

# A-Engrossed Senate Bill 135

Ordered by the Senate March 31  
Including Senate Amendments dated March 31

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## 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. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest: The Act requires that some review teams include members of local CASA programs. (Flesch Readability Score: 63.4).**

*[Digest: The Act requires that CASAs be members of certain councils, committees and teams. (Flesch Readability Score: 63.4).]*

Requires the appointment of *[court appointed special advocates to specified advisory councils, advisory committees and]* **representatives of local CASA Volunteer Programs to specified review teams.**

## A BILL FOR AN ACT

1  
2 Relating to court appointed special advocates; amending ORS 418.714, 418.747 and 418.811.

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

4 **SECTION 1.** ORS 418.714 is amended to read:

5 418.714. (1) A local domestic violence coordinating council recognized by the local public safety  
6 coordinating council or by the governing body of the county may establish a multidisciplinary do-  
7 mestic violence fatality review team to assist local organizations and agencies in identifying and  
8 reviewing domestic violence fatalities. When no local domestic violence coordinating council exists,  
9 a similar interdisciplinary group may establish the fatality review team.

10 (2) The purpose of a fatality review team is to review domestic violence fatalities and make  
11 recommendations to prevent domestic violence fatalities by:

12 (a) Improving communication between public and private organizations and agencies;

13 (b) Determining the number of domestic violence fatalities occurring in the team's county and  
14 the factors associated with those fatalities;

15 (c) Identifying ways in which community response might have intervened to prevent a fatality;

16 (d) Providing accurate information about domestic violence to the community; and

17 (e) Generating recommendations for improving community response to and prevention of do-  
18 mestic violence.

19 (3) A fatality review team shall include but is not limited to the following members, if available:

20 (a) Domestic violence program service staff or other advocates for battered women;

21 (b) Medical personnel with expertise in the field of domestic violence;

22 (c) Local health department staff;

23 (d) The local district attorney or the district attorney's designees;

24 (e) Law enforcement personnel;

**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 (f) Civil legal services attorneys;
- 2 (g) Protective services workers;
- 3 (h) Community corrections professionals;
- 4 (i) Judges, court administrators or their representatives;
- 5 (j) Perpetrator treatment providers;
- 6 (k) A survivor of domestic violence; [*and*]
- 7 (L) Medical examiners or other experts in the field of forensic pathology[.]; **and**
- 8 **(m) A representative of a local CASA Volunteer Program, as defined in ORS 419A.004.**

9 (4) Other individuals may, with the unanimous consent of the team, be included in a fatality  
10 review team on an ad hoc basis. The team, by unanimous consent, may decide the extent to which  
11 the individual may participate as a full member of the team for a particular review.

12 (5) Upon formation and before reviewing its first case, a fatality review team shall adopt a  
13 written protocol for review of domestic violence fatalities. The protocol must be designed to facili-  
14 tate communication among organizations and agencies involved in domestic violence cases so that  
15 incidents of domestic violence and domestic violence fatalities are identified and prevented. The  
16 protocol shall define procedures for case review and preservation of confidentiality, and shall iden-  
17 tify team members.

18 (6) Consistent with recommendations provided by the statewide interdisciplinary team under  
19 ORS 418.718, a local fatality review team shall provide the statewide team with information re-  
20 garding domestic violence fatalities.

21 (7) To ensure consistent and uniform results, fatality review teams may collect and summarize  
22 data to show the statistical occurrence of domestic violence fatalities in the team's county.

23 (8) Each organization or agency represented on a fatality review team may share with other  
24 members of the team information concerning the victim who is the subject of the review. Any in-  
25 formation shared between team members is confidential.

26 (9) An individual who is a member of an organization or agency that is represented on a fatality  
27 review team is not required to disclose information. The intent of this section and ORS 418.718 is  
28 to allow the voluntary disclosure of information.

29 (10) An oral or written communication or a document related to a domestic violence fatality  
30 review that is shared within or produced by a fatality review team is confidential, not subject to  
31 disclosure and not discoverable by a third party. An oral or written communication or a document  
32 provided by a third party to a fatality review team is confidential, not subject to disclosure and not  
33 discoverable by a third party. All information and records acquired by a team in the exercise of its  
34 duties are confidential and may be disclosed only as necessary to carry out the purposes of the  
35 fatality review. However, recommendations of a team upon the completion of a review may be dis-  
36 closed without personal identifiers at the discretion of two-thirds of the members of the team.

37 (11) Information, documents and records otherwise available from other sources are not immune  
38 from discovery or introduction into evidence solely because the information, documents or records  
39 were presented to or reviewed by a fatality review team.

40 (12) ORS 192.610 to 192.705 do not apply to meetings of a fatality review team.

