

SENATE AMENDMENTS TO SENATE BILL 769

By COMMITTEE ON HUMAN SERVICES

April 4

- 1 On page 1 of the printed bill, line 3, after “329A.030” insert “, 419B.005 and 419B.020”.
- 2 Delete lines 5 through 27.
- 3 On page 2, delete lines 1 through 8.
- 4 In line 9, delete “2” and insert “1” and delete “(1)”.
- 5 Delete lines 15 through 22.
- 6 In line 23, delete “3” and insert “2”.
- 7 In line 42, after “abuse” insert “finding.” and delete the rest of the line and delete lines 43
8 through 45.
- 9 On page 3, delete lines 1 through 5.
- 10 On page 5, line 7, delete “4” and insert “3”.
- 11 In line 25, after “abuse” insert “finding.” and delete the rest of the line and delete lines 26
12 through 32.
- 13 On page 7, delete lines 35 through 39 and insert:
- 14 “**SECTION 4.** ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, is
15 amended to read:
- 16 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
- 17 “(1)(a) ‘Abuse’ means:
- 18 “(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
19 which has been caused by other than accidental means, including any injury which appears to be
20 at variance with the explanation given of the injury.
- 21 “(B) Any mental injury to a child, which shall include only observable and substantial impair-
22 ment of the child’s mental or psychological ability to function caused by cruelty to the child, with
23 due regard to the culture of the child.
- 24 “(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
25 tration and incest, as those acts are described in ORS chapter 163.
- 26 “(D) Sexual abuse, as described in ORS chapter 163.
- 27 “(E) Sexual exploitation, including but not limited to:
- 28 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
29 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
30 in the performing for people to observe or the photographing, filming, tape recording or other ex-
31 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
32 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
33 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
34 which is designed to serve educational or other legitimate purposes; and
- 35 “(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described

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

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

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

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

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

12 “(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
13 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-
14 stantial risk of harm to the child’s health or safety.

15 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline results in one of the
16 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 at a child-caring agency*
20 *as that term is defined in ORS 418.205*] **Is a child in care, as defined in ORS 418.257.**

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 of the safety of a child alleged
27 to have experienced abuse.

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

29 “(5) ‘Law enforcement agency’ means:

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

31 “(b) A county sheriff’s office.

32 “(c) The Oregon State Police.

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

34 “(e) A county juvenile department.

35 “(6) ‘Public or private official’ means:

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

38 “(b) Dentist.

39 “(c) School employee, including an employee of a higher education institution.

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

42 “(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
43 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
44 Youth Authority, a local health department, a community mental health program, a community de-
45 velopmental disabilities program, a county juvenile department, a child-caring agency as that term

1 is defined in ORS 418.205 or an alcohol and drug treatment program.

2 “(f) Peace officer.

3 “(g) Psychologist.

4 “(h) Member of the clergy.

5 “(i) Regulated social worker.

6 “(j) Optometrist.

7 “(k) Chiropractor.

8 “(L) Certified provider of foster care, or an employee thereof.

9 “(m) Attorney.

10 “(n) Licensed professional counselor.

11 “(o) Licensed marriage and family therapist.

12 “(p) Firefighter or emergency medical services provider.

13 “(q) A court appointed special advocate, as defined in ORS 419A.004.

14 “(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

15 “(s) An elected official of a branch of government of this state or a state agency, board, com-
16 mission or department of a branch of government of this state or of a city, county or other political
17 subdivision in this state.

18 “(t) Physical, speech or occupational therapist.

19 “(u) Audiologist.

20 “(v) Speech-language pathologist.

21 “(w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
22 gations or discipline by the commission.

23 “(x) Pharmacist.

24 “(y) An operator of a preschool recorded program under ORS 329A.255.

25 “(z) An operator of a school-age recorded program under ORS 329A.255.

26 “(aa) Employee of a private agency or organization facilitating the provision of respite services,
27 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
28 109.056.

29 “(bb) An employee of a public or private organization providing child-related services or activ-
30 ities:

31 “(A) Including but not limited to an employee of a:

32 “(i) Youth group or center;

33 “(ii) Scout group or camp;

34 “(iii) Summer or day camp;

35 “(iv) Survival camp; or

36 “(v) Group, center or camp that is operated under the guidance, supervision or auspices of a
37 religious, public or private educational system or a community service organization; and

38 “(B) Excluding an employee of a qualified victim services program as defined in ORS 147.600
39 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking
40 or human trafficking.

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

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

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

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

1 “(gg) Member of a school district board, an education service district board or a public charter
2 school governing body.

3 “(hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide
4 a service identified in an individualized written service plan of a child with a developmental disa-
5 bility.

6 “(ii) Referral agent, as defined in ORS 418.351.

7 “(jj) **Parole and probation officer, as defined in ORS 181A.355.**

8 “(7) **‘Qualified subject’ means:**

9 “(a) **A parent, guardian or custodian of the child;**

10 “(b) **A person who has attained 18 years of age and who:**

11 “(A) **Lives in the child’s home and is not a child in care, as defined in ORS 418.257;**

12 “(B) **Has access to the child based on the person’s relationship to the child’s parent,**
13 **guardian, custodian, household member or caregiver or to any other person who may have**
14 **authority or control over the child;**

15 “(C) **Is in a role, position or occupation in which the person has access to, responsibility**
16 **for, power over or the trust of the child; or**

17 “(D) **Has been accused of subjecting the child to involuntary servitude, as described in**
18 **ORS 163.263 or 163.264, or trafficking, as described in ORS 163.266;**

19 “(c) **A child care facility, as defined in ORS 329A.250; or**

20 “(d) **An education provider, as defined in ORS 339.370.**

21 “**SECTION 5.** ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section
22 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read:
23 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

24 “(1)(a) **‘Abuse’ means:**

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

28 “(B) Any mental injury to a child, which shall include only observable and substantial impair-
29 ment of the child’s mental or psychological ability to function caused by cruelty to the child, with
30 due regard to the culture of the child.

