

# Senate Bill 921

Sponsored by Senators HANSELL, MANNING JR

## 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**.

Modifies child abuse reporting requirements to add hotelkeepers and innkeepers as mandatory reporters of child abuse.

Modifies requirement for processor of photographic images or computer technician to report visual recording of child involved in sexually explicit conduct. Punishes failure to report by maximum of 364 days' imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1 Relating to mandatory reporting of child abuse; amending ORS 163.693, 419B.005 and 419B.015.

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

3 **SECTION 1.** ORS 163.693 is amended to read:

4 163.693. (1) As used in this section:

5 (a) "Computer technician" means a person who repairs, installs or otherwise services a com-  
6 puter, computer network or computer system for compensation.

7 (b) "Processor of photographic images" means a person who develops, processes, reproduces,  
8 transfers, edits or enhances photographic film into negatives, slides, prints, movies, digital images  
9 or video.

10 (2) A processor of photographic images or a computer technician who reasonably believes the  
11 processor or technician has observed a visual recording of a child involved in sexually explicit  
12 conduct shall **immediately** report the name and address, if known, of the person requesting the  
13 processing or of the owner or person in possession of the computer, computer network or computer  
14 system to:

15 (a) The CyberTipline at the National Center for Missing and Exploited Children; **and**

16 (b) The [*local office of the*] Department of Human Services[;] or

17 [*(c)*] a law enforcement agency [*within the county where the processor or technician making the*  
18 *report is located at the time the visual recording is observed*] **in the manner required in ORS**  
19 **419B.015.**

20 (3) Nothing in this section requires a processor of photographic images or a computer technician  
21 to monitor any user, subscriber or customer or to search for prohibited materials or media.

22 (4) Any person, their employer or a third party complying with this section in good faith shall  
23 be immune from civil or criminal liability in connection with making the report, except for willful  
24 or wanton misconduct.

25 (5) A person commits the crime of failure to report child pornography if the person violates the  
26 provisions of this section.

27 (6) Failure to report child pornography is a Class A misdemeanor.

28 **SECTION 2.** ORS 419B.005 is amended to read:

29 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

30 **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 (1)(a) "Abuse" means:

2 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
3 which has been caused by other than accidental means, including any injury which appears to be  
4 at variance with the explanation given of the injury.

5 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
6 of the child's mental or psychological ability to function caused by cruelty to the child, with due  
7 regard to the culture of the child.

8 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
9 tration and incest, as those acts are described in ORS chapter 163.

10 (D) Sexual abuse, as described in ORS chapter 163.

11 (E) Sexual exploitation, including but not limited to:

12 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
13 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
14 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
15 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
16 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
17 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
18 which is designed to serve educational or other legitimate purposes; and

19 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in  
20 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as  
21 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

22 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to  
23 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
24 welfare of the child.

25 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm  
26 to the child's health or welfare.

27 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

28 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where  
29 methamphetamines are being manufactured.

30 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
31 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
32 stantial risk of harm to the child's health or safety.

33 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
34 conditions described in paragraph (a) of this subsection.

35 (2) "Child" means an unmarried person who:

36 (a) Is under 18 years of age; or

37 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring  
38 agency as that term is defined in ORS 418.205.

39 (3) "Higher education institution" means:

40 (a) A community college as defined in ORS 341.005;

41 (b) A public university listed in ORS 352.002;

42 (c) The Oregon Health and Science University; and

43 (d) A private institution of higher education located in Oregon.

44 (4) "Law enforcement agency" means:

45 (a) A city or municipal police department.