41 (13) Each fatality review team shall develop written agreements signed by member organizations  
42 and agencies that specify the organizations' and agencies' understanding of and agreement with the  
43 principles outlined in this section.

44 **SECTION 2.** ORS 418.747, as amended by section 62, chapter 73, Oregon Laws 2024, is amended  
45 to read:

1 418.747. (1) The district attorney in each county shall be responsible for developing county child  
2 abuse multidisciplinary teams to consist of but not be limited to law enforcement personnel, De-  
3 partment of Human Services child protective service workers, school officials, local health depart-  
4 ment personnel, county mental health department personnel who have experience with children and  
5 family mental health issues, child abuse intervention center workers, if available, **staff of a local**  
6 **CASA Volunteer Program, as defined in ORS 419A.004**, and juvenile department representatives,  
7 as well as others specially trained in child abuse, child sexual abuse and rape of children investi-  
8 gation.

9 (2) The teams shall develop a written protocol for immediate investigation of and notification  
10 procedures for child abuse cases, including child sexual abuse, and for interviewing child abuse  
11 victims. Each team also shall develop written agreements signed by member agencies that are re-  
12 presented on the team that specify:

13 (a) The role of each agency;

14 (b) Procedures to be followed to assess risks to the child;

15 (c) Guidelines for timely communication between member agencies;

16 (d) Guidelines for completion of responsibilities by member agencies;

17 (e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as  
18 defined in ORS 329A.250, immediate notification of parents or guardians of children attending the  
19 child care facility is required regarding any abuse allegation and pending investigation; and

20 (f) Criteria and procedures to be followed when removal of the child is necessary for the child's  
21 safety.

22 (3) Each team member and the personnel conducting child abuse investigations and interviews  
23 of child abuse victims shall be trained in risk assessment, the dynamics of child abuse, child sexual  
24 abuse and rape of children, and forensic interviewing.

25 (4) All investigations of child abuse and interviews of child abuse victims shall be carried out  
26 by appropriate personnel using the protocols and procedures called for in this section. If trained  
27 personnel are not available in a timely fashion and, in the judgment of a law enforcement officer  
28 or child protective services worker, there is reasonable cause to believe a delay in investigation or  
29 interview of the child abuse victim could place the child in jeopardy of physical harm, the investi-  
30 gation may proceed without full participation of all personnel. This authority applies only for as  
31 long as reasonable danger to the child exists. A law enforcement officer or child protective services  
32 worker shall make a reasonable effort to find and provide a trained investigator or interviewer.

33 (5) To ensure the protection and safe placement of a child, the Department of Human Services  
34 may request that team members obtain criminal history information on any person who is part of  
35 the household where the department may place or has placed a child who is in the department's  
36 custody. All information obtained by the team members and the department in the exercise of their  
37 duties is confidential and may be disclosed only when necessary to ensure the safe placement of a  
38 child.

39 (6) Each team shall classify, assess and review cases under investigation.

40 (7)(a) Each team shall develop and implement procedures for evaluating and reporting compli-  
41 ance of member agencies with the protocols and procedures required under this section. Each team  
42 shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies  
43 of the protocols and procedures required under this section and the results of the evaluation as re-  
44 quested.

45 (b) The administrator may:

1 (A) Consider the evaluation results when making eligibility determinations under ORS 418.746  
2 (3);

3 (B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the  
4 protocols and procedures being used by the team based on the evaluation results; or

5 (C) Ask a team to evaluate the team's compliance with the protocols and procedures in a par-  
6 ticular case.

7 (c) The information and records compiled under this subsection are exempt from ORS 192.311  
8 to 192.478.

9 (8) Each team shall develop policies that provide for an independent review of investigation  
10 procedures of sensitive cases after completion of court actions on particular cases. The policies shall  
11 include independent citizen input. Parents of child abuse victims shall be notified of the review  
12 procedure.

13 (9) Each team shall designate at least one physician, physician associate or nurse practitioner  
14 who has been trained to conduct child abuse assessments, as defined in ORS 418.782, and who is,  
15 or who may designate another physician, physician associate or nurse practitioner who is, regularly  
16 available to conduct the medical assessment described in ORS 419B.023.

17 (10) If photographs are taken pursuant to ORS 419B.028, and if the team meets to discuss the  
18 case, the photographs shall be made available to each member of the team at the first meeting re-  
19 garding the child's case following the taking of the photographs.

20 (11) No later than September 1, 2008, each team shall submit to the Department of Justice a  
21 written summary identifying the designated medical professional described in subsection (9) of this  
22 section. After that date, this information shall be included in each regular report to the Department  
23 of Justice.

