

# Senate Bill 871

Sponsored by COMMITTEE ON JUDICIARY

## 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**.

Requires probable cause to take child into protective custody. Directs Department of Human Services to adopt rules to determine probable cause to take child into protective custody.

Directs courts to designate person appointed by court to effect disposition. Establishes procedure for review of protective custody determinations by person appointed by court to effect disposition. Requires disclosure of reports and records compiled, prepared, maintained or received by department or law enforcement agency regarding child taken into protective custody to person appointed by court to effect disposition.

## A BILL FOR AN ACT

1  
2 Relating to review of protective custody determinations; creating new provisions; and amending ORS  
3 419B.035, 419B.150, 419B.160, 419B.165, 419B.168, 419B.171, 419B.175 and 419B.185.

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

5 **SECTION 1.** ORS 419B.150 is amended to read:

6 419B.150. (1) A child may be taken into protective custody by a peace officer, counselor, em-  
7 ployee of the Department of Human Services or any other person authorized by the juvenile court  
8 of the county in which the child is found, in the following circumstances:

9 (a) [*When the child's condition or surroundings reasonably appear to be such as to jeopardize the*  
10 *child's welfare*] **When the person taking the child into protective custody has probable cause**  
11 **to believe that the welfare of the child or others is or will be immediately endangered unless**  
12 **the child is taken into protective custody;**

13 (b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or  
14 otherwise, has ordered that the child be taken into protective custody; or

15 (c) When it reasonably appears that the child has run away from home.

16 (2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an  
17 affidavit sworn on information and belief provided by a peace officer, counselor or employee of the  
18 department or other person authorized by the juvenile court that sets forth with particularity the  
19 facts and circumstances on which the request for protective custody is based, why protective cus-  
20 tody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare  
21 Act applies, active efforts made by the department to eliminate the need for protective custody of  
22 the child.

23 (b) Except as provided in paragraph (c) of this subsection, an order directing that a child be  
24 taken into protective custody under subsection (1) of this section shall contain written findings, in-  
25 cluding a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, ac-  
26 tive efforts to eliminate the need for protective custody of the child that the department has made  
27 and why protective custody is in the best interests of the child.

28 (c) The court may issue an order even though no services have been provided if the court makes

**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 written findings that no existing services could eliminate the need for protective custody of the child  
2 and that protective custody is in the best interests of the child.

3 (3) When a child is taken into protective custody as a runaway under subsection (1) of this  
4 section, the peace officer or other person who takes the child into **protective** custody:

5 (a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or  
6 guardian or to a shelter facility that has agreed to provide care and services to children who have  
7 run away from home and that has been designated by the juvenile court to provide such care and  
8 services; or

9 (B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

10 (b) Shall, if possible, determine the preferences of the child and the child's parent or guardian  
11 as to whether the best interests of the child are better served by placement in a shelter facility that  
12 has agreed to provide care and services to children who have run away from home and that has  
13 been designated by the juvenile court to provide such care and services or by release to the child's  
14 parent or guardian; and

15 (c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to  
16 a shelter facility that has agreed to provide care and services to children who have run away from  
17 home and that has been designated by the juvenile court to provide such care and services if it  
18 reasonably appears that the child would not willingly remain at home if released to the child's  
19 parent or guardian.

20 **SECTION 2.** ORS 419B.160 is amended to read:

21 419B.160. (1) A child or ward may not be detained at any time in a police station, jail, prison  
22 or other place where adults are detained, except that a child or ward may be detained in a police  
23 station for up to five hours when necessary to obtain the child or ward's name, age, residence and  
24 other identifying information.

25 (2) All peace officers shall keep a record of children taken into protective custody and shall  
26 promptly notify the juvenile court or counselor of all children taken into protective custody.

