

Senate Bill 535

Sponsored by Senator GIROD; Senator FINDLEY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies child abuse reporting requirements to add hotelkeepers and innkeepers as mandatory reporters of child abuse.

Modifies requirement for processor of photographic images or computer technician to report visual recording of child involved in sexually explicit conduct. Punishes failure to report by maximum of 364 days' imprisonment, \$6,250 fine, or both.

A BILL FOR AN ACT

Relating to mandatory reporting of child abuse; amending ORS 163.693, 419B.005 and 419B.015.

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

SECTION 1. ORS 163.693 is amended to read:

163.693. (1) As used in this section:

(a) "Computer technician" means a person who repairs, installs or otherwise services a computer, computer network or computer system for compensation.

(b) "Processor of photographic images" means a person who develops, processes, reproduces, transfers, edits or enhances photographic film into negatives, slides, prints, movies, digital images or video.

(2) A processor of photographic images or a computer technician who reasonably believes the processor or technician has observed a visual recording of a child involved in sexually explicit conduct shall **immediately** report the name and address, if known, of the person requesting the processing or of the owner or person in possession of the computer, computer network or computer system to:

(a) The CyberTipline at the National Center for Missing and Exploited Children; **and**

(b) The *[local office of the]* Department of Human Services*[:]* or **a law enforcement agency in the manner required in ORS 419B.015.**

[(c) a law enforcement agency within the county where the processor or technician making the report is located at the time the visual recording is observed.]

(3) Nothing in this section requires a processor of photographic images or a computer technician to monitor any user, subscriber or customer or to search for prohibited materials or media.

(4) Any person, their employer or a third party complying with this section in good faith shall be immune from civil or criminal liability in connection with making the report, except for willful or wanton misconduct.

(5) A person commits the crime of failure to report child pornography if the person violates the provisions of this section.

(6) Failure to report child pornography is a Class A misdemeanor.

SECTION 2. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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 (1)(a) "Abuse" means:

2 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
3 which has been caused by other than accidental means, including any injury which appears to be
4 at variance with the explanation given of the injury.

5 (B) Any mental injury to a child, which shall include only observable and substantial impairment
6 of the child's mental or psychological ability to function caused by cruelty to the child, with due
7 regard to the culture of the child.

8 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
9 tration and incest, as those acts are described in ORS chapter 163.

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

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

12 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
13 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
14 in the performing for people to observe or the photographing, filming, tape recording or other ex-
15 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
16 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
17 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
18 which is designed to serve educational or other legitimate purposes; and

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

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

25 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
26 to the child's health or welfare.

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

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

30 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
31 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-
32 stantial risk of harm to the child's health or safety.

33 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
34 conditions described in paragraph (a) of this subsection.

35 (2) "Child" means an unmarried person who:

36 (a) Is under 18 years of age; or

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

39 (3) "Higher education institution" means:

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

41 (b) A public university listed in ORS 352.002;

42 (c) The Oregon Health and Science University; and

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

44 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged
45 to have experienced abuse.

- 1 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.
- 2 (5) "Law enforcement agency" means:
- 3 (a) A city or municipal police department.
- 4 (b) A county sheriff's office.
- 5 (c) The Oregon State Police.
- 6 (d) A police department established by a university under ORS 352.121 or 353.125.
- 7 (e) A county juvenile department.
- 8 (6) "Public or private official" means:
- 9 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 10 including any intern or resident.
- 11 (b) Dentist.
- 12 (c) School employee, including an employee of a higher education institution.
- 13 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 14 or employee of an in-home health service.
- 15 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 16 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
- 17 Youth Authority, a local health department, a community mental health program, a community de-
- 18 velopmental disabilities program, a county juvenile department, a child-caring agency as that term
- 19 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 20 (f) Peace officer.
- 21 (g) Psychologist.
- 22 (h) Member of the clergy.
- 23 (i) Regulated social worker.
- 24 (j) Optometrist.
- 25 (k) Chiropractor.
- 26 (L) Certified provider of foster care, or an employee thereof.
- 27 (m) Attorney.
- 28 (n) Licensed professional counselor.
- 29 (o) Licensed marriage and family therapist.
- 30 (p) Firefighter or emergency medical services provider.
- 31 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 32 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 33 (s) Member of the Legislative Assembly.
- 34 (t) Physical, speech or occupational therapist.
- 35 (u) Audiologist.
- 36 (v) Speech-language pathologist.
- 37 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 38 gations or discipline by the commission.
- 39 (x) Pharmacist.
- 40 (y) An operator of a preschool recorded program under ORS 329A.255.
- 41 (z) An operator of a school-age recorded program under ORS 329A.257.
- 42 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 43 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 44 109.056.
- 45 (bb) Employee of a public or private organization providing child-related services or activities:

