

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
SENATE BILL 790**

1 On page 1 of the printed bill, line 2, after the first semicolon insert
2 “creating new provisions;” and after “419B.005” insert “and 419B.019”.

3 After line 4, insert:

4 **“SECTION 1. Section 2 of this 2023 Act is added to and made a part**
5 **of ORS 339.285 to 339.303.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Behavior intervention plan’ has the meaning given that term**
8 **in ORS 343.154.**

9 **“(b) ‘504 Plan’ means an education plan developed for a student in**
10 **accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C.**
11 **794.**

12 **“(c) ‘Individualized education program’ has the meaning given that**
13 **term in ORS 343.035.**

14 **“(2) When the Department of Human Services conducts an investi-**
15 **gation under ORS 419B.019 of a report of suspected abuse of a student**
16 **in a public education program and the department finds that the re-**
17 **port of abuse is founded, the department shall determine that the**
18 **public education program is responsible for the abuse if:**

19 **“(a) The abuse involved the use of restraint or seclusion and the**
20 **public education program failed to ensure that a sufficient number of**
21 **personnel, appropriately trained in the use of restraint and seclusion,**

1 were available to comply with the individualized education programs,
2 504 Plans and behavior intervention plans of the students who were
3 present in the setting where the abuse occurred at the time the abuse
4 occurred;

5 “(b)(A) The abuse involved the use of restraint, seclusion or neglect
6 and the public education program failed to provide the personnel in-
7 volved with the restraint, seclusion or neglect with access to the
8 student’s individualized education program, 504 Plan or behavior
9 intervention program or failed to provide the personnel with adequate
10 training to appropriately perform health-related or personal care
11 tasks; and

12 “(B) The personnel were not aware of, and failed to provide the
13 services and supports in the manner required by, the student’s indi-
14 vidualized education program, 504 Plan or behavior plan;

15 “(c) The abuse involved the use of restraint or seclusion, a superior
16 ordered personnel to impose the restraint or seclusion, and the per-
17 sonnel who imposed the restraint or seclusion reasonably believed that
18 failure to comply with the order would result in termination or disci-
19 pline; or

20 “(d)(A) The abuse involved the use of restraint or seclusion and the
21 public education program failed to ensure that the personnel who im-
22 posed the restraint or seclusion were appropriately trained in the use
23 of restraint and seclusion;

24 “(B) The personnel who imposed the restraint or seclusion reason-
25 ably believed that failure to impose the restraint or seclusion would
26 lead to serious bodily injury of the student or others; and

27 “(C) If the personnel imposed a restraint, it was not a type of re-
28 straint prohibited under ORS 339.288.”.

29 In line 5, delete “1” and insert “3”.

30 On page 2, line 10, delete “student” and insert “child” and delete “ORS

1 339.285 to 339.303 and” and insert “ORS 339.285, 339.288, 339.291, 339.303
2 or”.

3 In line 12, delete “student” and insert “child”.

4 On page 4, line 4, delete “2” and insert “4”.

5 In line 39, delete “student” and insert “child” and delete “ORS 339.285 to
6 339.303 and” and insert “ORS 339.285, 339.288, 339.291, 339.303 or”.

7 In line 41, delete “student” and insert “child”.

8 On page 6, after line 32, insert:

9 **“SECTION 5.** ORS 419B.005, as amended by section 8, chapter 90, Oregon
10 Laws 2022, and section 3 of this 2023 Act, is amended to read:

11 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
12 quires otherwise:

13 “(1)(a) ‘Abuse’ means:

14 “(A) Any assault, as defined in ORS chapter 163, of a child and any
15 physical injury to a child which has been caused by other than accidental
16 means, including any injury which appears to be at variance with the ex-
17 planation given of the injury.

18 “(B) Any mental injury to a child, which shall include only observable
19 and substantial impairment of the child’s mental or psychological ability to
20 function caused by cruelty to the child, with due regard to the culture of the
21 child.

22 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
23 unlawful sexual penetration and incest, as those acts are described in ORS
24 chapter 163.