27 (3) As soon as practicable after the child is taken into **protective** custody, the person taking  
28 the child into **protective** custody shall notify:

29 (a) The child's parent, guardian or other person responsible for the child; **and**

30 (b) **The person appointed by the court to effect disposition under ORS 419B.175.**

31 (4) The notice **required under subsection (3)(a) of this section** shall inform the parent,  
32 guardian or other person of:

33 (a) The action taken; *[and]*

34 (b) The time and place *[of the hearing]* **of the interview with the person appointed by the**  
35 **court to effect disposition under ORS 419B.175; and**

36 (c) **The time and place of any hearing that has been scheduled pursuant to ORS 419B.183**  
37 **or 419B.185.**

38 **SECTION 3.** ORS 419B.165 is amended to read:

39 419B.165. The person taking the child into **protective** custody shall release the child to the  
40 custody of the child's parent or other responsible person in this state, except in the following cases:

41 (1) Where the court has issued an order directing that the child be taken into protective cus-  
42 tody.

43 (2) Where the person taking the child into **protective** custody has probable cause to believe that  
44 the welfare of the child or others *[may]* **is or will** be immediately endangered by the release of the  
45 child.

1        **SECTION 4.** Section 5 of this 2011 Act is added to and made a part of ORS chapter 419B.

2        **SECTION 5.** (1) As used in this section and ORS 419B.150, 419B.165, 419B.171 and 419B.175,  
3        “probable cause” means that there is a substantial objective basis for believing that the  
4        welfare of the child or others is or will be immediately endangered unless the child is taken  
5        into protective custody.

6        (2) The Department of Human Services shall adopt rules clarifying the conditions, sur-  
7        roundings and circumstances that would comprise sufficient probable cause for taking a child  
8        into protective custody.

9        **SECTION 6.** ORS 419B.168 is amended to read:

10       419B.168. (1) If a child taken into protective custody is not released as provided in ORS 419B.165  
11       [*and the juvenile court for the county has not established the alternative procedure authorized in sub-*  
12       *section (4) of this section*], the person taking the child into **protective** custody shall[, *without unnec-*  
13       *essary delay, do one of the following*] **immediately**:

14       (a)(A) Take the child before [*the court or*] a person appointed by the court to effect disposition  
15       under [*ORS 419B.165.*] **ORS 419B.175 and comply with the provisions of ORS 419B.175; or**

16       [(b)] (B) Take the child to a place of detention or shelter care or a public or private agency  
17       designated by the court and as soon as possible thereafter notify the [*court*] **person appointed by**  
18       **the court to effect disposition under ORS 419B.175** that the child has been taken [*into custody*]  
19       **and placed at a location designated in this subparagraph; and**

20       (b) **Prepare the report required under ORS 419B.171.**

21       (2) Where a child residing in some other county is taken into protective custody the child may  
22       be:

23       (a) Released to the child’s parent or other responsible person in this state as provided in ORS  
24       419B.165.

25       (b) Delivered to a peace officer or juvenile counselor in the county in which the child resides,  
26       if such delivery can be made without unnecessary delay. In such event, the person to whom the child  
27       is delivered shall assume protective custody of the child and shall proceed as provided in this  
28       [*chapter*] **section.**

29       (3) Where a child is released or delivered as provided in subsection (2) of this section, the ju-  
30       risdiction of the juvenile court of the county in which the child resides shall attach from the time  
31       the child is taken into **protective** custody.

32       [(4) *The juvenile court may establish, as an alternative to the provisions of subsection (1) of this*  
33       *section, that if a child taken into protective custody is not released as provided in ORS 419B.165,*  
34       *procedures shall be followed that comply with the following:*]

35       [(a) *The person taking the child into custody may communicate, by telecommunications or other-*  
36       *wise, with the person appointed by the court to effect disposition under ORS 419B.175.*]

37       [(b) *After interviewing the person taking the child into custody and obtaining such other informa-*  
38       *tion as is considered necessary, the person appointed by the court under ORS 419B.175 to effect dis-*  
39       *position may exercise the authority granted under that section and shall, in such case, direct that the*  
40       *person taking the child into custody release the child or deliver the child in accordance with such di-*  
41       *rection.*]

42       [(c) *The person taking the child into custody shall comply with the direction of the person ap-*  
43       *pointed by the court to effect disposition.*]

44       **SECTION 7.** ORS 419B.171 is amended to read:

45       419B.171. Except where the child is taken into **protective** custody pursuant to an order of the

1 court, the person taking the child into **protective** custody shall promptly file with [*the court or a*  
 2 *counselor*] **the person appointed by the court to effect disposition under ORS 419B.175** a  
 3 [*brief*] written report stating all of the following:

4 (1) The child's name, age and address.

