

# Senate Bill 244

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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 **as introduced**.

Establishes notification requirements of Department of Human Services regarding reported or suspected deficiencies, violations or failures of child-caring agency to comply with full compliance requirements and regarding reports of suspected child abuse of child in care.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to notifications required regarding child-caring agencies; amending ORS 418.260 and  
3 sections 37 and 38, chapter 106, Oregon Laws 2016; and declaring an emergency.

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

5 **SECTION 1.** ORS 418.260, as amended by section 11, chapter 106, Oregon Laws 2016, is  
6 amended to read:

7 418.260. (1) If the Department of Human Services **receives a report or otherwise** becomes  
8 aware that any suspected [*or founded abuses,*] deficiencies, violations or failures to comply with the  
9 full compliance requirements described in ORS 418.240 are occurring in a child-caring agency,  
10 whether as a part of the inspections undertaken pursuant to ORS 418.255 or otherwise, the depart-  
11 ment shall immediately **notify appropriate personnel within the department, including but not**  
12 **limited to employees responsible for licensing, certifying or authorizing child-caring agencies,**  
13 **who shall** investigate and take appropriate action **without undue delay**, with primary concern  
14 given to the health, safety and welfare of the children for whom the child-caring agency is respon-  
15 sible. [*The department shall immediately report the alleged abuses, deficiencies or violations to the state*  
16 *or governmental agency or unit, governing board, trustees, owners, managers or operators or other*  
17 *appropriate authorities responsible for the child-caring agency. The department shall immediately notify*  
18 *any governmental agency or unit that has a contract with the child-caring agency to provide care or*  
19 *services to a child of the alleged abuses, deficiencies, violations or failures to comply.] The department  
20 may notify law enforcement agencies as necessary to coordinate and assist in the investigation and  
21 enforcement of corrective actions undertaken by the department. **If the child-caring agency is**  
22 **known or found to serve children committed to the care of the Oregon Youth Authority or**  
23 **the developmental disabilities office within the department, the department shall notify those**  
24 **entities of the report or suspected deficiencies, violations or failures.***

25 (2) If the department finds, after investigation by the department or law enforcement agencies,  
26 that the [*abuses,*] deficiencies, violations or failures to comply are founded **or that a report of**  
27 **abuse of a child in care has been substantiated**, the department may suspend, revoke or place  
28 conditions on the license, certificate or other authorization of the child-caring agency. The condi-  
29 tions placed on a license, certificate or authorization may include, but are not limited to, placing full

**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 or partial restrictions on admission of children, temporary suspension, limitation of operations sub-  
 2 ject to an intent to revoke or limitation of operations subject to correction of violations as specified  
 3 in a plan of correction. If the department imposes a plan of correction, and the corrections are not  
 4 made within 45 days from the effective date of the plan of correction, the department may imme-  
 5 diately suspend or revoke the license, certificate or authorization of the child-caring agency. The  
 6 department shall immediately notify any [*governmental agency or unit*] **state agency** that has a  
 7 contract with the child-caring agency to provide care or services to a child of any suspension or  
 8 revocation of, or conditions placed on, the license, certificate or other authorization of the child-  
 9 caring agency.

10 (3) If the department determines at any time during or after an investigation that the abuses,  
 11 deficiencies, violations or failures to comply are or threaten a serious danger to any child or to the  
 12 public, or place a child at risk with respect to the child's health, safety or welfare, the department  
 13 may immediately suspend, [*or*] revoke **or place conditions on** the child-caring agency's license,  
 14 certificate or authorization, subject to the provisions of ORS chapter 183. The department shall im-  
 15 mediately notify any [*governmental agency or unit*] **state agency** that has a contract with the  
 16 child-caring agency to provide care or services to a child of any suspension or revocation of the li-  
 17 cense, certificate or other authorization of the child-caring agency. **The department shall imme-**  
 18 **diately report the alleged deficiencies or violations to the state agency and the governing**  
 19 **board responsible for the oversight of the child-caring agency.**

20 (4) If the department determines that the [*abuses,*] deficiencies, violations or failures to comply  
 21 are founded and the department imposes a plan of correction that the child-caring agency does not  
 22 comply with in the time allotted for correction, the department shall immediately notify the follow-  
 23 ing of the failure of the child-caring agency to comply with the plan of correction:

24 (a) The Legislative Assembly or the interim committees of the Legislative Assembly relating to  
 25 child welfare.

26 (b) [*The state or governmental agency or unit, governing board, trustees, owners, managers or op-*  
 27 *erators or other appropriate authorities*] **Members of the governing board** responsible for the  
 28 child-caring agency.

