity.

6 (2) The Department of Human Services shall ensure that an investigation required by subsection
7 (1) of this section is completed if the report is not investigated by a law enforcement agency.

8 (3) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child
9 care facility or in a school or was related to a school-sponsored activity:

10 (a) The Department of Human Services and the law enforcement agency shall jointly determine
11 the roles and responsibilities of the department and the agency in their respective investigations;
12 and

13 (b) The department and the agency shall each report the outcomes of their investigations [*to the*
14 *Office of Child Care or to the Department of Education.*]:

15 **(A) To the Office of Child Care if the alleged child abuse occurred in a child care facility**
16 **as defined in ORS 329A.250; or**

17 **(B) To the Department of Education if the alleged child abuse occurred in a school or**
18 **was related to a school-sponsored activity.**

19 (4) If the law enforcement agency conducting the investigation finds reasonable cause to believe
20 that abuse has occurred, the law enforcement agency shall notify by oral report followed by written
21 report the local office of the department. The Department of Human Services shall provide protec-
22 tive social services of its own or of other available social agencies if necessary to prevent further
23 abuses to the child or to safeguard the child's welfare.

24 (5) If a child is taken into protective custody by the department, the department shall promptly
25 make reasonable efforts to ascertain the name and address of the child's parents or guardian.

26 (6)(a) If a child is taken into protective custody by the department or a law enforcement official,
27 the department or law enforcement official shall, if possible, make reasonable efforts to advise the
28 parents or guardian immediately, regardless of the time of day, that the child has been taken into
29 custody, the reasons the child has been taken into custody and general information about the child's
30 placement, and the telephone number of the local office of the department and any after-hours tele-
31 phone numbers.

32 (b) Notice may be given by any means reasonably certain of notifying the parents or guardian,
33 including but not limited to written, telephonic or in-person oral notification. If the initial notifica-
34 tion is not in writing, the information required by paragraph (a) of this subsection also shall be
35 provided to the parents or guardian in writing as soon as possible.

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

38 (d) If a child is taken into custody while under the care and supervision of a person or organ-
39 ization other than the parent, the department, if possible, shall immediately notify the person or
40 organization that the child has been taken into protective custody.

41 (7) If a law enforcement officer or the department, when taking a child into protective custody,
42 has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child
43 as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to
44 disappear, the court may authorize a physical examination for the purposes of preserving evidence
45 if the court finds that it is in the best interest of the child to have such an examination. Nothing

1 in this section affects the authority of the department to consent to physical examinations of the
2 child at other times.

3 (8) A minor child of 12 years of age or older may refuse to consent to the examination described
4 in subsection (7) of this section. The examination shall be conducted by or under the supervision
5 of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to
6 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained
7 in conducting such examinations.

8 (9) When the department completes an investigation under this section, if the person who made
9 the report of child abuse provided contact information to the department, the department shall no-
10 tify the person about whether contact with the child was made, whether the department determined
11 that child abuse occurred and whether services will be provided. The department is not required to
12 disclose information under this subsection if the department determines that disclosure is not per-
13 mitted under ORS 419B.035.

14 **(10) When the Department of Education receives a notification under subsection (1) of**
15 **this section or a report on the outcomes of an investigation under subsection (3) of this**
16 **section, the department shall act under, and is subject to, section 4 of this 2021 Act.**

17 **SECTION 7.** ORS 419B.035 is amended to read:

18 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
19 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
20 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
21 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
22 ment of Human Services shall make the records available to:

23 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of
24 subsequent investigation of child abuse;

25 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
26 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
27 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
28 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
29 tion, care or treatment;

30 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
31 ceeding;

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

36 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
37 that a child has been subjected to child abuse or neglect;

38 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-
39 ties;

40 (g) The Office of Children's Advocate;

41 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
42 339.390 or 342.176 involving any child or any student;

43 (i) Any person, upon request to the Department of Human Services, if the reports or records
44 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
45 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be

1 disclosed in accordance with ORS 192.311 to 192.478;

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

3 (k) With respect to a report of abuse occurring at a school or in an educational setting that
4 involves a child with a disability, Disability Rights Oregon;

5 (L) The Department of Education for purposes of investigations conducted under ORS 339.391;
6 and

7 (m) An education provider for the purpose of making determinations under ORS 339.388.

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

14 (b) If the Department of Human Services does not have a report or record of abuse regarding
15 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
16 161.015, the department may disclose that information.

17 (3) The Department of Human Services may make reports and records compiled under the pro-
18 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,
19 agency, organization or other entity when the department determines that such disclosure is neces-
20 sary to administer its child welfare services and is in the best interests of the affected child, or that
21 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect
22 children from abuse and neglect or for research when the Director of Human Services gives prior
23 written approval. The Department of Human Services shall adopt rules setting forth the procedures
24 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this
25 section. The name, address and other identifying information about the person who made the report
26 may not be disclosed pursuant to this subsection and subsection (1) of this section.

27 (4) A law enforcement agency may make reports and records compiled under the provisions of
28 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-
29 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement
30 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
31 to child abuse and neglect or necessary to determine a claim for crime victim compensation under
32 ORS 147.005 to 147.367.

33 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
34 case relating to child abuse or neglect, shall make reports and records in the case available upon
35 request to any law enforcement agency or community corrections agency in this state, to the De-
36 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
37 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
38 or other form of conditional or supervised release. A law enforcement agency may make reports and
39 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
40 community corrections, corrections or parole agencies in an open case when the law enforcement
41 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
42 The name, address and other identifying information about the person who made the report may not
43 be disclosed under this subsection or subsection (6)(b) of this section.

44 (6)(a) Any record made available to a law enforcement agency or community corrections agency
45 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-

1 vision or to a physician, physician assistant or nurse practitioner in this state, as authorized by
2 subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board,
3 physician, physician assistant or nurse practitioner. Any record or report disclosed by the Depart-
4 ment of Human Services to other persons or entities pursuant to subsections (1) and (3) of this sec-
5 tion shall be kept confidential.

6 (b) Notwithstanding paragraph (a) of this subsection:

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

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

15 (7) **Except as provided by section 4 of this 2021 Act**, an officer or employee of the Department
16 of Human Services or of a law enforcement agency or any person or entity to whom disclosure is
17 made pursuant to subsections (1) to (6) of this section may not release any information not author-
18 ized by subsections (1) to (6) of this section.

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

21 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

22 **SECTION 8. This 2021 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
24 **on its passage.**

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