5 (2) The name and address of the person having legal or physical custody of the child.

6 (3) Efforts to notify the person having legal or physical custody of the child and the results of  
 7 those efforts.

8 (4) Reasons for and circumstances under which the child was taken into protective custody,  
 9 **including the factual basis for the person's belief that probable cause existed to take the**  
 10 **child into protective custody.**

11 (5) If the child is not taken to [*court*] **the person appointed by the court to effect disposition**  
 12 **under ORS 419B.175**, the placement of the child.

13 (6) If the child was not released, the reason why the child was not released.

14 (7) If the child is not taken to [*court*] **the person appointed by the court to effect disposition**  
 15 **under ORS 419B.175**, why the type of placement was chosen.

16 (8) Efforts to determine whether the child or the parents have any Indian heritage and the re-  
 17 sults of those efforts. If the child is an Indian child, the placement of the child shall be according  
 18 to the preferences and criteria set out in the Indian Child Welfare Act.

19 **SECTION 8.** ORS 419B.175 is amended to read:

20 419B.175. [(1) *This subsection establishes the authority and procedures that apply to a person*  
 21 *designated by a court to effect disposition of a child taken into protective custody or brought before the*  
 22 *court under ORS 419B.160, 419B.165, 419B.168 or 419B.171. The person shall, when the person has*  
 23 *taken custody of a child or has authority to effect disposition of a child taken into custody:*] (1) **The**  
 24 **juvenile court shall appoint a person to effect disposition of a child taken into protective**  
 25 **custody who shall have the authority and who shall carry out the procedures under this**  
 26 **section.**

27 (2) **If a child taken into protective custody is not released as provided in ORS 419B.165,**  
 28 **the person taking the child into protective custody shall immediately notify and provide to**  
 29 **the person appointed by the court to effect disposition under this section any reports and**  
 30 **records compiled, prepared, maintained or received by the Department of Human Services**  
 31 **or a law enforcement agency as required by section 13 of this 2011 Act.**

32 (3) **The person appointed by the court to effect disposition shall, as soon as possible after**  
 33 **being notified under subsection (2) of this section, interview the person who took the child**  
 34 **into protective custody and review the report prepared under ORS 419B.171.**

35 (4) **The person appointed by the court to effect disposition may also:**

36 (a) **Contact and interview the parent, guardian or other person responsible for the child**  
 37 **who was taken into protective custody;**

38 (b) **Contact and consider information that is provided by or requested from a county**  
 39 **multidisciplinary child abuse team under ORS 418.747 that has undertaken an investigation**  
 40 **of allegations of child abuse involving the child that was taken into protective custody;**

41 (c) **Contact and interview other individuals with information about the conditions, sur-**  
 42 **roundings and circumstances of the child before or at the time the child was taken into**  
 43 **protective custody; and**

44 (d) **Review any written information, reports or other documents that contain information**  
 45 **about the conditions, surroundings and circumstances of the child before or at the time the**

1 **child was taken into protective custody.**

2 **(5) Following the interviews, contacts and review of information under subsections (3)**  
 3 **and (4) of this section, the person appointed by the court to effect disposition shall determine**  
 4 **whether probable cause exists to take the child into protective custody.**

5 **(6) If a determination is made that probable cause does not exist to take the child into**  
 6 **protective custody, the person appointed by the court to effect disposition shall:**

7 (a) Release the child to the custody of a parent, guardian or other responsible person; **or**

8 (b) Release the child on the child's own recognizance when appropriate[;].

9 *[(c)]* **(7) If a determination is made that probable cause does exist to take the child into**  
 10 **protective custody, the person appointed by the court to effect disposition shall,** subject to  
 11 ORS 419B.121 or 419B.180, place the child in shelter care or detention **if the child has not already**  
 12 **been placed in shelter care or detention by the person taking the child into protective cus-**  
 13 **tody.** The child shall be placed in shelter care rather than detention, unless the *[person has prob-*  
 14 *able cause to believe that the]* court will be able to detain the child under ORS 419B.121. *[; or]*

15 *[(d) Pursuant to order of the court made after the filing of a petition, hold, retain or place the child*  
 16 *in shelter care subject to further order.]*

17 *[(2)]* **(8) If the child is released under subsection *[(1)(a)]* (6)(a) of this section, the person *[re-***  
 18 **leasing the child]** **appointed by the court to effect disposition** shall inform the juvenile court.

