

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.019 is amended to read:

10 “419B.019. (1) As used in this section:

11 “(a) ‘Agent’ means a person who:

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

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

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

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

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

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

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

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

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

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

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

30 “(B) Interacts with a child because of the person’s status as a volunteer

1 of an education provider.

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

7 “(3) A law enforcement agency shall notify the department as provided  
8 by ORS 419B.015 if the law enforcement agency receives a report described  
9 in subsection (2) of this section. The department shall notify a law enforce-  
10 ment agency as provided by ORS 419B.015 if the department receives a report  
11 described in subsection (2) of this section. The department shall ensure that  
12 an investigation related to the report is conducted if the report is not in-  
13 vestigated by a law enforcement agency.

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

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

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

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

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

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

29 “(b) For the purpose of notification made under this subsection, the De-  
30 partment of Human Services may not disclose the name and address of, and

1 other identifying information about, the person who made the report, but the  
2 department shall make available any information necessary to ensure the  
3 safety of the child, including the name of the school and the name of the  
4 person who may have conducted the suspected abuse. Except as provided by  
5 ORS 339.389, any person or entity to whom notification is made under this  
6 subsection may not release any information not authorized by this sub-  
7 section.

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

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

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

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

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

25 **“(d) Whether a reportable injury, sexual abuse or death resulted**  
26 **from the abuse.**

27 “[5] (6) The department [*of Human Services*] may adopt any rules nec-  
28 essary for the administration of this section.

29 **“SECTION 6. (1) Section 2 of this 2023 Act and the amendments to**  
30 **ORS 419B.005 by sections 3 and 4 of this 2023 Act apply to incidents**

1 **occurring on or after July 1, 2023.**

2 **“(2) The quarterly report described in the amendments to ORS**  
3 **419B.019 by section 5 of this 2023 Act, is first due on January 1, 2024.”.**

4 In line 33, delete “3” and insert “7”.

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