29 (c) Any [*governmental agency or unit*] **state agency** that has a contract with the child-caring  
 30 agency to provide care or services to a child.

31 (5) Any employee of the department that has reasonable cause to believe that a child-caring  
 32 agency has committed an abuse or incurred a deficiency or violation, or that grounds for immediate  
 33 suspension or revocation of a license, certificate or authorization exist under ORS 418.240, and that  
 34 such [*abuse,*] deficiency, violation or grounds is or threatens a danger to any child at the child-  
 35 caring agency or to the public, or places a child at risk with respect to the child's health, safety  
 36 or welfare, is required to immediately inform the Director of Human Services, the director's designee  
 37 or such other personnel in the department designated to receive such information. Upon receipt of  
 38 an employee report under this subsection, the director and department personnel shall immediately  
 39 commence an investigation and take all reasonably prudent and necessary actions to ensure the  
 40 health, safety and welfare of children at the child-caring agency. Failure to commence an investi-  
 41 gation and take actions as required by this subsection constitutes official misconduct in the second  
 42 degree under ORS 162.405.

43 **SECTION 2.** Section 37, chapter 106, Oregon Laws 2016, is amended to read:

44 **Sec. 37.** (1) When the Department of Human Services becomes aware of a report of suspected  
 45 child abuse of a child in care, whether in the form of an allegation, complaint or formal report made

1 under this section, and whether made directly to the Director of Human Services, the department  
2 or an employee of the department, to a hotline operated by the department, through the mandatory  
3 abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall  
4 immediately:

5 (a) Notify appropriate personnel within the department, including but not limited to employees  
6 responsible for licensing, certifying or authorizing [*child-care*] **child-caring** agencies.

7 (b) Notify any [*governmental agency or unit*] **state agency** that has a contract with the child-  
8 caring agency to provide care or services to the child in care.

9 (c) Commence an investigation to determine whether the report of suspected abuse is substan-  
10 tiated, unsubstantiated or inconclusive under section 38, **chapter 106, Oregon Laws 2016** [*of this*  
11 *2016 Act*].

12 (d) Report to a law enforcement agency any crime that the department has reason to believe  
13 has occurred with respect to a child in care or at a child-caring agency or proctor foster home, even  
14 if the suspected crime is not related to a report of abuse made under this section.

15 (2) As a condition for issuance or renewal of a license, certificate or authorization to a child-  
16 caring agency under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970, the department  
17 shall require and verify that the child-caring agency has procedures and protocols that:

18 (a) Require employees of the child-caring agency, or a proctor foster home certified by the  
19 child-caring agency, to immediately report suspected abuse of a child in care to the director, the  
20 director's designee or personnel within the department who have been specifically designated to  
21 receive reports of abuse of children in care;

22 (b) Mandate that the child-caring agency provide an annual training and written materials that  
23 include information about the child abuse reporting hotline, and that the agency advise and educate  
24 employees of the child-caring agency, and employees of any proctor foster home certified by the  
25 child-caring agency, of the duty under this section **and ORS 419B.005 to 419B.050** to report abuse  
26 of a child in care; and

27 (c) Inform employees of child-caring agencies and proctor foster homes that the duty to report  
28 abuse of a child in care is personal to the employee and that the duty is not fulfilled by reporting  
29 the abuse to the owner, operator or any other employee of the child-caring agency or proctor foster  
30 home even if the owner, operator or other employee reports the abuse of a child in care to the di-  
31 rector, the director's designee or the department.

32 (3) Interference or hindering an investigation of abuse of a child in care, including but not lim-  
33 ited to the intimidation of witnesses, falsification of records or denial or limitation of interviews  
34 with the child in care who is the subject of the investigation or with witnesses, may constitute  
35 grounds for the revocation, suspension or placing of conditions on the license, certificate or other  
36 authorization of a child-caring agency or proctor foster home.

37 (4)(a) Anyone, including but not limited to an employee of a child-caring agency or proctor foster  
38 home, who makes a report of suspected abuse of a child in care to the Governor, the Department  
39 of Justice, the Director of Human Services, the director's designee or the department under this  
40 section in good faith and who has reasonable grounds for the making of the report shall have im-  
41 munity:

42 (A) From any liability, civil or criminal, that might otherwise be incurred or imposed with re-  
43 spect to the making or content of such report;

44 (B) From disciplinary action taken by the person's employer; and

45 (C) With respect to participating in any judicial proceeding resulting from or involving the re-

1 port.

