

Senate Bill 960

Sponsored by Senators GELSER, ROBLAN, WAGNER; Senator HANSELL

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 investigatory procedures for reports of suspected sexual conduct. Directs Department of Education to conduct investigations of sexual conduct. Requires department to establish sexual conduct registry and education providers to check registry.

Requires education provider to take necessary actions to ensure student's safety during investigation.

Prescribes notification duties of Department of Education and Department of Human Services related to reports of suspected abuse and sexual conduct.

A BILL FOR AN ACT

1
2 Relating to investigations; creating new provisions; and amending ORS 339.370, 339.372, 339.374,
3 339.378, 339.384, 339.388, 339.392, 419B.015 and 419B.035.

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

5 **SECTION 1.** ORS 339.370 is amended to read:

6 339.370. As used in ORS 339.370 to 339.400:

7 (1) "Abuse" has the meaning given that term in ORS 419B.005.

8 [(2) "*Disciplinary records*" means the records related to a personnel discipline action or materials
9 or documents supporting that action.]

10 [(3)] (2) "Education provider" means:

11 (a) A school district, as defined in ORS 332.002.

12 (b) The Oregon School for the Deaf.

13 (c) An educational program under the Youth Corrections Education Program.

14 (d) A public charter school, as defined in ORS 338.005.

15 (e) An education service district, as defined in ORS 334.003.

16 (f) Any state-operated program that provides educational services to kindergarten through grade
17 12 students.

18 (g) A private school.

19 [(4)] (3) "Investigation" means a detailed inquiry **by an education provider, a law enforce-**
20 **ment agency, the Department of Human Services or the Department of Education** into the
21 factual allegations of a report of suspected abuse or sexual conduct that:

22 (a) Is based on interviews with the complainant, witnesses and the school employee or student
23 who is the subject of the report; and

24 (b) If the subject of the report is a school employee **and the entity conducting the investi-**
25 **gation is an education provider**, meets any negotiated standards of an employment contract or
26 agreement.

27 [(5)] (4) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

28 [(6)] (5) "Private school" means a school that provides to kindergarten through grade 12 stu-

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 dents instructional programs that are not limited solely to dancing, drama, music, religious or ath-
 2 letic instruction.

3 [(7)] (6) "School board" means the governing board or governing body of an education provider.

4 [(8)] (7) "School employee" means an employee of an education provider.

5 [(9)(a)] (8)(a) "Sexual conduct" means any verbal or physical conduct by a school employee that:

6 (A) Is sexual in nature;

7 (B) Is directed toward a kindergarten through grade 12 student;

8 (C) Has the effect of unreasonably interfering with a student's educational performance; and

9 (D) Creates an intimidating, hostile or offensive educational environment.

10 (b) "Sexual conduct" does not include abuse.

11 [(10) "Substantiated report" means a report of abuse or sexual conduct that:]

12 [(a) An education provider has reasonable cause to believe is founded based on the available evi-
 13 dence after conducting an investigation; and]

14 [(b) Involves conduct that the education provider determines is sufficiently serious to be documented
 15 in the school employee's personnel file or the student's education record.]

16 (9) "Substantiated report" means a report of abuse or sexual conduct that an education
 17 provider, a law enforcement agency, the Department of Human Services or the Department
 18 of Education has reasonable cause to believe, based on the available evidence after conduct-
 19 ing an investigation, is founded.

20 **SECTION 2.** ORS 339.372 is amended to read:

21 339.372. Each school board shall adopt policies on the reporting of abuse and sexual conduct
 22 by school employees and the reporting of abuse by students. The policies shall:

23 (1) Specify that abuse and sexual conduct by school employees and abuse by students are not
 24 tolerated;

25 (2) Specify that all school employees and students are subject to the policies;

26 (3) Require all school employees who have reasonable cause to believe that another school em-
 27 ployee has engaged in abuse or sexual conduct or that a student has engaged in abuse to:

28 (a) Report suspected abuse to a law enforcement agency, the Department of Human Services or
 29 a designee of the department as required by ORS 419B.010 and 419B.015; and

