

House Bill 4086

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Early Childhood and Human Services for Representative Lisa Reynolds)

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act limits the scope of the duty of the Department of Human Services to investigate child abuse based on a child abuse suspect's relationship with or access to the suspected abused child. The Act requires DHS to submit a report on the change to its duties. The Act directs the System of Care Advisory Council to study and submit a report about children who have shown problem sexual behaviors. The Act requires the SOCAC to consult with a group for advice. The group must be comprised of people who have lived or worked with such children or others impacted by the actions of such children. (Flesch Readability Score: 60.0).

Modifies when the Department of Human Services is required to investigate child abuse reports. Directs the department to provide interim legislative committees with a report on the implementation of the change no later than September 15, 2024.

Directs the System of Care Advisory Council, in consultation with an advisory committee, to study the statewide response to children exhibiting problematic sexual behavior. Requires the council to submit a report to interim legislative committees no later than September 15, 2024.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children; creating new provisions; amending ORS 419B.020 and 419B.026; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 419B.020 is amended to read:

6 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-
7 port of child abuse, the department or the agency shall immediately:

8 (a) Cause an investigation to be made to determine the nature and cause of the abuse of the
9 child; and

10 (b) Make the following notifications:

11 (A) To the Department of Early Learning and Care if the alleged child abuse occurred in a child
12 care facility as defined in ORS 329A.250; or

13 (B) To the Department of Education if the alleged child abuse occurred in a school, was related
14 to a school-sponsored activity or was conduct that may be subject to actions taken by the Depart-
15 ment of Education under ORS 339.370 to 339.400.

16 (2) The Department of Human Services shall ensure that an investigation required by subsection
17 (1) of this section is completed if the report is not investigated by a law enforcement agency.

18 (3) If the alleged child abuse reported in subsection (1) of this section occurred at a child care
19 facility or in a school, was related to a school-sponsored activity or was conduct that may be subject
20 to actions taken by the Department of Education under ORS 339.370 to 339.400:

21 (a) The Department of Human Services and the law enforcement agency shall jointly determine
22 the roles and responsibilities of the Department of Human Services and the agency in their respec-
23 tive investigations; 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 (b) The Department of Human Services and the agency shall each report the outcomes of their
2 investigations:

3 (A) To the Department of Early Learning and Care if the alleged child abuse occurred in a child
4 care facility as defined in ORS 329A.250; or

5 (B) To the Department of Education if the alleged child abuse:

6 (i) Occurred in a school;

7 (ii) Was related to a school-sponsored activity; or

8 (iii) Was conduct that may be subject to actions taken by the Department of Education under
9 ORS 339.370 to 339.400.

10 (4) If the law enforcement agency conducting the investigation finds reasonable cause to believe
11 that abuse has occurred, the law enforcement agency shall notify the Department of Human Services
12 by making an oral report followed by a written report to the centralized child abuse reporting sys-
13 tem described in ORS 418.190. The department shall provide protective social services of its own or
14 of other available social agencies if necessary to prevent further abuses to the child or to safeguard
15 the child's welfare.

16 (5) If a child is taken into protective custody by the Department of Human Services, the de-
17 partment shall promptly make reasonable efforts to ascertain the name and address of the child's
18 parents or guardian.

19 (6)(a) If a child is taken into protective custody by the Department of Human Services or a law
20 enforcement official, the department or law enforcement official shall, if possible, make reasonable
21 efforts to advise the parents or guardian immediately, regardless of the time of day, that the child
22 has been taken into custody, the reasons the child has been taken into custody and general infor-
23 mation about the child's placement, and the telephone number of the local office of the department
24 and any after-hours telephone numbers.

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

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

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

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

41 (8) A minor child of 12 years of age or older may refuse to consent to the examination described
42 in subsection (7) of this section. The examination shall be conducted by or under the supervision
43 of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to
44 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained
45 in conducting such examinations.

1 (9) When the Department of Human Services completes an investigation under this section, if
 2 the person who made the report of child abuse provided contact information to the department, the
 3 department shall notify the person about whether contact with the child was made, whether the
 4 department determined that child abuse occurred and whether services will be provided. The de-
 5 partment is not required to disclose information under this subsection if the department determines
 6 that disclosure is not permitted under ORS 419B.035.

7 (10) When the Department of Education receives a notification under subsection (1) of this sec-
 8 tion or a report on the outcomes of an investigation under subsection (3) of this section, the De-
 9 partment of Education shall act under, and is subject to, ORS 339.389.

10 **(11) Notwithstanding subsections (1) and (2) of this section, the Department of Human**
 11 **Services is only required to investigate a report of child abuse under this section if the in-**
 12 **dividual suspected of the abuse is known to be:**

13 **(a) The child’s parent;**

14 **(b) The child’s caregiver, guardian or other person exercising significant authority over**
 15 **or responsibility for the child, including a provider of child care as that term is defined in**
 16 **ORS 329A.250 or an education provider as defined in ORS 339.370;**

17 **(c) A person residing in the child’s home or who has access to the child’s home;**

18 **(d) A person who has access to the child based on the person’s relationship to the child’s**
 19 **parent, guardian, custodian, household member or caregiver;**

20 **(e) A person suspected of subjecting the child to trafficking, as described in ORS 163.266;**
 21 **or**