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

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

27 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
28 chapter 163, and any other conduct which allows, employs, authorizes, per-
29 mits, induces or encourages a child to engage in the performing for people
30 to observe or the photographing, filming, tape recording or other exhibition

1 which, in whole or in part, depicts sexual conduct or contact, as defined in
2 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
3 a child or rape of a child, but not including any conduct which is part of
4 any investigation conducted pursuant to ORS 419B.020 or which is designed
5 to serve educational or other legitimate purposes; and

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

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

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

15 “(H) Buying or selling a person under 18 years of age as described in ORS
16 163.537.

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

19 “(J) Unlawful exposure to a controlled substance, as defined in ORS
20 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
21 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
22 the child’s health or safety.

23 “[*(K) The restraint or seclusion of a child in violation of ORS 339.285,*
24 *339.288, 339.291, 339.303 or 339.308.*]

25 “[*(L)*] **(K)** The infliction of corporal punishment on a child in violation
26 of ORS 339.250 (9).

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

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

30 “(a) Is under 18 years of age; or

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

3 “(3) ‘Higher education institution’ means:

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

5 “(b) A public university listed in ORS 352.002;

6 “(c) The Oregon Health and Science University; and

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

8 “(4)(a) ‘Investigation’ means a detailed inquiry into or assessment of the
9 safety of a child alleged to have experienced abuse.

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

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

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

14 “(b) A county sheriff’s office.

15 “(c) The Oregon State Police.

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

18 “(e) A county juvenile department.

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

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

22 “(b) Dentist.

23 “(c) School employee, including an employee of a higher education insti-
24 tution.

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

27 “(e) Employee of the Department of Human Services, Oregon Health Au-
28 thority, Early Learning Division, Department of Education, Youth Develop-
29 ment Division, Office of Child Care, the Oregon Youth Authority, a local
30 health department, a community mental health program, a community de-

1 velopmental disabilities program, a county juvenile department, a child-
2 caring agency as that term is defined in ORS 418.205 or an alcohol and drug
3 treatment program.

4 “(f) Peace officer.

5 “(g) Psychologist.

6 “(h) Member of the clergy.

7 “(i) Regulated social worker.

8 “(j) Optometrist.

9 “(k) Chiropractor.

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

11 “(m) Attorney.

12 “(n) Licensed professional counselor.

13 “(o) Licensed marriage and family therapist.

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

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

16 “(r) A child care provider registered or certified under ORS 329A.030 and
17 329A.250 to 329A.450.

18 “(s) An elected official of a branch of government of this state or a state
19 agency, board, commission or department of a branch of government of this
20 state or of a city, county or other political subdivision in this state.

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

22 “(u) Audiologist.

23 “(v) Speech-language pathologist.

24 “(w) Employee of the Teacher Standards and Practices Commission di-
25 rectly involved in investigations or discipline by the commission.

26 “(x) Pharmacist.

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

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

29 “(aa) Employee of a private agency or organization facilitating the pro-
30 vision of respite services, as defined in ORS 418.205, for parents pursuant to

1 a properly executed power of attorney under ORS 109.056.

2 “(bb) An employee of a public or private organization providing child-
3 related services or activities:

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

5 “(i) Youth group or center;

6 “(ii) Scout group or camp;

7 “(iii) Summer or day camp;

8 “(iv) Survival camp; or

9 “(v) Group, center or camp that is operated under the guidance, super-
10 vision or auspices of a religious, public or private educational system or a
11 community service organization; and

12 “(B) Excluding an employee of a qualified victim services program as de-
13 fined in ORS 147.600 that provides confidential, direct services to victims of
14 domestic violence, sexual assault, stalking or human trafficking.

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

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

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

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

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

22 “(hh) An individual who is paid by a public body, in accordance with ORS
23 430.215, to provide a service identified in an individualized written service
24 plan of a child with a developmental disability.

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

26 **“SECTION 6.** ORS 419B.005, as amended by section 58, chapter 631,
27 Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, section 7,
28 chapter 90, Oregon Laws 2022, and section 4 of this 2023 Act, is amended to
29 read:

30 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-

1 quires otherwise:

2 “(1)(a) ‘Abuse’ means:

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

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

11 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
12 unlawful sexual penetration and incest, as those acts are described in ORS
13 chapter 163.

