

SB 823 A -A5, -A6, -A7 STAFF MEASURE SUMMARY

House Committee On Early Childhood and Human Services

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Meeting Dates: 5/10, 5/17

WHAT THE MEASURE DOES:

Declares legislative findings on public interest relating to effective oversight, regulation, and improvement of state-authorized programs by making completed abuse investigation reports available for inspection. Requires Department of Human Services (DHS) to prepare completed abuse investigation report following conclusion of investigation of child abuse that occurs at state-authorized program, including child-caring agency, education provider, child care facility, and developmental disabilities residential facility. Requires report to include description of allegation, outline and details of investigative process, and determination of finding. Exempts report from disclosure under public record law. Establishes process for certain individuals to inspect redacted report and specifies exceptions to redactions. Requires person who views report to maintain confidentiality of information except for purposes of oversight, regulation, and improvement of state-authorized programs. Authorizes DHS to disclose confidential records of abuse investigations to national nonprofit organization designated by department that assists with locating and recovering missing children. Declares emergency, effective on passage.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

SENATE VOTE: Ayes, 21; Nays, 7; Excused, 2

ISSUES DISCUSSED:

- Privacy of victims
- Trauma experienced by victims
- Current data and reports available to the public through public records requests, federal reporting, and court processes
- Challenges of hiring staff in caregiving settings
- Abuse that may occur outside a child's home
- State regulation and licensure of care facilities
- Effect and extent of report redactions
- Rights of victims or parents to access or refuse access to report
- Scope of allowable requests for reports
- Consequences for repeated incidents of abuse at state-authorized program
- Right of victim to view unredacted report and choose to share report contents
- Importance of abuse investigation records as objective facts
- Consequences for unauthorized release of records
- Professional ethical standards governing access to confidential information

EFFECT OF AMENDMENT:

-A5 Removes allowance for any person to inspect report prepared within 18 months of death or serious injury of child. Establishes process for victim or alleged victim of abuse to request information on individuals granted access to inspect report and for department to provide copy of report with minimal redactions to victim or victim's representative. Directs DHS to adopt rules for implementation and specifies parameters.

REVENUE: No revenue impact

This summary has not been adopted or officially endorsed by action of the committee.

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FISCAL: Has minimal fiscal impact

-A6 Modifies list of persons authorized to view complete abuse investigation report. Adds person over age 18 served by program, attorney or guardian of person under age 18, parent or guardian of person served by program under certain circumstances, and attorney of person considered for placement at program. Removes allowance for any person to inspect report prepared within 18 months of death or serious injury of child and other persons designated by DHS to view report. Modifies requirement to redact identifiable information of person who reports abuse. Requires redaction of references to alleged victim's mental health care or other individually identifiable health information. Establishes process for victim or alleged victim to request information on individuals granted access to inspect report. Requires DHS to provide copy of report to victim or victim's attorney with minimal redactions. Exempts victim and victim's representative from confidentiality provisions but prohibits redisclosure that would reveal identity of persons under age 18 or result in harassment or intimidation of person named in report. Punishes violations by maximum fine of \$2,000. Directs DHS to adopt rules for implementation and specifies parameters. Specifies that reports are confidential under public records laws.

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact

-A7 Modifies list of persons authorized to view complete abuse investigation report. Adds person over age 18 served by program under certain circumstances, attorney or guardian of person under age 18, parent or guardian of person served by program under certain circumstances, and attorney of person considered for placement at program. Removes allowance for any person to inspect report prepared within 18 months of death or serious injury of child and other persons designated by DHS to view report. Modifies requirement to redact identifiable information of person who reports abuse. Requires redaction of references to alleged victim's mental health care or other individually identifiable health information. Establishes process for victim or alleged victim to request information on individuals granted access to inspect report. Requires DHS to provide copy of report to victim or victim's attorney with minimal redactions. Exempts victim and victim's representative from confidentiality provisions but prohibits redisclosure that would reveal identity of persons under age 18 or result in harassment or intimidation of person named in report. Punishes violations by maximum fine of \$2,000. Directs DHS to adopt rules for implementation and specifies parameters. Specifies that reports are confidential under public records laws.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: Minimal fiscal impact

BACKGROUND:

Oregon's child abuse reporting laws, compiled in ORS 419B.005 to 419B.050, were enacted in 1993 and have been amended several times, most recently in 2022. Under the current process, the Department of Human Services (DHS) and law enforcement agencies have a shared legal responsibility for receiving and responding to reports of suspected abuse. When a report of suspected child abuse is received by a law enforcement agency or DHS, the law requires either agency to immediately begin an investigation to determine the nature and cause of the abuse and notify all relevant entities based on the nature and cause. The agencies collaborate with other state agencies, including the Office of Child Care and the Oregon Department of Education, and other service providers including school officials and local health and mental health departments to develop specific procedures and guidelines for investigating suspected child abuse. DHS staff work closely with law enforcement agencies and other members of multidisciplinary teams in each county to assess and issue findings on reports of suspected abuse. Investigations are resolved by DHS issuing a finding that the report is either substantiated, unsubstantiated, or inconclusive.

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While this is an administrative process rather than a criminal investigation, it does not preclude a criminal investigation or prosecution that may occur in tandem or as a result of the findings.

Under Oregon law, Investigations of child abuse conducted by DHS are confidential and largely exempt from public records disclosure laws as provided in ORS chapter 192. DHS may release child abuse and medical records under specific circumstances to a law enforcement agency or a child abuse registry; any medical personnel that is examining, caring or treating a child; attorneys of record for the child or child's parent or guardian; citizen review boards established by the Judicial Department; the Office of Child Care; the Office of Children's Advocate; the Teacher Standards and Practices Commission; Disability Rights Oregon; and the Department of Education (ORS 419B.035). DHS may decide to not disclose the addresses and other identifying information about other children, witnesses, victims, or other persons named in the report or record. The agency may also make certain reports and records available to entities when it is determined that it is necessary to administer its child welfare services; is in the best interests of the affected child; and is necessary to investigate, prevent, or treat child abuse and neglect (ORS 419B.010 to 419B.050).

Senate Bill 823 A requires completed abuse investigation reports to be available for inspection upon written request.