22 **(f) A representative, agent, volunteer or employee of the Oregon Youth Authority or a**
 23 **county juvenile department if the representative, agent, volunteer or employee was acting**
 24 **as a public or private official at the time of the alleged abuse and:**

25 **(A) The alleged abuse would constitute abuse under ORS 419B.005 (1)(a)(C), (D) or (E);**
 26 **or**

27 **(B) A law enforcement agency is not investigating the alleged abuse.**

28 **(12) Nothing in this section limits a law enforcement agency’s authority to conduct a**
 29 **criminal investigation into conduct that is the subject of a child abuse report.**

30 **SECTION 2.** ORS 419B.026 is amended to read:

31 419B.026. (1) An investigation conducted **by the Department of Human Services** under ORS
 32 419B.020 must conclude in one of the following findings:

33 (a) That the report of child abuse is founded;

34 (b) That the report of child abuse is unfounded; or

35 (c) That the report of child abuse cannot be determined.

36 (2) All investigations conducted under ORS 419B.020 must be conducted in accordance with ORS
 37 419B.005 to 419B.050 and, **if conducted by the department**, result in the findings described in
 38 subsection (1) of this section until all of the following criteria have been met:

39 (a) The child welfare workload model for the department [*of Human Services*] is staffed at 95
 40 percent or greater;

41 (b) A centralized, statewide child abuse hotline has been established and in operation for at least
 42 six consecutive months;

43 (c) The department has completed investigations within timelines mandated by law and rule at
 44 least 90 percent of the time for at least six consecutive months;

45 (d) The department has conducted in-person contacts with children who are the subject of re-

ports of child abuse, as mandated by law and rule, in at least 90 percent of the reports of child abuse for at least six consecutive months; and

(e) The reabuse rate for children in this state is below the national average.

SECTION 3. (1) The System of Care Advisory Council, in consultation with the advisory committee created under subsection (4) of this section, shall study and make recommendations regarding the statewide response to children exhibiting problematic sexual behavior. The council shall submit a report on the council’s findings and recommendations, including any recommendations for legislation, to the interim legislative committees on child welfare, in the manner provided in ORS 192.245, no later than September 15, 2024.

(2) The study must at a minimum:

(a) Identify the current state of services and resources available to children exhibiting problematic sexual behavior and to the families and caregivers of such children.

(b) Identify gaps in the response and services available to children exhibiting problematic sexual behavior and to the families and caregivers of such children.

(c) Determine the national best practices on trauma-informed multidisciplinary responses to children exhibiting problematic sexual behavior.

(d) Identify existing state and federal funding authorities to support trauma-informed multidisciplinary responses to children exhibiting problematic sexual behavior.

(e) Analyze solutions to identify and provide support, treatment and resources for children exhibiting problematic sexual behavior and for the families and caregivers of such children.

(3) The council’s recommendations must at a minimum describe or propose:

(a) Trauma-informed and national best practice strategies for identification of children exhibiting problematic sexual behaviors;

(b) Strategies and definitions to ensure a child is not identified as exhibiting problematic sexual behavior as a result of the child’s:

(A) Sexual orientation, gender identity or disability;

(B) Sexual behavior resulting from the child’s sexual orientation, gender identity or disability; or

(C) Consensual sexual activity or exploration, provided the activity or exploration is not criminal or abusive in nature.

(c) Services and treatment for children exhibiting problematic sexual behavior, including trauma-informed and family centered programs and community-based supports.

(d) Comprehensive resources and educational opportunities to support family members and caregivers impacted by children exhibiting problematic sexual behavior.

(e) National best practices for assessing the safety of children impacted by another child’s problematic sexual behavior.

(f) Strategies to prevent and minimize out-of-home placement or incarceration of children exhibiting problematic sexual behavior.

(4) The council shall appoint a committee to advise the council in conducting the study and preparing the reports described in this section. The committee membership shall include members of families with lived experience with a child exhibiting problematic sexual behavior and professionals or representatives of organizations involved with children exhibiting problematic sexual behaviors. Such professionals or representatives may include, but are not limited to, any of the following:

- 1 (a) Representatives of the Oregon Health Authority.
- 2 (b) Children’s behavioral health professionals.
- 3 (c) Representatives of the Department of Justice.
- 4 (d) Representatives of children’s advocacy centers, as defined in ORS 418.782.
- 5 (e) Representatives of the Oregon Youth Authority.
- 6 (f) Representatives of county juvenile departments.
- 7 (g) Representatives of the Department of Human Services child welfare programs and
- 8 developmental disability services programs.
- 9 (h) Representatives of the Department of Education.
- 10 (i) Representatives of county child abuse multidisciplinary teams with existing problem-
- 11 atic sexual behavior subcommittees.
- 12 (j) District attorneys.
- 13 (k) Attorneys representing children.
- 14 (L) Juvenile delinquency judges.
- 15 (m) Relevant advocates for children.

16 **SECTION 4.** The Department of Human Services shall submit a report on the
17 department’s implementation of the amendments to ORS 419B.020 by section 1 of this 2024
18 Act to the interim legislative committees on child welfare, in the manner provided in ORS
19 192.245, no later than September 15, 2024.

20 **SECTION 5.** Sections 3 and 4 of this 2024 Act are repealed on January 2, 2026.

21 **SECTION 6.** This 2024 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect
23 on its passage.

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