24 (12) If, after reasonable effort, the team is not able to identify a designated medical professional  
25 described in subsection (9) of this section, the team shall develop a written plan outlining the nec-  
26 essary steps, recruitment and training needed to make such a medical professional available to the  
27 children of the county. The team shall also develop a written strategy to ensure that each child in  
28 the county who is a suspected victim of child abuse will receive a medical assessment in compliance  
29 with ORS 419B.023. This strategy, and the estimated fiscal impact of any necessary recruitment and  
30 training, shall be submitted to the Department of Justice no later than September 1, 2008. This in-  
31 formation shall be included in each regular report to the Department of Justice for each reporting  
32 period in which a team is not able to identify a designated medical professional described in sub-  
33 section (9) of this section.

34 **SECTION 3.** ORS 418.811 is amended to read:

35 418.811. (1) When the Department of Human Services becomes aware of a critical incident, the  
36 department shall assign a Critical Incident Review Team.

37 (2) The department shall assign the team required under subsection (1) of this section no later  
38 than the earlier of:

39 (a) Ten days after the department becomes aware of a fatality that the department reasonably  
40 believes is the result of child abuse; or

41 (b) Seven days after the department causes an investigation under ORS 419B.020 to be made into  
42 the nature and cause of a fatality when the department reasonably believes the fatality is the result  
43 of child abuse.

44 (3)(a) Members of the team shall include, at a minimum, the following:

45 (A) The Director of Human Services or a deputy director of the department;

1 (B) The lead department personnel responsible for the administration and oversight of the child  
2 welfare system within the department or the lead personnel's deputy; *[and]*

3 (C) The department personnel responsible for media and communications; **and**

4 **(D) If available, a representative of a local CASA Volunteer Program, as defined in ORS**  
5 **419A.004.**

6 (b) Members of the team may include:

7 (A) Members of the public, appointed by the director, as appropriate;

8 (B) A juvenile court judge appointed by the Chief Justice of the Supreme Court;

9 (C) A member of a local citizen review board established under ORS 419A.090 whose service  
10 area does not include the location where the critical incident occurred; or

11 (D) If the director determines it is appropriate to include one or more legislators as members  
12 of the team, up to one state Senator appointed by the President of the Senate and one state Repre-  
13 sentative appointed by the Speaker of the House of Representatives. A person is ineligible for ap-  
14 pointment to a team under this subparagraph if the critical incident occurred in the person's  
15 district, the person had prior contact with or knowledge of the deceased child or the deceased  
16 child's family, or the person is a family member of any person associated with the case.

17 (4)(a) During the course of its review of the case, the team may include or consult with the  
18 district attorney from the county in which the critical incident occurred.

19 (b) All members of the team must attend meetings of the team in person, by telephone or by  
20 other two-way electronic communication device. A team member may not send a delegate to  
21 meetings of the team to appear on the member's behalf. Notwithstanding the provisions of this  
22 paragraph, a meeting of the team may be convened and held even if one or more members are unable  
23 to attend the meeting.

24 (5)(a) All information and records available to the department regarding the critical incident  
25 shall be provided to team members. Information and records under this subsection include, but are  
26 not limited to, medical records, hospital records, records maintained by any state, county or local  
27 agency, police investigative data, coroner or medical examiner investigative data and social services  
28 records, as necessary to complete a case review under this section.

29 (b) Information and records provided to team members are confidential and may be disclosed  
30 only as necessary to carry out the purposes of the team's case review.

31 (6) In reviewing the case to which the team has been assigned, the team shall, with the assist-  
32 ance and cooperation of the department:

33 (a) Review the case with the primary focus on the history of the safety and well-being of the  
34 child who was involved in the critical incident and any other children who may be impacted by the  
35 circumstances surrounding the critical incident.

36 (b) Document and make a part of the record of the case review all team conclusions and deci-  
37 sions.

38 (c) Complete the case review even if:

39 (A) The team concludes that the critical incident was the result of the actions of one or more  
40 department employees or staff and that such actions were inconsistent with department policy or  
41 administrative rule; or

42 (B) The department's investigation into the critical incident results in a finding that the report  
43 of child abuse is unfounded or cannot be determined, as described in ORS 419B.026.

44 (d) Prepare and submit the final report required under ORS 418.813.

45 (7) If the team concludes that the critical incident involves personnel matters relevant to the

1 department, the department shall refer the matters to the human resources or personnel divisions  
2 of the department.

3 (8) The team may meet, upon conclusion of a criminal investigation or prosecution arising out  
4 of a child fatality to which the team was assigned for review, with members of law enforcement that  
5 investigated the child fatality or with the prosecuting attorneys who prosecuted the case for the  
6 purpose of reviewing the conclusions and recommendations of the team and the reports prepared and  
7 submitted by the team.

8 (9) The department shall adopt rules necessary to carry out the provisions of ORS 418.806 to  
9 418.816. The rules adopted by the department shall substantially conform with the department's child  
10 welfare protocol regarding Notification and Review of Critical Incidents.

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