- 1 (b) A county sheriff's office.
- 2 (c) The Oregon State Police.
- 3 (d) A police department established by a university under ORS 352.121 or 353.125.
- 4 (e) A county juvenile department.
- 5 (5) "Public or private official" means:
- 6 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 7 including any intern or resident.
- 8 (b) Dentist.
- 9 (c) School employee, including an employee of a higher education institution.
- 10 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 11 or employee of an in-home health service.
- 12 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 13 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
- 14 health department, a community mental health program, a community developmental disabilities
- 15 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
- 16 or an alcohol and drug treatment program.
- 17 (f) Peace officer.
- 18 (g) Psychologist.
- 19 (h) Member of the clergy.
- 20 (i) Regulated social worker.
- 21 (j) Optometrist.
- 22 (k) Chiropractor.
- 23 (L) Certified provider of foster care, or an employee thereof.
- 24 (m) Attorney.
- 25 (n) Licensed professional counselor.
- 26 (o) Licensed marriage and family therapist.
- 27 (p) Firefighter or emergency medical services provider.
- 28 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 29 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 30 (s) Member of the Legislative Assembly.
- 31 (t) Physical, speech or occupational therapist.
- 32 (u) Audiologist.
- 33 (v) Speech-language pathologist.
- 34 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 35 gations or discipline by the commission.
- 36 (x) Pharmacist.
- 37 (y) An operator of a preschool recorded program under ORS 329A.255.
- 38 (z) An operator of a school-age recorded program under ORS 329A.257.
- 39 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 40 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 41 109.056.
- 42 (bb) Employee of a public or private organization providing child-related services or activities:
- 43 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 44 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 45 vision or auspices of religious, public or private educational systems or community service organ-

1 izations; and

2 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
3 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
4 ficking.

5 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
6 if compensated and if the athlete is a child.

7 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

8 (ee) Home care worker, as defined in ORS 410.600.

9 **(ff) Hotelkeeper or innkeeper, as defined in ORS 699.005.**

10 **SECTION 3.** ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is  
11 amended to read:

12 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

13 (1)(a) "Abuse" means:

14 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
15 which has been caused by other than accidental means, including any injury which appears to be  
16 at variance with the explanation given of the injury.

17 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
18 of the child's mental or psychological ability to function caused by cruelty to the child, with due  
19 regard to the culture of the child.

20 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
21 tration and incest, as those acts are described in ORS chapter 163.

22 (D) Sexual abuse, as described in ORS chapter 163.

23 (E) Sexual exploitation, including but not limited to:

24 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
25 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
26 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
27 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
28 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
29 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
30 which is designed to serve educational or other legitimate purposes; and

31 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in  
32 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as  
33 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

34 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to  
35 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
36 welfare of the child.

37 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm  
38 to the child's health or welfare.

39 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

40 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where  
41 methamphetamines are being manufactured.

42 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
43 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
44 stantial risk of harm to the child's health or safety.

45 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the

1 conditions described in paragraph (a) of this subsection.

2 (2) "Child" means an unmarried person who:

3 (a) Is under 18 years of age; or

4 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring  
5 agency as that term is defined in ORS 418.205.

6 (3) "Higher education institution" means:

7 (a) A community college as defined in ORS 341.005;

8 (b) A public university listed in ORS 352.002;

9 (c) The Oregon Health and Science University; and

10 (d) A private institution of higher education located in Oregon.

11 (4) "Law enforcement agency" means:

12 (a) A city or municipal police department.

13 (b) A county sheriff's office.

14 (c) The Oregon State Police.

15 (d) A police department established by a university under ORS 352.121 or 353.125.

16 (e) A county juvenile department.

17 (5) "Public or private official" means:

18 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,  
19 including any intern or resident.

20 (b) Dentist.

21 (c) School employee, including an employee of a higher education institution.

22 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide  
23 or employee of an in-home health service.

24 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning  
25 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local  
26 health department, a community mental health program, a community developmental disabilities  
27 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205  
28 or an alcohol and drug treatment program.

29 (f) Peace officer.

30 (g) Psychologist.

31 (h) Member of the clergy.

32 (i) Regulated social worker.

33 (j) Optometrist.

34 (k) Chiropractor.