1 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
 2 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
 3 vision or auspices of religious, public or private educational systems or community service organ-
 4 izations; and

5 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
 6 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
 7 ficking.

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

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

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

12 (ff) Animal control officer, as defined in ORS 609.500.

13 (gg) Member of a school district board or public charter school governing body.

14 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a
 15 service identified in an individualized written service plan of a child with a developmental disability.

16 **(ii) Hotelkeeper or innkeeper, as defined in ORS 699.005.**

17 **SECTION 3.** ORS 419B.015 is amended to read:

18 419B.015. (1)(a) A person making a report of child abuse, whether the report is made voluntarily
 19 or is required by ORS **163.693** or 419B.010, shall make an oral report by telephone or otherwise to
 20 the local office of the Department of Human Services, to the designee of the department or to a law
 21 enforcement agency within the county where the person making the report is located at the time
 22 of the contact. The report shall contain, if known, the names and addresses of the child and the
 23 parents of the child or other persons responsible for care of the child, the child's age, the nature
 24 and extent of the abuse, including any evidence of previous abuse, the explanation given for the
 25 abuse and any other information that the person making the report believes might be helpful in es-
 26 tablishing the cause of the abuse and the identity of the perpetrator.

27 (b)(A) When a report of alleged child abuse is received by the department, the department shall
 28 notify a law enforcement agency within the county where the alleged abuse occurred or, if that
 29 county is unknown, the county where the child resides or, if that county is unknown, the county
 30 where the reporter came into contact with the child or the alleged perpetrator of the abuse.

31 (B) When a report of alleged child abuse is received by a designee of the department, the
 32 designee shall notify, according to the contract, either the department or a law enforcement agency
 33 within the county where the alleged abuse occurred or, if that county is unknown, the county where
 34 the child resides or, if that county is unknown, the county where the reporter came into contact
 35 with the child or the alleged perpetrator of the abuse.

36 (C) When a report of alleged child abuse is received by a law enforcement agency, the agency
 37 shall notify the department by making a report of the alleged child abuse to the child abuse re-
 38 porting hotline.

39 (c) When a report of alleged child abuse is received by the department or by a law enforcement
 40 agency, the department or law enforcement agency, or both, may collect information concerning the
 41 military status of the parent or guardian of the child who is the subject of the report and may share
 42 the information with the appropriate military authorities. Disclosure of information under this par-
 43 agraph is subject to ORS 419B.035 (7).

44 (2) When a report of alleged child abuse is received under subsection (1)(a) of this section, the
 45 entity receiving the report shall make the notification required by subsection (1)(b) of this section

1 according to rules adopted by the department under ORS 419B.017.

2 (3)(a) When a report alleging that a child or ward in substitute care may have been subjected
3 to abuse is received by the department, the department shall notify the attorney for the child or
4 ward, the child's or ward's court appointed special advocate, the parents of the child or ward and
5 any attorney representing a parent of the child or ward that a report has been received.

6 (b) The name and address of and other identifying information about the person who made the
7 report may not be disclosed under this subsection. Any person or entity to whom notification is
8 made under this subsection may not release any information not authorized by this subsection.

9 (c) The department shall make the notification required by this subsection within three business
10 days of receiving the report of alleged child abuse.

11 (d) Notwithstanding the obligation imposed by this subsection, the department is not required
12 under this subsection to notify the parent or parent's attorney that a report of alleged child abuse
13 has been received if the notification may interfere with an investigation or assessment or jeopardize
14 the child's or ward's safety.

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