19 **(9) The person taking the child into protective custody shall comply with the direction**  
 20 **of the person appointed by the court to effect disposition.**

21 **SECTION 9.** ORS 419B.185 is amended to read:

22 419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody  
 23 pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in detention or  
 24 shelter care, **or where a person appointed by the court to effect disposition under ORS**  
 25 **419B.175 directs that a child be placed in shelter care or detention,** a parent, child or ward shall  
 26 be given the opportunity to present evidence to the court at the hearings specified in ORS 419B.183,  
 27 and at any subsequent review hearing, that the child or ward can be returned home without further  
 28 danger of suffering physical injury or emotional harm, endangering or harming others, or not re-  
 29 maining within the reach of the court process prior to adjudication. At the hearing:

30 (a) The court shall make written findings as to whether the Department of Human Services has  
 31 made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or  
 32 eliminate the need for removal of the child or ward from the home and to make it possible for the  
 33 child or ward to safely return home. When the court finds that no services were provided but that  
 34 reasonable services would not have eliminated the need for protective custody, the court shall con-  
 35 sider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies,  
 36 active efforts to prevent or eliminate the need for protective custody. The court shall include in the  
 37 written findings a brief description of the preventive and reunification efforts made by the depart-  
 38 ment.

39 (b) In determining whether a child or ward shall be removed or continued out of home, the court  
 40 shall consider whether the provision of reasonable services can prevent or eliminate the need to  
 41 separate the family.

42 (c) In determining whether the department has made reasonable efforts or, if the Indian Child  
 43 Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward  
 44 from the home and to make it possible for the child or ward to safely return home, the court shall  
 45 consider the child or ward's health and safety the paramount concerns.

1 (d) The court shall make a written finding in every order of removal that describes why it is in  
2 the best interests of the child or ward that the child or ward be removed from the home or contin-  
3 ued in care.

4 (e) When the court determines that a child or ward shall be removed from the home or contin-  
5 ued in care, the court shall make written findings whether the department made diligent efforts  
6 pursuant to ORS 419B.192. The court shall include in its written findings a brief description of the  
7 efforts made by the department.

8 (f) The court shall determine whether the child or ward is an Indian child as defined in ORS  
9 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

10 (g) The court may receive testimony, reports and other evidence without regard to whether the  
11 evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant  
12 to the determinations and findings required under this section. As used in this paragraph, "relevant  
13 evidence" has the meaning given that term in ORS 40.150.

14 (2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of  
15 this section, the department shall present written documentation to the court outlining:

16 (a) The efforts made to prevent taking the child or ward into protective custody and to provide  
17 services to make it possible for the child or ward to safely return home;

18 (b) The efforts the department made pursuant to ORS 419B.192; and

19 (c) Why protective custody is in the best interests of the child or ward.

20 **SECTION 10.** ORS 419B.035 is amended to read:

21 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and  
22 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records  
23 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
24 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
25 ment of Human Services shall make the records available to:

26 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of  
27 subsequent investigation of child abuse;

28 (b) Any physician, at the request of the physician, regarding any child brought to the physician  
29 or coming before the physician for examination, care or treatment;

30 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-  
31 ceeding;

32 (d) Citizen review boards established by the Judicial Department for the purpose of periodically  
33 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile  
34 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to  
35 participants in case reviews;

36 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged  
37 that a child has been subjected to child abuse or neglect;

38 (f) The Child Care Division for certifying, registering or otherwise regulating child care facili-  
39 ties;

40 (g) The Office of Children's Advocate;

41 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
42 342.176 involving any child or any student in grade 12 or below;

43 (i) Any person, upon request to the Department of Human Services, if the reports or records  
44 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
45 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be

1 disclosed in accordance with ORS 192.410 to 192.505; *[and]*

2 (j) The Child Care Division of the Employment Department for purposes of ORS 657A.030  
3 (8)(g); **and**

4 **(k) The person appointed by the court to effect disposition under ORS 419B.175.**

5 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-  
6 partment of Human Services may exempt from disclosure the names, addresses and other identifying  
7 information about other children, witnesses, victims or other persons named in the report or record  
8 if the department determines, in written findings, that the safety or well-being of a person named in  
9 the report or record may be jeopardized by disclosure of the names, addresses or other identifying  
10 information, and if that concern outweighs the public's interest in the disclosure of that information.