35 (L) Certified provider of foster care, or an employee thereof.

36 (m) Attorney.

37 (n) Licensed professional counselor.

38 (o) Licensed marriage and family therapist.

39 (p) Firefighter or emergency medical services provider.

40 (q) A court appointed special advocate, as defined in ORS 419A.004.

41 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

42 (s) Member of the Legislative Assembly.

43 (t) Physical, speech or occupational therapist.

44 (u) Audiologist.

45 (v) Speech-language pathologist.

1 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
2 gations or discipline by the commission.

3 (x) Pharmacist.

4 (y) An operator of a preschool recorded program under ORS 329A.255.

5 (z) An operator of a school-age recorded program under ORS 329A.257.

6 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
7 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
8 109.056.

9 (bb) Employee of a public or private organization providing child-related services or activities:

10 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day  
11 camps, survival camps or groups, centers or camps that are operated under the guidance, super-  
12 vision or auspices of religious, public or private educational systems or community service organ-  
13 izations; and

14 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
15 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
16 ficking.

17 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
18 if compensated and if the athlete is a child.

19 (dd) Personal support worker, as defined in ORS 410.600.

20 (ee) Home care worker, as defined in ORS 410.600.

21 **(ff) Hotelkeeper or innkeeper, as defined in ORS 699.005.**

22 **SECTION 4.** ORS 419B.015 is amended to read:

23 419B.015. (1)(a) A person making a report of child abuse, whether the report is made voluntarily  
24 or is required by ORS **163.693** or 419B.010, shall make an oral report by telephone or otherwise to  
25 the local office of the Department of Human Services, to the designee of the department or to a law  
26 enforcement agency within the county where the person making the report is located at the time  
27 of the contact. The report shall contain, if known, the names and addresses of the child and the  
28 parents of the child or other persons responsible for care of the child, the child's age, the nature  
29 and extent of the abuse, including any evidence of previous abuse, the explanation given for the  
30 abuse and any other information that the person making the report believes might be helpful in es-  
31 tablishing the cause of the abuse and the identity of the perpetrator.

32 (b) When a report of child abuse is received by the department, the department shall notify a  
33 law enforcement agency within the county where the report was made. When a report of child abuse  
34 is received by a designee of the department, the designee shall notify, according to the contract,  
35 either the department or a law enforcement agency within the county where the report was made.  
36 When a report of child abuse is received by a law enforcement agency, the agency shall notify the  
37 local office of the department within the county where the report was made.

38 (c) When a report of child abuse is received by the department or by a law enforcement agency,  
39 the department or law enforcement agency, or both, may collect information concerning the military  
40 status of the parent or guardian of the child who is the subject of the report and may share the  
41 information with the appropriate military authorities. Disclosure of information under this para-  
42 graph is subject to ORS 419B.035 (7).

43 (2) When a report of child abuse is received under subsection (1)(a) of this section, the entity  
44 receiving the report shall make the notification required by subsection (1)(b) of this section accord-  
45 ing to rules adopted by the department under ORS 419B.017.

1           (3)(a) When a report alleging that a child or ward in substitute care may have been subjected  
2 to abuse is received by the department, the department shall notify the attorney for the child or  
3 ward, the child's or ward's court appointed special advocate, the parents of the child or ward and  
4 any attorney representing a parent of the child or ward that a report has been received.

5           (b) The name and address of and other identifying information about the person who made the  
6 report may not be disclosed under this subsection. Any person or entity to whom notification is  
7 made under this subsection may not release any information not authorized by this subsection.

8           (c) The department shall make the notification required by this subsection within three business  
9 days of receiving the report of abuse.

10          (d) Notwithstanding the obligation imposed by this subsection, the department is not required  
11 under this subsection to notify the parent or parent's attorney that a report of abuse has been re-  
12 ceived if the notification may interfere with an investigation or assessment or jeopardize the child's  
13 or ward's safety.

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