

House Bill 2481

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Defines "reports and records" for purposes of public records in child abuse investigations.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public records in child abuse investigations; amending ORS 342.176 and 419B.035; and
3 declaring an emergency.

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 192.478 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 **reports and** 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, naturopathic phy-
14 sician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390,
15 at the request of the physician, physician assistant, naturopathic physician or nurse practitioner,
16 regarding any child brought to the physician, physician assistant, naturopathic physician or nurse
17 practitioner or coming before the physician, physician assistant, naturopathic physician or nurse
18 practitioner for examination, care or treatment;

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

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

25 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
26 that a child has been subjected to child abuse or neglect;

27 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-
28 ties;

29 (g) The Office of Children's Advocate;

30 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
31 342.176 involving any child or any student in grade 12 or below;

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 (i) Any person, upon request to the Department of Human Services, if the reports [*or*] **and** re-
 2 cords requested regard an incident in which a child, as the result of abuse, died or suffered serious
 3 physical injury as defined in ORS 161.015. Reports [*or*] **and** records disclosed under this paragraph
 4 must be disclosed in accordance with ORS 192.311 to 192.478;

5 (j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and (i); and

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

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

14 (b) If the Department of Human Services does not have a report or record of abuse regarding
 15 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
 16 161.015, the department may disclose that information.

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

27 (4) A law enforcement agency may make reports and records compiled under the provisions of
 28 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-
 29 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement
 30 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
 31 to child abuse and neglect or necessary to determine a claim for crime victim compensation under
 32 ORS 147.005 to 147.367.

33 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
 34 case relating to child abuse or neglect, shall make reports and records in the case available upon
 35 request to any law enforcement agency or community corrections agency in this state, to the De-
 36 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
 37 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
 38 or other form of conditional or supervised release. A law enforcement agency may make reports and
 39 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
 40 community corrections, corrections or parole agencies in an open case when the law enforcement
 41 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
 42 The name, address and other identifying information about the person who made the report may not
 43 be disclosed under this subsection or subsection (6)(b) of this section.

44 (6)(a) Any [*record*] **reports and records** made available to a law enforcement agency or com-
 45 munity corrections agency in this state, to the Department of Corrections or the State Board of

1 Parole and Post-Prison Supervision or to a physician, physician assistant, naturopathic physician or
 2 nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept
 3 confidential by the agency, department, board, physician, physician assistant, naturopathic physician
 4 or nurse practitioner. Any [*record or report*] **reports and records** disclosed by the Department of
 5 Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall
 6 be kept confidential.

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

8 (A) A law enforcement agency, a community corrections agency, the Department of Corrections
 9 and the State Board of Parole and Post-Prison Supervision may disclose **reports and** records made
 10 available to them under subsection (5) of this section to each other, to law enforcement, community
 11 corrections, corrections and parole agencies of other states and to authorized treatment providers
 12 for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison
 13 supervision or other form of conditional or supervised release.

14 (B) A person may disclose **reports and** records made available to the person under subsection
 15 (1)(i) of this section if the **reports and** records are disclosed for the purpose of advancing the public
 16 interest.

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

20 (8) As used in this section[,]:

21 (a) “Law enforcement agency” has the meaning given that term in ORS 181A.010.

22 (b) **“Reports and records” includes, but is not limited to, any police report, investigative**
 23 **report, photograph, audio or visual recording or any other document that was generated as**
 24 **a result of a child abuse investigation.**

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

26 **SECTION 2.** ORS 342.176 is amended to read:

27 342.176. (1)(a) A person may file a complaint with the Teacher Standards and Practices Com-
 28 mission regarding a person licensed by the commission.

29 (b) Prior to beginning an investigation based on a complaint filed under paragraph (a) of this
 30 subsection, the commission may require verification that attempts were made to resolve the com-
 31 plaint through the complaint process of the school district that employs the person against whom
 32 the complaint was filed.

33 (c) After receiving sufficient verification as provided by paragraph (b) of this subsection, the
 34 Teacher Standards and Practices Commission shall promptly undertake an investigation upon receipt
 35 of a complaint or information that may constitute grounds for:

36 (A) Refusal to issue a license or registration, as provided under ORS 342.143;

37 (B) Suspension or revocation of a license or registration, discipline of a person holding a license
 38 or registration, or suspension or revocation of the right to apply for a license or registration, as
 39 provided under ORS 342.175; or

40 (C) Discipline for failure to provide appropriate notice prior to resignation, as provided under
 41 ORS 342.553.

42 (2) The commission may appoint an investigator and shall furnish the investigator with appro-
 43 priate professional and other special assistance reasonably required to conduct the investigation,
 44 and the investigator is empowered to issue subpoenas to require the attendance of witnesses or the
 45 production of documents over the signature of the executive director of the commission, subpoena

1 witnesses over the signature of the executive director, swear witnesses and compel obedience in the
2 same manner as provided under ORS 183.440 (2).

3 (3) Following completion of the investigation, the executive director or the executive director's
4 designee shall report in writing any findings and recommendations to:

5 (a) The commission, meeting in executive session, at its next regular meeting following com-
6 pletion of the investigation; and

7 (b) The person against whom the charge is made, following consideration by the commission.

8 (4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used
9 in the investigation undertaken as provided by this section and the report related to the investi-
10 gation are confidential and not subject to public inspection unless the commission makes a final
11 determination to:

12 (A) Refuse to issue a license or registration, as provided under ORS 342.143;

13 (B) Suspend or revoke a license or registration, discipline a person holding a license or regis-
14 tration, or suspend or revoke the right to apply for a license or registration, as provided under ORS
15 342.175; or

16 (C) Discipline a person for failure to provide appropriate notice prior to resignation, as provided
17 under ORS 342.553.

18 (b) **Reports and** records made available to the commission under ORS 419B.035 (1)(h) shall be
19 kept confidential.

20 (5) If the commission finds from the report that there is sufficient cause to justify holding a
21 hearing under ORS 342.177, the commission shall notify in writing:

22 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for
23 hearing;

24 (b) The complainant; and

25 (c) The employing district or public charter school, if any.

26 (6) If the commission finds from the report that there is not sufficient cause to justify holding
27 a hearing under ORS 342.177, the commission shall notify in writing:

28 (a) The person charged;

29 (b) The complainant; and

30 (c) The employing district or public charter school, if any.

31 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section
32 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

33 **SECTION 3. This 2019 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
35 **on its passage.**

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