

Enrolled Senate Bill 819

Sponsored by Senators GELSER, OLSEN; Representatives RESCHKE, SOLLMAN

CHAPTER

AN ACT

Relating to Critical Incident Response Teams; creating new provisions; amending ORS 419B.024; and declaring an emergency.

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

SECTION 1. ORS 419B.024 is amended to read:

419B.024. (1) The Department of Human Services shall assign a Critical Incident Response Team [within 24 hours] after the department [determines that] **becomes aware of** a child fatality **that** was likely the result of child abuse or neglect **within timelines for assignment established by rules adopted by the department** if:

(a) The child was in the custody of the department at the time of death; [or]

(b) The child, **the child's sibling or any other child living in the household with the child** was the subject of a child protective services assessment by the department within the 12 months preceding the fatality[.];

(c) **The child, the child's sibling or any other child living in the household with the child had a pending child welfare or adoption case with the department within the 12 months preceding the fatality; or**

(d) **The child, the child's sibling or any other child living in the household with the child was the subject of a report of abuse or neglect made to the department or a law enforcement agency within the 12 months preceding the fatality, whether or not the report was closed at screening without an investigation being commenced.**

(2)(a) Members of the Critical Incident Response Team shall include, at a minimum, the following:

(A) **The Director of Human Services;**

(B) **The lead Department of Human Services personnel responsible for the administration and oversight of the child welfare system within the department; and**

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

(b) **The following may be assigned to a Critical Incident Response Team:**

(A) **Members of the public, appointed by the Director of Human Services, as appropriate;**

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

(C) **A state Senator appointed by the President of the Senate and a state Representative appointed by the Speaker of the House of Representatives.**

[2)] (3)(a) During the course of its review of the case, the Critical Incident Response Team may include or consult with the district attorney from the county in which the incident resulting in the fatality occurred.

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

(4) All information and records available to the Department of Human Services regarding the incident that led to the fatality shall be provided to Critical Incident Response Team members. Information and records under this subsection include, but are not limited to, medical records, hospital records, records maintained by any state, county or local agency, police investigative data, coroner or medical examiner investigative data and social services records, as necessary to complete a case review under this section. Information and records provided to team members are confidential and may be disclosed only as necessary to carry out the purposes of the team's case review.

(5) In reviewing the case to which the Critical Incident Response Team has been assigned, the team shall, with the assistance and cooperation of the Department of Human Services:

(a) Review and investigate the case with the primary focus on the safety and well-being of the child who was involved in the incident that led to the fatality and any other children who may be impacted by the circumstances surrounding the incident.

(b) Document and make a part of the record of the case review all team conclusions and decisions.

(c) Complete the case review even if the team concludes that the incident that led to the fatality was the result of the actions of one or more department employees or staff and that such actions were inconsistent with department policy or administrative rule.

(d) Subject to subsection (6) of this section, submit an initial written report to the department that includes information about the team's case review status, team conclusions and recommendations at the time of the initial report and identification of systemic issues that the team has concluded led to the fatality. The initial report may not contain confidential information or records that may not be disclosed to members of the public. The initial report must be submitted as soon as possible but no later than 60 days following assignment of the team under this section.

(e) Subject to subsection (6) of this section and if the team's case review is not complete prior to preparation of an initial report, submit a progress report to the department every 30 days following submission of the initial report.

(f) Subject to subsection (6) of this section, submit a detailed final written report to the department upon conclusion of the team's case review that includes, but is not limited to:

(A) A description of the incident that resulted in the fatality and of the events that led to the incident;

(B) A description of any concerns raised by actions taken or not taken by the department or law enforcement agencies in response to the incident or to the events that led to the incident;

(C) Recommendations for improvements in the administration and oversight of the child welfare system that are specific to the case reviewed by the team;

(D) A description of actions that are necessary to implement the recommendations and of timelines, tasks and responsible individuals to implement the recommendations; and

(E) Methods to evaluate implementation of the recommendations and expected outcomes.

(g) Prepare a version of the final written report described in paragraph (f) of this subsection that does not contain confidential information or records that may not be disclosed and that may be made accessible to members of the public.

(6)(a) Prior to submitting an initial report, a progress report or a final report to the department as described in subsection (5) of this section, the Critical Incident Response Team shall take into consideration the following:

(A) Whether submission of the report is likely to compromise an ongoing investigation of a law enforcement agency, after the team has communicated with and obtained agreement of appropriate law enforcement agency representatives and the district attorney;

(B) Whether the report can be modified so as to permit submission of the report to the department without compromising a law enforcement agency investigation; and

(C) Whether, as determined by the team with the advice and consultation of the Director of Human Services, the public interest outweighs the potential consequences to a law enforcement agency investigation as provided in ORS 192.501 (3).

(b) The director may extend the deadline for submission of an initial report, a progress report or a final report if the director determines that a delay is reasonable or if the report, even if modified, will compromise a law enforcement agency investigation and the public interest does not outweigh the potential consequences.

(c) If the director delays the submission of a report under this subsection, the department's website must reflect the status of and expected submission date for the report.

(7) If the Critical Incident Response Team concludes that the incident that led to the fatality involves personnel matters relevant to the Department of Human Services, the team shall refer the matters to the human resources or personnel divisions of the department.

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

[(3)] (9) The Department of Human Services shall adopt rules necessary to carry out the provisions of this section. The rules adopted by the department shall substantially conform with the department's child welfare protocol regarding Notification and Review of Critical Incidents.

SECTION 2. The amendments to ORS 419B.024 by section 1 of this 2017 Act apply to Critical Incident Response Teams assigned on or after the effective date of this 2017 Act.

SECTION 3. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by Senate April 25, 2017

Repassed by Senate June 12, 2017

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Lori L. Bocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 6, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State