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

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

16 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
17 chapter 163, and any other conduct which allows, employs, authorizes, per-
18 mits, induces or encourages a child to engage in the performing for people
19 to observe or the photographing, filming, tape recording or other exhibition
20 which, in whole or in part, depicts sexual conduct or contact, as defined in
21 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
22 a child or rape of a child, but not including any conduct which is part of
23 any investigation conducted pursuant to ORS 419B.020 or which is designed
24 to serve educational or other legitimate purposes; and

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

29 “(F) Negligent treatment or maltreatment of a child, including but not
30 limited to the failure to provide adequate food, clothing, shelter or medical

1 care that is likely to endanger the health or welfare of the child.

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

4 “(H) Buying or selling a person under 18 years of age as described in ORS
5 163.537.

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

8 “(J) Unlawful exposure to a controlled substance, as defined in ORS
9 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
10 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
11 the child’s health or safety.

12 “[*(K) The restraint or seclusion of a child in violation of ORS 339.285,*
13 *339.288, 339.291, 339.303 or 339.308.*]

14 “[*(L)*] **(K)** The infliction of corporal punishment on a child in violation
15 of ORS 339.250 (9).

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

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

19 “(a) Is under 18 years of age; or

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

22 “(3) ‘Higher education institution’ means:

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

24 “(b) A public university listed in ORS 352.002;

25 “(c) The Oregon Health and Science University; and

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

27 “(4)(a) ‘Investigation’ means a detailed inquiry into or assessment of the
28 safety of a child alleged to have experienced abuse.

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

1 “(5) ‘Law enforcement agency’ means:
2 “(a) A city or municipal police department.
3 “(b) A county sheriff’s office.
4 “(c) The Oregon State Police.
5 “(d) A police department established by a university under ORS 352.121
6 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
10 naturopathic physician, including any intern or resident.
11 “(b) Dentist.
12 “(c) School employee, including an employee of a higher education insti-
13 tution.
14 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
15 aide, home health aide or employee of an in-home health service.
16 “(e) Employee of the Department of Human Services, Oregon Health Au-
17 thority, Department of Early Learning and Care, Department of Education,
18 Youth Development Division, Office of Child Care, the Oregon Youth Au-
19 thority, a local health department, a community mental health program, a
20 community developmental disabilities program, a county juvenile department,
21 a child-caring agency as that term is defined in ORS 418.205 or an alcohol
22 and drug treatment program.
23 “(f) Peace officer.
24 “(g) Psychologist.
25 “(h) Member of the clergy.
26 “(i) Regulated social worker.
27 “(j) Optometrist.
28 “(k) Chiropractor.
29 “(L) Certified provider of foster care, or an employee thereof.
30 “(m) Attorney.

1 “(n) Licensed professional counselor.

2 “(o) Licensed marriage and family therapist.

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

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

5 “(r) A child care provider registered or certified under ORS 329A.250 to
6 329A.450.

7 “(s) An elected official of a branch of government of this state or a state
8 agency, board, commission or department of a branch of government of this
9 state or of a city, county or other political subdivision in this state.

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

11 “(u) Audiologist.

12 “(v) Speech-language pathologist.

13 “(w) Employee of the Teacher Standards and Practices Commission di-
14 rectly involved in investigations or discipline by the commission.

15 “(x) Pharmacist.

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

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

18 “(aa) Employee of a private agency or organization facilitating the pro-
19 vision of respite services, as defined in ORS 418.205, for parents pursuant to
20 a properly executed power of attorney under ORS 109.056.

21 “(bb) An employee of a public or private organization providing child-
22 related services or activities:

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

24 “(i) Youth group or center;

25 “(ii) Scout group or camp;

26 “(iii) Summer or day camp;

27 “(iv) Survival camp; or

28 “(v) Group, center or camp that is operated under the guidance, super-
29 vision or auspices of a religious, public or private educational system or a
30 community service organization; and

1 “(B) Excluding an employee of a qualified victim services program as de-
2 fined in ORS 147.600 that provides confidential, direct services to victims of
3 domestic violence, sexual assault, stalking or human trafficking.