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

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36 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
37 in the performing for people to observe or the photographing, filming, tape recording or other ex-
38 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
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41 which is designed to serve educational or other legitimate purposes; and

42 “(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described
43 in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor
44 as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS
45 167.008.

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

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

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

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8 methamphetamines are being manufactured.

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10 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-
11 stantial risk of harm to the child’s health or safety.

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

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

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17 *as that term is defined in ORS 418.205]* **Is a child in care, as defined in ORS 418.257.**

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24 to have experienced abuse.

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

26 “(5) ‘Law enforcement agency’ means:

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

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34 including any intern or resident.

35 “(b) Dentist.

36 “(c) School employee, including an employee of a higher education institution.

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

39 “(e) Employee of the Department of Human Services, Oregon Health Authority, Department of
40 Early Learning and Care, Department of Education, Youth Development Division, Office of Child
41 Care, the Oregon Youth Authority, a local health department, a community mental health program,
42 a community developmental disabilities program, a county juvenile department, a child-caring
43 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

44 “(f) Peace officer.

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- 1 “(h) Member of the clergy.
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- 10 “(q) A court appointed special advocate, as defined in ORS 419A.004.
- 11 “(r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
- 12 “(s) An elected official of a branch of government of this state or a state agency, board, com-
13 mission or department of a branch of government of this state or of a city, county or other political
14 subdivision in this state.
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19 gations or discipline by the commission.
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24 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
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27 ities:
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- 32 “(iv) Survival camp; or
- 33 “(v) Group, center or camp that is operated under the guidance, supervision or auspices of a
34 religious, public or private educational system or a community service organization; and
- 35 “(B) Excluding an employee of a qualified victim services program as defined in ORS 147.600
36 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking
37 or human trafficking.
- 38 “(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
39 if compensated and if the athlete is a child.
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44 school governing body.
- 45 “(hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide

1 a service identified in an individualized written service plan of a child with a developmental disa-
2 bility.

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6 “(a) **A parent, guardian or custodian of the child;**

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8 “(A) **Lives in the child’s home and is not a child in care, as defined in ORS 418.257;**

9 “(B) **Has access to the child based on the person’s relationship to the child’s parent,**
10 **guardian, custodian, household member or caregiver or to any other person who may have**
11 **authority or control over the child;**

12 “(C) **Is in a role, position or occupation in which the person has access to, responsibility**
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14 “(D) **Has been accused of subjecting the child to involuntary servitude, as described in**
15 **ORS 163.263 or 163.264, or trafficking, as described in ORS 163.266;**

16 “(e) **A child care facility, as defined in ORS 329A.250; or**

17 “(d) **An education provider, as defined in ORS 339.370.**

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

19 “419B.020. (1) If the Department of Human Services or a law enforcement agency receives a
20 report of child abuse **by a qualified subject**, the department or the agency shall immediately:

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

23 “(b) Make the following notifications:

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

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

28 “(2) The Department of Human Services shall ensure that an investigation required by sub-
29 section (1) of this section is completed if the report is not investigated by a law enforcement agency.

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

32 “(a) The Department of Human Services and the law enforcement agency shall jointly determine
33 the roles and responsibilities of the department and the agency in their respective investigations;
34 and

35 “(b) The department and the agency shall each report the outcomes of their investigations:

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

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

40 “(4) If the law enforcement agency conducting the investigation finds reasonable cause to be-
41 lieve that abuse has occurred, the law enforcement agency shall notify by oral report followed by
42 written report the local office of the department. The Department of Human Services shall provide
43 protective social services of its own or of other available social agencies if necessary to prevent
44 further abuses to the child or to safeguard the child’s welfare.

45 “(5) If a child is taken into protective custody by the department, the department shall promptly

1 make reasonable efforts to ascertain the name and address of the child’s parents or guardian.

2 “(6)(a) If a child is taken into protective custody by the department or a law enforcement offi-
3 cial, the department or law enforcement official shall, if possible, make reasonable efforts to advise
4 the parents or guardian immediately, regardless of the time of day, that the child has been taken
5 into custody, the reasons the child has been taken into custody and general information about the
6 child’s placement, and the telephone number of the local office of the department and any after-hours
7 telephone numbers.

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

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

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

17 “(7) If a law enforcement officer or the department, when taking a child into protective custody,
18 has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child
19 as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to
20 disappear, the court may authorize a physical examination for the purposes of preserving evidence
21 if the court finds that it is in the best interest of the child to have such an examination. Nothing
22 in this section affects the authority of the department to consent to physical examinations of the
23 child at other times.

24 “(8) A minor child of 12 years of age or older may refuse to consent to the examination de-
25 scribed in subsection (7) of this section. The examination shall be conducted by or under the
26 supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS
27 677.505 to 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever practica-
28 ble, trained in conducting such examinations.

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

35 “(10) When the Department of Education receives a notification under subsection (1) of this
36 section or a report on the outcomes of an investigation under subsection (3) of this section, the de-
37 partment shall act under, and is subject to, ORS 339.389.

38 **“SECTION 7. (1) Section 1 of this 2023 Act and the amendments to ORS 329A.030 by**
39 **sections 2 and 3 of this 2023 Act apply to background checks completed on or after the ef-**
40 **fective date of this 2023 Act.**

41 **“(2) The amendments to ORS 419B.005 and 419B.020 by sections 4 to 6 of this 2023 Act**
42 **apply to abuse investigations arising from acts occurring on or after the effective date of this**
43 **2023 Act.”.**

44 In line 40, delete “6” and insert “8”.