30 (b) Report suspected abuse or sexual conduct to the person designated as provided by subsection
 31 (4) of this section;

32 (4) Designate a person, and an alternate in the event the designated person is the suspected
 33 abuser, to receive reports of suspected abuse or sexual conduct by school employees or suspected
 34 abuse by students and specify the procedures to be followed by that person upon receipt of a
 35 report, **including making a report of suspected sexual conduct to the Department of Educa-**
 36 **tion;**

37 (5) **Specify the procedures to be followed during an investigation by an education pro-**
 38 **vider, including notification that:**

39 (a) **All reports of suspected abuse or sexual conduct by school employees will be investi-**
 40 **gated;**

41 (b) **Investigations will be completed regardless of any changes in the employment re-**
 42 **lationship or duties of the school employee about whom a report was made;**

43 (c) **Investigations will be led by the Department of Human Services, a law enforcement**
 44 **agency or the Department of Education, and the education provider will collaborate with**
 45 **those entities; and**

1 **(d) The education provider will immediately begin an investigation if an investigation is**
 2 **not conducted by the Department of Human Services, a law enforcement agency or the De-**
 3 **partment of Education, and any investigations conducted by the education provider will be**
 4 **completed within 60 days;**

5 [(5)] (6) Require the posting in each school building of:

6 (a) The name and contact information for the person designated for the school building to re-
 7 ceive reports of suspected abuse or sexual conduct by school employees or suspected abuse by stu-
 8 dents and the procedures the person will follow upon receipt of a report; **and**

9 **(b) The contact information for making a report of suspected abuse to a law enforcement**
 10 **agency, the Department of Human Services or a designee of the department as required by**
 11 **ORS 419B.010 and 419B.015 and a statement that the duty to report abuse is a personal duty**
 12 **regardless of any reports made as required under paragraph (a) of this subsection;**

13 [(6)] (7) Specify that the initiation of a report in good faith about suspected abuse or sexual
 14 conduct may not adversely affect any terms or conditions of employment or the work environment
 15 of the complainant;

16 [(7)] (8) Specify that the school board or any school employee will not discipline a student for
 17 the initiation of a report in good faith about suspected abuse or sexual conduct by a school em-
 18 ployee or suspected abuse by a student;

19 [(8)] (9) Require notification by the education provider to the person who initiated the report
 20 about actions taken by the education provider based on the report; and

21 [(9)] (10) Require the education provider to furnish to a school employee at the time of hire the
 22 following:

23 (a) A description of conduct that may constitute abuse or sexual conduct; and

24 (b) A description of **the background checks conducted under ORS 339.374 (5) and** the infor-
 25 mation [*and records*] that will be disclosed as provided by ORS 339.378 [*or 339.388 (8)*] if a report
 26 of suspected abuse or sexual conduct is substantiated.

27 **SECTION 3.** ORS 339.374 is amended to read:

28 339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant
 29 for a position with the education provider, the education provider shall:

30 (1) Require the applicant to provide:

31 (a) A list of the applicant's current and former employers who are education providers.

32 (b) A written authorization that authorizes the applicant's current and former employers that
 33 are education providers to disclose the information requested under subsection (2) of this section.

34 (c) A written statement of whether the applicant:

35 (A) Has been the subject of a substantiated report of abuse or sexual conduct; or

36 (B) Is the subject of an ongoing investigation related to a report of suspected abuse or sexual
 37 conduct.

38 (2) Conduct a review of the employment history of the applicant by contacting the three most
 39 recent employers of the applicant who are education providers and requesting[:]

40 [(a)] the following information:

41 [(A)] (a) The dates of employment of the applicant by the education provider;

42 [(B)] (b) Whether the applicant was the subject of any substantiated reports, **or is the subject**
 43 **of any ongoing investigations**, of abuse or sexual conduct related to the applicant's employment
 44 with the education provider;

45 [(C)] (c) The dates of any substantiated reports;

1 [(D)] (d) The definitions of abuse and sexual conduct used by the education provider when the
2 education provider determined that any reports were substantiated; and

3 [(E)] (e) The standards used by the education provider to determine whether any reports were
4 substantiated.