2 (b) A person making a report under this section may include references to otherwise confidential  
3 information for the sole purpose of making the report, and any such disclosure must be protected  
4 from further disclosure to other persons or entities for any other purpose not related to the making  
5 of the report.

6 **SECTION 3.** Section 38, chapter 106, Oregon Laws 2016, is amended to read:

7 (1) The investigation conducted by the Department of Human Services under section 37, **chapter**  
8 **106, Oregon Laws 2016, [of this 2016 Act]** must result in one of the following findings:

9 (a) That the report is substantiated. A report is substantiated when there is reasonable cause  
10 to believe that the abuse of a child in care occurred.

11 (b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence  
12 that the abuse of a child in care occurred.

13 (c) That the report is inconclusive. A report is inconclusive when there is some indication that  
14 the abuse occurred but there is insufficient evidence to conclude that there is reasonable cause to  
15 believe that the abuse occurred.

16 (2) When a report is received under section 37, **chapter 106, Oregon Laws 2016, [of this 2016**  
17 **Act]** alleging that a child in care may have been subjected to abuse, the department shall notify **the**  
18 **case managers for the child**, the attorney for the child, the child's court appointed special advo-  
19 cate, the parents or guardians of the child, any attorney representing a parent or guardian of the  
20 child and any *[governmental agency or unit]* **state agency** that has a contract with the child-caring  
21 agency to provide care or services to the child that a report has been received.

22 (3) The department may interview the child in care who is the subject of suspected abuse and  
23 witnesses without the presence of child-caring agency or proctor foster home employees or depart-  
24 ment personnel. The department shall inform the child in care that the child may have the child's  
25 parent or guardian, if the child has not been committed to the custody of the department or the  
26 Oregon Youth Authority, or attorney present when participating in an interview conducted in the  
27 course of an abuse investigation.

28 (4) The department shall notify the following when a report of abuse is substantiated:

29 (a) The Director of Human Services.

30 (b) Personnel in the department responsible for the licensing, certificate or authorization of  
31 child-caring agencies.

32 (c) The department's lead personnel in that part of the department that is responsible for child  
33 welfare generally.

34 *[(d) With respect to the child in care who is the subject of the abuse report and investigation:]*

35 *[(A) Case managers for the child in care;]*

36 *[(B) The court appointed special advocate, if any, for the child in care; and]*

37 *[(C) The attorney for the child in care, if any.]*

38 **(d) With respect to the child in care who is the subject of the abuse report and investi-**  
39 **gation, the case managers for the child, the attorney for the child, the child's court ap-**  
40 **pointed special advocate, the parents or guardians of the child, any attorney representing a**  
41 **parent or guardian of the child and any state agency that has a contract with the child-**  
42 **caring agency to provide care or services to the child.**

43 (e) The parents or guardians of the child in care who is the subject of the abuse report and in-  
44 vestigation if the child in care has not been committed to the custody of the department or the  
45 youth authority. Notification under this paragraph may not include any details or information other

1 than that a report of abuse has been substantiated.

2 *[(f) The parents or guardians of each child in care that is residing, or receiving care or services,*  
3 *at the child-caring agency or proctor foster home that is the subject of the report and investigation, if*  
4 *the child in care has not been committed to the custody of the department or the youth authority. No-*  
5 *notification under this paragraph may not include any details or information other than that a report of*  
6 *abuse has been substantiated.]*

7 [(g)] (f) Any [governmental agency or unit] **state agency** that has a contract with the child-  
8 caring agency to provide care or services to a child in care.

9 (5) The department shall report on a quarterly basis to the interim legislative committees on  
10 child welfare for the purposes of public review and oversight of the quality and safety of child-caring  
11 agencies that are licensed, certified or authorized by the department in this state and of proctor  
12 foster homes that are certified by the child-caring agencies. Information provided in reports under  
13 this subsection may not contain the name or any identifying information of a child in care but must  
14 contain all of the following:

15 (a) The name of any child-caring agency or proctor foster home where the department conducted  
16 an investigation pursuant to section 37, **chapter 106, Oregon Laws 2016**, [of this 2016 Act] that  
17 resulted in a finding that the report of abuse was substantiated during that quarter;

18 (b) The approximate date that the abuse occurred;

19 (c) The nature of the abuse and a brief narrative description of the abuse that occurred;

20 (d) Whether physical injury, sexual abuse or death resulted from the abuse; and

21 (e) Corrective actions taken or ordered by the department and the outcome of the corrective  
22 actions.

23 **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**  
24 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
25 **on its passage.**

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