

**A-Engrossed**  
**Senate Bill 819**

Ordered by the Senate April 21  
Including Senate Amendments dated April 21

Sponsored by Senators GELSER, OLSEN

**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.

Expands parameters of duties and responsibilities of Critical Incident Response Team assigned by Department of Human Services upon becoming aware of fatality of child that was result of abuse or neglect.

Sets forth membership of team. **Requires all members of team to attend meetings in person, by telephone or by other two-way electronic communication device.** Requires department to provide team members with all available information and records. Requires team to submit initial, progress and final reports to department within specified timelines. [*Describes requirements for maintaining record of team's case review.*] **Places limits on examination of public member assigned to team and person who provided information to team in civil or administrative proceedings. Places limits on discovery and admission into evidence of record of team's case review and use of record of case review in civil or administrative proceeding.** Directs team to refer to department personnel matters that led to incident of fatality. **Requires team to meet upon conclusion of criminal investigation or prosecution of child fatality with members of law enforcement that investigated fatality or prosecuted case for purpose of reviewing team's conclusions, recommendations and reports.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to Critical Incident Response Teams; creating new provisions; amending ORS 419B.024; and  
3 declaring an emergency.

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

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

6 419B.024. (1) The Department of Human Services shall assign a Critical Incident Response Team  
7 [*within 24 hours*] after the department [*determines that*] **becomes aware of a child fatality that** was  
8 likely the result of child abuse or neglect **within timelines for assignment established by rules**  
9 **adopted by the department if:**

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

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

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

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

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

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

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

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

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

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

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

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

12       **[(2)] (3)(a) During the course of its review of the case, the Critical Incident Response Team may**  
13 **include or consult with the district attorney from the county in which the incident resulting in the**  
14 **fatality occurred.**

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

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

28       **(5) In reviewing the case to which the Critical Incident Response Team has been as-**  
29 **signed, the team shall, with the assistance and cooperation of the Department of Human**  
30 **Services:**

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

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

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

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

1 (e) Subject to subsection (6) of this section and if the team’s case review is not complete  
2 prior to preparation of an initial report, submit a progress report to the department every  
3 30 days following submission of the initial report.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (7)(a) A public member assigned to a Critical Incident Response Team under subsection  
37 (2)(b)(A) of this section may not be examined in a civil or administrative proceeding regard-  
38 ing:

39 (A) A case review to which the team member was assigned;

40 (B) The incident that led to a child fatality in a case review to which the team member  
41 was assigned; or

42 (C) Statements, deliberations, thoughts, analyses or impressions of the team member in  
43 a case review to which the member was assigned.

44 (b) A person who provided information to a team may not be examined in a civil or ad-  
45 ministrative proceeding regarding statements, deliberations, thoughts, analyses or im-

1 **pressions of that person. A person is not unavailable as a witness merely because the person**  
2 **has been interviewed by a team or has provided a statement to a team in a case review but,**  
3 **if called as a witness, the person may not be examined regarding the person's interactions**  
4 **with the team in a case review including whether the person was interviewed, the questions**  
5 **that were asked of the person and the answers that the person provided. This paragraph**  
6 **may not be construed as restricting the person from testifying in any proceeding regarding**  
7 **the person's actual knowledge of the incident that is the subject of a team case review.**

8 **(c) The record of the case review of a team assigned under this section, including but**  
9 **not limited to records received, prepared and maintained by the team, is subject to discovery**  
10 **in a civil or administrative proceeding but may not be admitted into evidence or otherwise**  
11 **used in a civil or administrative proceeding except that records or documents that existed**  
12 **before use or consideration in a team case review, or that were created independently of**  
13 **such a review, do not become inadmissible merely because the records or documents were**  
14 **used or considered in a team case review.**

15 **(d) The provisions of this subsection do not apply in a licensing or disciplinary proceeding**  
16 **arising from an agency's effort to revoke or suspend the license of any licensed professional**  
17 **based in whole or in part upon allegations of wrongdoing in connection with a child fatality**  
18 **reviewed by a team under this section.**

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

22 **(9) The Critical Incident Response Team shall meet, upon conclusion of a criminal in-**  
23 **vestigation or prosecution arising out of a child fatality to which the team was assigned for**  
24 **review, with members of law enforcement that investigated the child fatality or with the**  
25 **prosecuting attorneys who prosecuted the case for the purpose of reviewing the conclusions**  
26 **and recommendations of the team and the reports prepared and submitted by the team.**

27 **[(3)] (10) The Department of Human Services shall adopt rules necessary to carry out the**  
28 **provisions of this section. The rules adopted by the department shall substantially conform with the**  
29 **department's child welfare protocol regarding Notification and Review of Critical Incidents.**

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

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

35