11 (b) If the Department of Human Services does not have a report or record of abuse regarding  
12 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
13 161.015, the department may disclose that information.

14 (3) The Department of Human Services may make reports and records compiled under the pro-  
15 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,  
16 agency, organization or other entity when the department determines that such disclosure is neces-  
17 sary to administer its child welfare services and is in the best interests of the affected child, or that  
18 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect  
19 children from abuse and neglect or for research when the Director of Human Services gives prior  
20 written approval. The Department of Human Services shall adopt rules setting forth the procedures  
21 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this  
22 section. The name, address and other identifying information about the person who made the report  
23 may not be disclosed pursuant to this subsection and subsection (1) of this section.

24 (4) A law enforcement agency may make reports and records compiled under the provisions of  
25 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-  
26 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement  
27 agency determines that disclosure is necessary for the investigation or enforcement of laws relating  
28 to child abuse and neglect.

29 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
30 case relating to child abuse or neglect, shall make reports and records in the case available upon  
31 request to any law enforcement agency or community corrections agency in this state, to the De-  
32 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose  
33 of managing and supervising offenders in custody or on probation, parole, post-prison supervision  
34 or other form of conditional or supervised release. A law enforcement agency may make reports and  
35 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,  
36 community corrections, corrections or parole agencies in an open case when the law enforcement  
37 agency determines that the disclosure will not interfere with an ongoing investigation in the case.  
38 The name, address and other identifying information about the person who made the report may not  
39 be disclosed under this subsection or subsection (6)(b) of this section.

40 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
41 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
42 vision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be  
43 kept confidential by the agency, department, board or physician. Any record or report disclosed by  
44 the Department of Human Services to other persons or entities pursuant to subsections (1) and (3)  
45 of this section shall be kept confidential.

1 (b) Notwithstanding paragraph (a) of this subsection:

2 (A) A law enforcement agency, a community corrections agency, the Department of Corrections  
 3 and the State Board of Parole and Post-Prison Supervision may disclose records made available to  
 4 them under subsection (5) of this section to each other, to law enforcement, community corrections,  
 5 corrections and parole agencies of other states and to authorized treatment providers for the pur-  
 6 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-  
 7 vision or other form of conditional or supervised release.

8 (B) A person may disclose records made available to the person under subsection (1)(i) of this  
 9 section if the records are disclosed for the purpose of advancing the public interest.

10 (7) An officer or employee of the Department of Human Services or of a law enforcement agency  
 11 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section  
 12 may not release any information not authorized by subsections (1) to (6) of this section.

13 (8) As used in this section, “law enforcement agency” has the meaning given that term in ORS  
 14 181.010.

15 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

16 **SECTION 11.** ORS 419B.035, as amended by section 4, chapter 348, Oregon Laws 2009, is  
 17 amended to read:

18 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and  
 19 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records  
 20 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
 21 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
 22 ment of Human Services shall make the records available to:

23 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of  
 24 subsequent investigation of child abuse;

25 (b) Any physician, at the request of the physician, regarding any child brought to the physician  
 26 or coming before the physician for examination, care or treatment;

27 (c) Attorneys of record for the child or child’s parent or guardian in any juvenile court pro-  
 28 ceeding;

29 (d) Citizen review boards established by the Judicial Department for the purpose of periodically  
 30 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile  
 31 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to  
 32 participants in case reviews;

33 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged  
 34 that a child has been subjected to child abuse or neglect;

35 (f) The Child Care Division for certifying, registering or otherwise regulating child care facili-  
 36 ties;

37 (g) The Office of Children’s Advocate;

38 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
 39 342.176 involving any child or any student in grade 12 or below; *[and]*

