



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

May 14, 2025

Senator Sara Gelser Blouin
900 Court Street NE S211
Salem OR 97301

Re: Critical Incident Review Teams and reports of abuse closed at screening

Dear Senator Gelser Blouin:

You requested a legal opinion regarding several questions about Critical Incident Review Teams under ORS 418.806 to 418.816 and 419B.016. Due to the time constraints of session, our legal analysis is necessarily abbreviated. Our answers are provided below.

SHORT ANSWERS

1. If a mandatory reporter makes a report of abuse to the child abuse hotline and it is closed at screening, is the Department of Human Services required to assign a Critical Incident Review Team regarding the death of that child if the fatality occurs within 12 months of the date the report was received?

Yes, provided the Department of Human Services (DHS) believes the child's death was the result of child abuse.¹

2. Does the plain language of the statute require that a Critical Incident Review Team be assigned even when a report of abuse is made to the child abuse reporting hotline, but DHS closes the report at screening?

Yes, provided the report of abuse was made to the child abuse reporting hotline within the 12 months preceding a child's death and the report involved the deceased child, the deceased child's sibling or another child living in the deceased child's household.²

3. Is there any authority for DHS to close a report of abuse at screening if the screener determines the report, if true, would meet the statutory definition of child abuse? (For purposes of this question, please assume that the allegation is in regard to a child in Oregon and that the alleged abuse took place in Oregon.) If not, what is the statute referencing when it requires that a Critical Incident Review Team be convened even if a report was closed at screening without being assigned for investigation?

No, there is no explicit statutory authority for DHS to close reports of abuse at screening, let alone authority to close a report of abuse at screening when the screener determines the

¹ ORS 418.808 (4) and 418.811 (1).

² *Id.*

reported actions, if true, would meet the statutory definition of child abuse. Instead, DHS's authority to close a report of abuse at screening can be inferred from ORS 418.808, which describes "a report of abuse or neglect made to the department . . . , whether or not the report was closed at screening without an investigation being commenced." To the best of our knowledge, this is the only statutory reference to this practice. This language was added to the statute in 2017, and the legislative record demonstrates that the policy goal of the reference is to ensure there is a process to review gaps in DHS's process of closing reports at screening. There is nothing on the legislative record that explains when a report may be closed at screening.³

DISCUSSION

ORS 418.811 requires DHS to assign a Critical Incident Review Team (CIRT) when DHS reasonably believes the death of a child was the result of child abuse and DHS had prior contact with the child or the child's family. The Department of Human Services has had prior contact with a child or a child's family for purposes of assigning a CIRT when (1) the child was in DHS custody at the time of the child's death, (2) the child, the child's sibling or another child living in the child's household was the subject of a DHS assessment within the 12 months preceding the child's death, (3) the child, the child's sibling or another child living in the child's household had a pending child welfare or adoption case within the 12 months preceding the child's death, or

(4) [t]he child, the child's sibling or any other child living in the household with the child was the *subject of a report of abuse or neglect* made to the department or a law enforcement agency within the 12 months preceding the fatality, *whether or not the report was closed at screening without an investigation being commenced*.⁴

We understand that DHS's position is that "not all closed at screenings constitute a 'report of abuse or neglect'"⁵ for purposes of triggering CIRT review. We disagree. The text and context of the provision clearly indicate that the purpose of the reference to reports that are closed at screening is to ensure the inclusion of *all* reports of abuse, whether investigated or closed at screening. Furthermore, the legislative record supports the conclusion that the legislature's policy objective was to ensure that DHS's process for determining when to close reports of abuse or neglect at screening would be subject to CIRT review.⁶

Reports of Abuse

When determining the meaning of words and phrases within a statute, Oregon courts engage in a structured methodology to discern the intent of the Legislative Assembly that enacted the statute in question. Under this methodology, a court looks first to the text and context of the statute. Next, a court may consider proffered legislative history and, finally, general maxims of statutory construction, if there is any remaining uncertainty.

³ See, generally, *Oregon Legislative Information System*, 2017 Regular Session, Senate Bill 819, <https://olis.oregonlegislature.gov/liz/2017R1/Measures/Overview/SB819> (last visited: May 14, 2025).