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

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

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

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

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

11 “(hh) An individual who is paid by a public body, in accordance with ORS
12 430.215, to provide a service identified in an individualized written service
13 plan of a child with a developmental disability.

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

15 **“SECTION 7.** ORS 419B.019 is amended to read:

16 “419B.019. (1) As used in this section:

17 “(a) ‘Agent’ means a person who:

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

20 “(B) Interacts with a child because of the person’s status as an agent for
21 an education provider.

22 “(b) ‘Contractor’ means a person who:

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

26 “(B) Interacts with a child because of the person’s status as a contractor
27 for an education provider.

28 “(c) ‘Education provider’ has the meaning given that term in ORS 339.370.

29 “(d) ‘School employee’ means a person who:

30 “(A) Is an employee of an education provider; and

1 “(B) Interacts with a child because of the person’s status as an employee
2 of an education provider.

3 “(e) ‘Volunteer’ means a person who:

4 “(A) Acts as a volunteer for an education provider in a manner that re-
5 quires the person to have direct, unsupervised contact with children; and

6 “(B) Interacts with a child because of the person’s status as a volunteer
7 of an education provider.

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

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

20 “(4)(a) Within three business days of receiving a report or notification of
21 a report described in subsection (2) of this section, the department shall no-
22 tify:

23 “(A) The appropriate education provider to ensure the safety of the child,
24 if the department believes the report of suspected abuse involves the child
25 and a person who is a school employee, contractor, agent or volunteer;

26 “(B) The Teacher Standards and Practices Commission, if the department
27 believes the school employee, contractor, agent or volunteer is licensed,
28 registered or certified by the commission; or

29 “(C) The Department of Education, if the Department of Human Services
30 believes the report of suspected abuse:

1 “(i) Occurred in a school or was related to a school-sponsored activity;
2 or

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

5 “(b) For the purpose of notification made under this subsection, the De-
6 partment of Human Services may not disclose the name and address of, and
7 other identifying information about, the person who made the report, but the
8 department shall make available any information necessary to ensure the
9 safety of the child, including the name of the school and the name of the
10 person who may have conducted the suspected abuse. Except as provided by
11 ORS 339.389, any person or entity to whom notification is made under this
12 subsection may not release any information not authorized by this sub-
13 section.

14 “(c) When the Department of Education receives notification under this
15 subsection, the department shall act under, and is subject to, ORS 339.389.

16 **“(5) The Department of Human Services shall submit a report on**
17 **the first day of every calendar quarter to the committees or interim**
18 **committees of the Legislative Assembly related to child welfare, for**
19 **the purposes of public review and oversight of the quality and safety**
20 **of education providers. Information provided in reports under this**
21 **subsection may not contain the name of a child or any identifying in-**
22 **formation about a child. The reports must contain all of the following**
23 **information about each investigation described in subsection (2) of this**
24 **section that resulted in a finding, during the preceding quarter, that**
25 **the report of abuse was substantiated:**

26 **“(a) The name of the education provider where the department**
27 **conducted the investigation;**

28 **“(b) The approximate date that the abuse occurred;**

29 **“(c) The nature of the abuse and a brief narrative description of the**
30 **abuse that occurred; and**

1 “(d) Whether a reportable injury, sexual abuse or death resulted
2 from the abuse.

3 “[(5)] (6) The department [*of Human Services*] may adopt any rules nec-
4 essary for the administration of this section.

5 “SECTION 8. (1) Section 2 of this 2023 Act and the amendments to
6 ORS 419B.005 by sections 3 and 4 of this 2023 Act apply to incidents
7 occurring on or after July 1, 2023.

8 “(2) The amendments to ORS 419B.005 by sections 5 and 6 of this
9 2023 Act apply to incidents occurring on or after July 1, 2028.

10 “(3) The quarterly report described in the amendments to ORS
11 419B.019 by section 7 of this 2023 Act, is first due on January 1, 2024.

12 “SECTION 9. The amendments to ORS 419B.005 by sections 5 and 6
13 of this 2023 Act become operative on July 1, 2028.”.

14 In line 33, delete “3” and insert “10”.

15
