

# House Bill 2999

Sponsored by Representative NELSON (Pre-session filed.)

## 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 expands some rights of a person who is the subject of a child abuse inquiry and requires DHS to provide the person with notice of the person's rights. (Flesch Readability Score: 60.7).

Requires that the Department of Human Services provide a person suspected of abusing a child with a notice of rights before interviewing or searching the person in a child abuse investigation.

Prohibits the department from entering a person's private property during the course of a child abuse investigation without the person's permission, a warrant or exigent circumstances.

Prohibits the department, an administrative law judge or a juvenile court judge from making negative inferences when the subject of an abuse investigation refuses to answer questions or consent to a search.

## A BILL FOR AN ACT

1  
2 Relating to warrants requirements in child abuse investigations.

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

4 **SECTION 1. At the time of any interview with or search of the property of the subject**  
5 **of an abuse investigation under ORS 419B.020, the Department of Human Services shall, be-**  
6 **fore the interview or search begins, advise the subject person of the following:**

7 (1) **That any statement or admission made by the person may be used:**

8 (a) **Against the person in an administrative, juvenile court or criminal court proceeding;**

9 (b) **As a basis to remove the child who is the subject of the investigation or any other**  
10 **child from the person's care, custody or control; or**

11 (c) **As a basis to terminate the person's relationship with the child who is the subject of**  
12 **the investigation or any other child in the person's care, custody or control;**

13 (2) **That, as the subject of an abuse investigation, the parent or guardian has the right**  
14 **to:**

15 (a) **Be informed of the basis for the child welfare assessment;**

16 (b) **Seek the representation of an attorney and to have an attorney present when the**  
17 **department interviews the person or conducts a search of the person's property, including**  
18 **at any meeting conducted to determine whether a child should be removed from the person's**  
19 **home;**

20 (c) **Have the court appoint an attorney for the person if the person cannot afford an at-**  
21 **torney and the department moves the court to remove the child or to require the person to**  
22 **participate in services;**

23 (d) **Decline to answer the department's questions;**

24 (e) **Refuse to allow the department to enter the person's home without a court order;**

25 (f) **Withhold consent to the release of any of the person's medical or mental health re-**  
26 **records;**

**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 (g) Refuse to submit to a drug test;

2 (h) Be advised in writing of the outcome of the investigation; and

3 (i) Request an administrative review of the outcome of the investigation; and

4 (3) That the representative of the department is not an attorney and cannot provide legal  
5 advice to the parent or guardian.

6 **SECTION 2.** (1) The Department of Human Services may only enter the private property  
7 of a person in the course of an abuse investigation under ORS 419B.020 if:

8 (a) The person expressly consents to the entry after being advised of the person's rights  
9 under section 1 of this 2025 Act;

10 (b) The department has applied for and obtained a search warrant, issued by an admin-  
11 istrative law judge or juvenile court judge, authorizing the department to enter the property  
12 and describing the objects of the search; or

13 (c) There is reasonable cause to believe that entry is required to prevent an imminent  
14 threat of severe harm to a child or others.

15 (2)(a) The application for a search warrant must consist of a proposed warrant in con-  
16 formance with section 3 of this 2025 Act, and must be supported by one or more affidavits  
17 particularly setting forth the facts and circumstances tending to show that the objects of the  
18 search are in the places, or in the possession of the individuals, to be searched. If an affidavit  
19 is based in whole or in part on hearsay, the affiant shall set forth the facts bearing on any  
20 unnamed informant's reliability and shall disclose, as far as possible, the means by which the  
21 information was obtained.

22 (b) Instead of the written affidavit described in paragraph (a) of this subsection, the judge  
23 may take an oral statement under oath. The oral statement shall be recorded and a copy of  
24 the recording shall be submitted to the judge who took the oral statement. In such cases,  
25 the judge shall certify that the recording of the sworn oral statement is a true recording of  
26 the oral statement under oath and shall retain the recording as part of the record of pro-  
27 ceedings for the issuance of the warrant. The recording shall constitute an affidavit for the  
28 purposes of this subsection. The department shall retain a copy of the recording.

29 (c)(A) In addition to the procedure set out in paragraph (b) of this subsection, the pro-  
30 posed warrant and the affidavit may be sent to the court by electronic transmission that  
31 delivers a complete printable image of the signed affidavit and proposed warrant. The affi-  
32 davit may have a notarized acknowledgment, or the affiant may swear to the affidavit by  
33 telephone. If the affiant swears to the affidavit by telephone, the affidavit may be signed  
34 electronically. A judge administering an oath telephonically under this subsection must exe-  
35 cute a declaration that recites the manner and time of the oath's administration. The dec-  
36 laration must be filed with the return.

37 (B)(i) When a judge issues a warrant upon an application made under this paragraph, the  
38 court may transmit the signed warrant to the applicant by electronic transmission, as de-  
39 scribed in subparagraph (A) of this paragraph. The judge shall file the original signed war-  
40 rant and a printed image of the application with the return.

41 (ii) The applicant shall deliver the original signed affidavit to the court with the return.  
42 If the affiant swore to the affidavit by telephone, the affiant must so note next to the  
43 affiant's signature on the affidavit.

44 **SECTION 3.** (1) A search warrant must be dated and must be addressed to and authorize  
45 its execution by a representative of the Department of Human Services who is authorized

1 by rule to execute search warrants.

2 (2) The warrant must state, or describe with particularity:

3 (a) The identity of the judge issuing the warrant and the date the warrant was issued;

4 (b) The name of the person to be searched, or the location and designation of the prem-  
5 ises or places to be searched;

6 (c) The things constituting the object of the search and authorized to be seized; and

7 (d) The period of time, not to exceed five days, after execution of the warrant except as  
8 provided by subsection (3) of this section, within which the warrant is to be returned to the  
9 issuing authority.

10 (3) Except as otherwise provided herein, the search warrant shall be executed between  
11 the hours of 7 a.m. and 10 p.m. and within five days from the date of issuance. The judge  
12 issuing the warrant may, however, by indorsement upon the face of the warrant, authorize  
13 its execution at any time of day or night and may further authorize its execution after five  
14 days, but not more than 10 days from the date of issuance.

15 SECTION 4. In the course of an abuse investigation under ORS 419B.020, or any subse-  
16 quent administrative or judicial proceeding, the Department of Human Services, an admin-  
17 istrative law judge or a juvenile court judge may not draw a negative inference from the  
18 refusal of a subject of the abuse investigation to answer questions or consent to a search,  
19 regardless of whether the person's answers or information acquired from the search could  
20 be used in a subsequent criminal proceeding to demonstrate guilt.

21 SECTION 5. Sections 1 to 4 of this 2025 Act apply to interviews and searches conducted  
22 on or after the effective date of this 2025 Act.  
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