

A-Engrossed
Senate Bill 268

Ordered by the Senate April 26
Including Senate Amendments dated April 26

Sponsored by Senator GELSER (Pre-session filed.)

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.

[Requires Department of Human Services and law enforcement agencies to investigate reports of abuse that occurred at school or in educational setting or that are made by school employees.]

[Establishes requirements for investigations of reports of alleged abuse occurring in nonfamily setting. Requires investigators of reports of abuse occurring in nonfamily setting to have training specific to unique circumstances of nonfamily settings.]

[Declares emergency, effective on passage.]

Requires Department of Human Services to make records regarding investigation of report of child abuse occurring at school or in educational setting that involves child with disability available to Disability Rights Oregon.

A BILL FOR AN ACT

1
2 Relating to investigation of reports of child abuse; creating new provisions; and amending ORS
3 419B.035.

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

5 **SECTION 1.** ORS 419B.035 is amended to read:

6 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and
7 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
8 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
9 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
10 ment of Human Services shall make the records available to:

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

13 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
14 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
15 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
16 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
17 tion, care or treatment;

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

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

24 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged

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 that a child has been subjected to child abuse or neglect;

2 (f) The Office of Child Care for certifying, registering or otherwise regulating child care faci-
3 ties;

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

5 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
6 342.176 involving any child or any student in grade 12 or below;

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

11 (j) The Office of Child Care for purposes of ORS 329A.030 (8)(g); and

12 **(k) With respect to a report of abuse occurring at a school or in an educational setting**
13 **that involves a child with a disability, Disability Rights Oregon.**

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

20 (b) If the Department of Human Services does not have a report or record of abuse regarding
21 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
22 161.015, the department may disclose that information.

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

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

38 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
39 case relating to child abuse or neglect, shall make reports and records in the case available upon
40 request to any law enforcement agency or community corrections agency in this state, to the De-
41 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
42 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
43 or other form of conditional or supervised release. A law enforcement agency may make reports and
44 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
45 community corrections, corrections or parole agencies in an open case when the law enforcement

1 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
2 The name, address and other identifying information about the person who made the report may not
3 be disclosed under this subsection or subsection (6)(b) of this section.

4 (6)(a) Any record made available to a law enforcement agency or community corrections agency
5 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-
6 vision or to a physician, physician assistant or nurse practitioner in this state, as authorized by
7 subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board,
8 physician, physician assistant or nurse practitioner. Any record or report disclosed by the Depart-
9 ment of Human Services to other persons or entities pursuant to subsections (1) and (3) of this sec-
10 tion shall be kept confidential.

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

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

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

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

23 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
24 181A.010.

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

26 **SECTION 2. The amendments to ORS 419B.035 by section 1 of this 2017 Act apply to re-**
27 **ports and records compiled under the provisions of ORS 419B.010 to 419B.050 on or after the**
28 **effective date of this 2017 Act.**