40 (i) Any person, upon request to the Department of Human Services, if the reports or records  
 41 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
 42 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
 43 disclosed in accordance with ORS 192.410 to 192.505; **and**

44 **(j) The person appointed by the court to effect disposition under ORS 419B.175.**

45 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-



1 partment of Human Services may exempt from disclosure the names, addresses and other identifying  
2 information about other children, witnesses, victims or other persons named in the report or record  
3 if the department determines, in written findings, that the safety or well-being of a person named in  
4 the report or record may be jeopardized by disclosure of the names, addresses or other identifying  
5 information, and if that concern outweighs the public's interest in the disclosure of that information.

6 (b) If the Department of Human Services does not have a report or record of abuse regarding  
7 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
8 161.015, the department may disclose that information.

9 (3) The Department of Human Services may make reports and records compiled under the pro-  
10 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,  
11 agency, organization or other entity when the department determines that such disclosure is neces-  
12 sary to administer its child welfare services and is in the best interests of the affected child, or that  
13 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect  
14 children from abuse and neglect or for research when the Director of Human Services gives prior  
15 written approval. The Department of Human Services shall adopt rules setting forth the procedures  
16 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this  
17 section. The name, address and other identifying information about the person who made the report  
18 may not be disclosed pursuant to this subsection and subsection (1) of this section.

19 (4) A law enforcement agency may make reports and records compiled under the provisions of  
20 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-  
21 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement  
22 agency determines that disclosure is necessary for the investigation or enforcement of laws relating  
23 to child abuse and neglect.

24 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
25 case relating to child abuse or neglect, shall make reports and records in the case available upon  
26 request to any law enforcement agency or community corrections agency in this state, to the De-  
27 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose  
28 of managing and supervising offenders in custody or on probation, parole, post-prison supervision  
29 or other form of conditional or supervised release. A law enforcement agency may make reports and  
30 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,  
31 community corrections, corrections or parole agencies in an open case when the law enforcement  
32 agency determines that the disclosure will not interfere with an ongoing investigation in the case.  
33 The name, address and other identifying information about the person who made the report may not  
34 be disclosed under this subsection or subsection (6)(b) of this section.

35 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
36 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
37 vision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be  
38 kept confidential by the agency, department, board or physician. Any record or report disclosed by  
39 the Department of Human Services to other persons or entities pursuant to subsections (1) and (3)  
40 of this section shall be kept confidential.

41 (b) Notwithstanding paragraph (a) of this subsection:

42 (A) A law enforcement agency, a community corrections agency, the Department of Corrections  
43 and the State Board of Parole and Post-Prison Supervision may disclose records made available to  
44 them under subsection (5) of this section to each other, to law enforcement, community corrections,  
45 corrections and parole agencies of other states and to authorized treatment providers for the pur-

1 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-  
2 vision or other form of conditional or supervised release.

3 (B) A person may disclose records made available to the person under subsection (1)(i) of this  
4 section if the records are disclosed for the purpose of advancing the public interest.

5 (7) An officer or employee of the Department of Human Services or of a law enforcement agency  
6 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section  
7 may not release any information not authorized by subsections (1) to (6) of this section.

8 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
9 181.010.

10 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

11 **SECTION 12. Section 13 of this 2011 Act is added to and made a part of ORS chapter**  
12 **419B.**

13 **SECTION 13. Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505**  
14 **and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of**  
15 **public records and public documents, reports and records compiled, prepared, maintained or**  
16 **received by the Department of Human Services or a law enforcement agency in connection**  
17 **with a child taken, or about to be taken, into protective custody under ORS 419B.150 are**  
18 **confidential and may not be disclosed except that all reports and records described in this**  
19 **section shall be made available to the person appointed by the court to effect disposition**  
20 **under ORS 419B.175.**

21 **SECTION 14. Sections 5 and 13 of this 2011 Act and the amendments to ORS 419B.035,**  
22 **419B.150, 419B.160, 419B.165, 419B.168, 419B.171, 419B.175 and 419B.185 by sections 1 to 3 and**  
23 **6 to 11 of this 2011 Act apply to protective custody determinations made on or after the ef-**  
24 **fective date of this 2011 Act.**

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