

# Senate Bill 755

Sponsored by Senator MORRISETTE

## 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**.

Restricts agency rule defining "abuse" to statutory language.

## A BILL FOR AN ACT

Relating to child abuse; creating new provisions; and amending ORS 419B.005.

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

**SECTION 1.** ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.

(D) Sexual abuse, as defined in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where

**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 methamphetamines are being manufactured.

2 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child  
3 to a substantial risk of harm to the child's health or safety.

4 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
5 conditions described in paragraph (a) of this subsection.

6 (c) **Notwithstanding ORS 409.050, the Director of Human Services may not adopt a rule**  
7 **defining "abuse" under this subsection that adds to or removes text from the statutory lan-**  
8 **guage.**

9 (2) "Child" means an unmarried person who is under 18 years of age.

10 (3) "Public or private official" means:

11 (a) Physician, including any intern or resident.

12 (b) Dentist.

13 (c) School employee.

14 (d) Licensed practical nurse or registered nurse.

15 (e) Employee of the Department of Human Services, State Commission on Children and Families,  
16 Child Care Division of the Employment Department, the Oregon Youth Authority, a county health  
17 department, a community mental health and developmental disabilities program, a county juvenile  
18 department, a licensed child-caring agency or an alcohol and drug treatment program.

19 (f) Peace officer.

20 (g) Psychologist.

21 (h) Member of the clergy.

22 (i) Licensed clinical social worker.

23 (j) Optometrist.

24 (k) Chiropractor.

25 (L) Certified provider of foster care, or an employee thereof.

26 (m) Attorney.

27 (n) Naturopathic physician.

28 (o) Licensed professional counselor.

29 (p) Licensed marriage and family therapist.

30 (q) Firefighter or emergency medical technician.

31 (r) A court appointed special advocate, as defined in ORS 419A.004.

32 (s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

33 (t) Member of the Legislative Assembly.

34 (4) "Law enforcement agency" means:

35 (a) Any city or municipal police department.

36 (b) Any county sheriff's office.

37 (c) The Oregon State Police.

38 (d) A county juvenile department.

39 **SECTION 2. The amendments to ORS 419B.005 by section 1 of this 2009 Act apply to rules**  
40 **adopted before, on or after the effective date of this 2009 Act.**

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