⁴ ORS 418.808 (emphasis added).

⁵ See email "RE: CIRT Questions" from Michelle H. Pfeiffer, Child Welfare Legislative Coordinator, ODHS Government Relations Unit, to Senator Sara Gelser Blouin, Jake Sunderland, Justin Withem and Roberto Gutierrez (April 18, 2025) (on file).

⁶ Floor session at 1:18:07, Senate, April 25, 2017 (statement of Senator Sara Gelser), <https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2017041147&startStreamAt=4687> (last visited May 14, 2025).

“Report of abuse” is not defined for purposes of ORS 418.808. However, we believe the meaning is obvious from the text and context of the term. When the Legislative Assembly does not define a word of common usage, a court will assume the plain meaning is intended and will use a dictionary to discern the plain meaning. Although there are many meanings of the word “report,”⁷ we believe the court would likely find that “report” in this case means a notification or a detailed account.⁸ The term “abuse” is defined under ORS 419B.005 to mean specified conduct that causes injury to a child. We understand DHS’s interpretation of “report of abuse” to mean a notification of an action DHS has determined meets the definition of abuse; however, when read in context, we think a court would find that “report of abuse” means reports made for purposes of reporting actions that the caller suspects may constitute abuse of a child. Whether or not the reported actions actually constitute abuse is necessarily determined later by DHS following an investigation. Accordingly, we believe a court would find that reports of abuse or neglect that trigger a CIRT review means those notifications received from persons who suspect that a child has been abused, regardless of whether DHS investigates the report or closes it at screening. Nothing in ORS 418.808 limits the relevant reports to those that DHS concludes constitute abuse.

Legislative intent

As described above, one of the types of contact between DHS and a child that triggers a CIRT review under ORS 418.808 is when the child, the child’s sibling or any other child in the child’s household was “the subject of a *report of abuse or neglect* . . . whether or not the report was closed at screening” (emphasis added). This language was first added to the CIRT review process in 2017 when the legislature enacted Senate Bill 819.⁹ When describing the reason for adding language to include repeated reports of abuse involving the same child that were closed at screening as triggers for the CIRT process, Senator Sara Gelsler stated:

Under this [bill], we would be able to go back and say, hey we had six calls about this kid, we never went out and did an assessment, we need to look at what happened in that case, what might we have done in terms of the reporting or the assessing at that screening.¹⁰

In addition, when SB 819 passed unanimously out of the Senate, Senator Gelsler, as carrier for the bill, explained that one of the policy reasons for the bill’s referring to reports closed at screening as a trigger for the CIRT process was that:

The department has been doing some of these as discretionary CIRTs, but they’re very important because as we read through the CIRTs over the last 10 years, we’ve learned that one of the biggest gaps [that have] led to child fatality are problems with our child abuse investigations and with our screenings.¹¹

⁷ E.g., rumors, explosive noise, an account of an investigation, etc. See *Merriam-Webster Unabridged Dictionary*, <https://unabridged.merriam-webster.com/unabridged/report> (last visited May 14, 2025).

⁸ *Id.*

⁹ Chapter 496, Oregon Laws 2017.

¹⁰ Testimony of Senator Sara Gelsler, public hearing on SB 819 at 00:12:14, Senate Committee on Human Services, March 13, 2017, <https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2017031070&startStreamAt=734> (last visited May 14, 2025).

¹¹ Floor session at 1:19:29, Senate, April 25, 2017, <https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2017041147&startStreamAt=4687> (last visited May 14, 2025).

Finally, when SB 819 passed unanimously out of the House, Representative Carla Piluso, as carrier for the bill, explained that the purpose of the bill was to expand the trigger for a CIRT review to include “cases in which a call has been placed to the child abuse hotline but an investigation was never done.”¹²

SUMMARY

It is clear from the text of ORS 418.808 and the legislative history that reports of abuse triggering a CIRT review under ORS 418.808 (4) means notifications that DHS receives when a person suspects that a child has been abused, regardless of whether the department investigates the report or closes the report at screening.

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Very truly yours,

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¹² Floor session at 01:52:27 and 01:53:22, House of Representatives, June 6, 2017, <https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2017061155&startStreamAt=6747> (last visited May 14, 2025).