

**A-Engrossed**  
**Senate Bill 823**

Ordered by the Senate April 11  
Including Senate Amendments dated April 11

Sponsored by Senator GELSER BLOUIN

**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.

*[Requires disclosure, in response to public records request, of reports of investigations of child abuse occurring at specified state-authorized programs. Exempts specified information and documents.]*

**Directs Department of Human Services to prepare completed abuse investigation report at conclusion of specified child abuse investigations. Exempts completed abuse investigation reports from disclosure in response to public records requests. Creates exceptions.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to records of investigations of child abuse occurring in state programs; creating new pro-  
3 visions; amending ORS 419B.035; and declaring an emergency.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **“Abuse investigation” means an investigation by the Department of Human Services**  
7 **under ORS 418.257 to 418.259 and 419B.010 to 419B.050 of an allegation of child abuse occur-**  
8 **ring at a state-authorized program.**

9 (b) **“State-authorized program” means:**

10 (A) **A child-caring agency, as defined in ORS 418.205, except that “state-authorized pro-**  
11 **gram” does not include a proctor foster home, as defined in ORS 418.205;**

12 (B) **An education provider, as defined in ORS 339.370;**

13 (C) **A child care facility, as described in ORS 329A.250; or**

14 (D) **A developmental disabilities residential facility, as defined in ORS 418.257.**

15 (2) **The Legislative Assembly finds that it is in the interest of the public and of children**  
16 **who are receiving services from state-authorized programs to ensure the effective oversight,**  
17 **regulation and improvement of state-authorized programs by, upon written request, making**  
18 **completed abuse investigation reports described in subsection (3) of this section available for**  
19 **inspection as provided in subsection (4) of this section.**

20 (3)(a) **At the conclusion of an abuse investigation, the department shall prepare a com-**  
21 **pleted abuse investigation report.**

22 (b) **The completed abuse investigation report must reflect the department’s investigation**  
23 **activities and abuse findings or determinations and include, at a minimum, all of the follow-**  
24 **ing:**

25 (A) **A description of the allegation of abuse that was investigated, including the date and**

**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 location of the act or acts of alleged abuse, if known.

2 (B) An outline of the department's steps taken and information gathered in the investi-  
3 gation, including but not limited to a list of all witnesses interviewed and a summary of in-  
4 formation obtained from those interviews, and a list of sources of information reviewed,  
5 including records, documents and reports, and a summary of information obtained from  
6 those information sources.

7 (C) A specific determination of whether the abuse allegation is founded or substantiated,  
8 unfounded or unsubstantiated or unable to be determined or inconclusive, and the basis for  
9 that determination.

10 (D) A list of every entity to which the department provided notice of the investigation  
11 outcome.

12 (E) The name and title of the individual who prepared the completed abuse investigation  
13 report.

14 (4)(a) Except as provided in paragraph (b) of this subsection, a completed abuse investi-  
15 gation report described in subsection (3) of this section is exempt from disclosure under ORS  
16 192.314.

17 (b) If the department has issued a final order after the applicable administrative or con-  
18 tested case process is complete for each type of finding, the department may allow the fol-  
19 lowing persons to inspect the completed abuse investigation report:

20 (A) Members of the Legislative Assembly and other officers or employees of a public  
21 body, as defined in ORS 174.109, if the duties of the officers or employees include policy de-  
22 velopment, regulation, funding and oversight of a state-authorized program.

23 (B) Board members who exercise authority over a state-authorized program.

24 (C) A person who received or is receiving services at the state-authorized program at  
25 which the alleged abuse occurred.

26 (D) Parents or guardians of minor children who received or are receiving services from  
27 the state-authorized program at which the alleged abuse occurred.

28 (E) The Secretary of State or a designee of the Secretary of State for the purposes of  
29 an audit.

30 (F) A professional licensing board for the purpose of assessing compliance with rules and  
31 standards adopted by the licensing board.

32 (G) If the request is to inspect a completed abuse investigation report that was prepared  
33 within 18 months before or 18 months following the death or serious injury of a child at the  
34 state-authorized program, any person.

35 (H) Any other appropriate person, as determined by the department by rule, for purposes  
36 of effective oversight, regulation and improvement of state-authorized programs.

37 (c) The department shall redact the following information from a completed abuse in-  
38 vestigation report before permitting inspection of the report:

39 (A) The name, contact information and any other personally identifying information of  
40 a child alleged to be the victim of abuse, including information that could cause a reasonable  
41 inference to be made about the child's identity by the general public.

42 (B) The name, contact information and any other personally identifying information of  
43 a person who reported or witnessed the alleged abuse if the person is not alleged to have  
44 committed the abuse.

