

D R A F T

SUMMARY

Exempts employee of higher education institution who is performing research in child abuse and neglect, human trafficking or underage prostitution from mandatory child abuse report law unless employee reasonably believes child is at imminent risk of harm.

Sunsets January 1, 2017.

A BILL FOR AN ACT

1
2 Relating to exceptions to mandatory child abuse reporting laws; creating new
3 provisions; and amending ORS 419B.010.

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

5 **SECTION 1.** ORS 419B.010, as amended by section 11, chapter 92, Oregon
6 Laws 2012, is amended to read:

7 419B.010. (1) **Except as otherwise provided in this section,** any public
8 or private official having reasonable cause to believe that any child with
9 whom the official comes in contact has suffered abuse or that any person
10 with whom the official comes in contact has abused a child shall immediately
11 report or cause a report to be made in the manner required in ORS 419B.015.

12 (2) Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the
13 duty to report imposed by this section, except that a psychiatrist, psychol-
14 ogist, member of the clergy, attorney or guardian ad litem appointed under
15 ORS 419B.231 is not required to report such information communicated by
16 a person if the communication is privileged under ORS 40.225 to 40.295 or
17 419B.234 (6).

18 (3) An attorney is not required to make a report under this section by
19 reason of information communicated to the attorney in the course of repre-

1 sending a client if disclosure of the information would be detrimental to the
2 client.

3 **(4) An employee of a higher education institution is not required**
4 **to make a report under this section by reason of information com-**
5 **municated to the employee if the employee acquires the information**
6 **in the employee's official capacity as a researcher conducting research**
7 **for the higher education institution in the area of child abuse and**
8 **neglect, human trafficking or underage prostitution, unless the em-**
9 **ployee reasonably believes that the child is at imminent risk of harm.**

10 [(2)] **(5)** *[Notwithstanding subsection (1) of this section,]* A report need not
11 be made under this section if the public or private official acquires infor-
12 mation relating to abuse by reason of a report made under this section, or
13 by reason of a proceeding arising out of a report made under this section,
14 and the public or private official reasonably believes that the information is
15 already known by a law enforcement agency or the Department of Human
16 Services.

17 [(3)] **(6)** The duty to report under this section is personal to the public
18 or private official alone, regardless of whether the official is employed by,
19 a volunteer of or a representative or agent for any type of entity or organ-
20 ization that employs persons or uses persons as volunteers who are public
21 or private officials in its operations.

22 [(4)] **(7)** The duty to report under this section exists regardless of whether
23 the entity or organization that employs the public or private official or uses
24 the official as a volunteer has its own procedures or policies for reporting
25 abuse internally within the entity or organization.

26 [(5)] **(8)** A person who violates *[subsection (1) of]* this section commits a
27 Class A violation. Prosecution under this subsection shall be commenced at
28 any time within 18 months after commission of the offense.

29 **SECTION 2.** ORS 419B.010, as amended by section 1 of this 2013 Act, is
30 amended to read:

31 419B.010. (1) Except as otherwise provided in this section, any public or

1 private official having reasonable cause to believe that any child with whom
2 the official comes in contact has suffered abuse or that any person with
3 whom the official comes in contact has abused a child shall immediately re-
4 port or cause a report to be made in the manner required in ORS 419B.015.

5 (2) Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the
6 duty to report imposed by this section, except that a psychiatrist, psychol-
7 ogist, member of the clergy, attorney or guardian ad litem appointed under
8 ORS 419B.231 is not required to report such information communicated by
9 a person if the communication is privileged under ORS 40.225 to 40.295 or
10 419B.234 (6).

11 (3) An attorney is not required to make a report under this section by
12 reason of information communicated to the attorney in the course of repre-
13 senting a client if disclosure of the information would be detrimental to the
14 client.

15 [(4) *An employee of a higher education institution is not required to make*
16 *a report under this section by reason of information communicated to the em-*
17 *ployee if the employee acquires the information in the employee's official ca-*
18 *pacuity as a researcher conducting research for the higher education institution*
19 *in the area of child abuse and neglect, human trafficking or underage*
20 *prostitution, unless the employee reasonably believes that the child is at im-*
21 *minent risk of harm.*]

22 [(5)] (4) [Notwithstanding subsection (1) of this section,] A report need not
23 be made under this section if the public or private official acquires infor-
24 mation relating to abuse by reason of a report made under this section, or
25 by reason of a proceeding arising out of a report made under this section,
26 and the public or private official reasonably believes that the information is
27 already known by a law enforcement agency or the Department of Human
28 Services.

29 [(6)] (5) The duty to report under this section is personal to the public
30 or private official alone, regardless of whether the official is employed by,
31 a volunteer of or a representative or agent for any type of entity or organ-

1 ization that employs persons or uses persons as volunteers who are public
2 or private officials in its operations.

3 [(7)] (6) The duty to report under this section exists regardless of whether
4 the entity or organization that employs the public or private official or uses
5 the official as a volunteer has its own procedures or policies for reporting
6 abuse internally within the entity or organization.

7 [(8)] (7) A person who violates [*subsection (1) of*] this section commits a
8 Class A violation. Prosecution under this subsection shall be commenced at
9 any time within 18 months after commission of the offense.

10 **SECTION 3. The amendments to ORS 419B.010 by section 2 of this**
11 **2013 Act become operative on January 1, 2017.**

12 **SECTION 4. The amendments to ORS 419B.010 by section 1 of this**
13 **2013 Act apply to reports required to be made under ORS 419B.010**
14 **based on contacts with a child or with a person who has abused a child**
15 **that take place on or after the effective date of this 2013 Act.**

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