45 (C) The name, contact information and any other personally identifying information of a

1 **person alleged to have committed the abuse.**

2 **(D) Any documents or records gathered as evidence or supporting documentation during**  
3 **the investigation that may be referenced in the completed abuse investigation report.**

4 **(E) Any individually identifiable health information, as defined in ORS 192.556.**

5 **(d) Paragraph (c)(C) of this subsection does not apply if:**

6 **(A) The person inspecting the report is the alleged victim or the alleged victim's repre-**  
7 **sentative; or**

8 **(B) The department found that the allegation of abuse is substantiated or founded and**  
9 **the abuse resulted in the death, sexual abuse or serious physical injury of a child.**

10 **(e) Paragraph (c)(D) of this subsection does not apply if the person inspecting the report**  
11 **is the alleged victim or the alleged victim's representative.**

12 **(f) A person who is permitted to inspect a completed abuse investigation report under**  
13 **this subsection shall maintain the confidentiality of any privileged or confidential information**  
14 **or records contained in the report and may use the information or records only for the**  
15 **purposes of the oversight, regulation and improvement of state-authorized programs.**

16 **SECTION 2.** ORS 419B.035, as amended by section 10, chapter 27, Oregon Laws 2022, and sec-  
17 tion 9, chapter 90, Oregon Laws 2022, is amended to read:

18 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, [192.210] **192.311** to  
19 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of  
20 public records and public documents, **and except as provided in section 1 of this 2023 Act**, reports  
21 and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may  
22 not be disclosed except as provided in this section. The Department of Human Services shall make  
23 the records available to:

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

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

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

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

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

39 (f) The Early Learning Division for the purpose of carrying out the functions of the division,  
40 including the certification, registration or regulation of child care facilities and child care providers  
41 and the administration of enrollment in the Central Background Registry;

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

43 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
44 339.390 or 342.176 involving any child or any student;

45 (i) Any person, upon request to the Department of Human Services, if the reports or records

1 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
2 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
3 disclosed in accordance with ORS 192.311 to 192.478;

4 (j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(c)(G) to  
5 (J);

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

8 (L) The Department of Education for purposes of investigations conducted under ORS 339.391;  
9 [and]

10 (m) An education provider for the purpose of making determinations under ORS 339.388[.]; **and**

11 **(n) A national nonprofit organization designated by the Department of Human Services**  
12 **that provides assistance with locating, recovering or providing services to children or youth**  
13 **who are determined by the department to be missing.**

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

20 (b) If the Department of Human Services does not have a report or record of abuse regarding  
21 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
22 161.015, the department may disclose that information.

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

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

39 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
40 case relating to child abuse or neglect, shall make reports and records in the case available upon  
41 request to any law enforcement agency or community corrections agency in this state, to the De-  
42 partment of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-  
43 Prison Supervision for the purpose of managing and supervising offenders in custody or on  
44 probation, parole, post-prison supervision or other form of conditional or supervised release. A law  
45 enforcement agency may make reports and records compiled under the provisions of ORS 419B.010

1 to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections,  
2 corrections or parole agencies in an open case when the law enforcement agency determines that  
3 the disclosure will not interfere with an ongoing investigation in the case. The name, address and  
4 other identifying information about the person who made the report may not be disclosed under this  
5 subsection or subsection (6)(b) of this section.

6 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
7 in this state, to the Department of Corrections, the Oregon Youth Authority or the State Board of  
8 Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in  
9 this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the  
10 agency, department, board, physician, physician assistant or nurse practitioner. Any record or report  
11 disclosed by the Department of Human Services to other persons or entities pursuant to subsections  
12 (1) and (3) of this section shall be kept confidential.

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

14 (A) A law enforcement agency, a community corrections agency, the Department of Corrections,  
15 the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose  
16 records made available to them under subsection (5) of this section to each other, to law enforce-  
17 ment, community corrections, corrections and parole agencies of other states and to authorized  
18 treatment providers for the purpose of managing and supervising offenders in custody or on pro-  
19 bation, parole, post-prison supervision or other form of conditional or supervised release.

20 (B) The Department of Corrections and the Oregon Youth Authority may disclose records made  
21 available to them under subsection (5) of this section regarding a person in the custody of the De-  
22 partment of Corrections or the Oregon Youth Authority to each other, to the court, to the district  
23 attorney and to the person's attorney for the purpose of the person's hearing under ORS 420A.200  
24 to 420A.206.

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

27 (7) Except as provided by ORS 339.389, an officer or employee of the Department of Human  
28 Services or of a law enforcement agency or any person or entity to whom disclosure is made pur-  
29 suant to subsections (1) to (6) of this section may not release any information not authorized by  
30 subsections (1) to (6) of this section.

31 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
32 181A.010.

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

34 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**  
35 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
36 **on its passage.**

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