5 [(b) Any disciplinary records required to be released as provided by ORS 339.388 (8).]

6 (3) For an applicant who is licensed, registered or certified with the Teacher Standards and
7 Practices Commission, access online information provided by the commission to verify:

8 (a) That the applicant is licensed, registered or certified by the commission; and

9 (b) Whether the commission has provided any information relating to conduct by the applicant
10 that may constitute abuse or sexual conduct.

11 (4) Conduct a nationwide criminal records check if required by ORS 326.603.

12 **(5) Conduct a child and adult protective services records check with the Department of**
13 **Human Services and a sexual conduct registry check with the Department of Education.**

14 **SECTION 4.** ORS 339.378 is amended to read:

15 339.378. (1) Not later than 20 days after receiving a request under ORS 339.374, an education
16 provider that has or has had an employment relationship with the applicant shall disclose the in-
17 formation requested [*and any disciplinary records that must be disclosed as provided by ORS 339.388*
18 *(8)*].

19 (2) An education provider may disclose the information on a standardized form and is not re-
20 quired to provide any additional information related to a substantiated report of abuse or sexual
21 conduct other than the information that is required by ORS 339.374 (2).

22 (3) Information received under this section is confidential and is not a public record as defined
23 in ORS 192.311. An education provider may use the information only for the purpose of evaluating
24 an applicant's eligibility to be hired.

25 **SECTION 5.** ORS 339.384 is amended to read:

26 339.384. (1) An education provider may not hire an applicant who does not comply with the re-
27 quirements of ORS 339.374 (1). A refusal to hire an applicant under this subsection removes the
28 applicant from any education provider policies, any collective bargaining provisions regarding dis-
29 missal procedures and appeals and any provisions of ORS 342.805 to 342.937.

30 (2) An education provider may hire an applicant on a conditional basis pending the education
31 provider's review of **information received from the background checks under ORS 339.374 (5)**
32 **and** information [*and records*] received under ORS 339.378.

33 (3) An education provider may not deny an applicant employment solely because:

34 (a) A current or former employer of an applicant fails or refuses to comply with the require-
35 ments of ORS 339.378; or

36 (b) The applicant has or had an out-of-state employer and the laws or rules of that state prevent
37 the release of information [*or records*] requested under ORS 339.378.

38 **SECTION 6.** ORS 339.388 is amended to read:

39 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
40 employee comes in contact has suffered abuse by another school employee or by a student, or that
41 another school employee or a student with whom the employee comes in contact has abused a child,
42 shall immediately report the information to:

43 (A) The person designated in the policy adopted under ORS 339.372; and

44 (B) A law enforcement agency, the Department of Human Services or a designee of the depart-
45 ment as required by ORS 419B.010 and 419B.015.

1 (b) A school employee having reasonable cause to believe that a student with whom the em-
 2 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
 3 another school employee with whom the employee comes in contact has engaged in sexual conduct,
 4 shall immediately report the information to the person designated in the policy adopted under ORS
 5 339.372.

6 (2) A person who receives a report under subsection (1) of this section shall follow the proce-
 7 dures required by the policy adopted by the school board under ORS 339.372, **including making a**
 8 **report of suspected sexual conduct to the Department of Education for the purpose of sec-**
 9 **tion 10 of this 2019 Act.**

10 (3)(a) Except as provided in subsection (4) of this section, when an education provider receives
 11 a report of suspected abuse or sexual conduct by one of its employees, and the education provider's
 12 designee determines that there is reasonable cause to support the report, the education provider:

13 (A) In the case of suspected abuse, shall:

14 (i) Place the school employee on paid administrative leave; **and**

15 (ii) **Take all necessary actions to ensure the student's safety during an investigation,**
 16 **regardless of whether the investigation is conducted by the education provider, the Depart-**
 17 **ment of Human Services, a law enforcement agency or the Department of Education; or**

18 (B) In the case of suspected sexual conduct, may place the school employee on paid adminis-
 19 trative leave or in a position that does not involve direct, unsupervised contact with children.

20 (b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this
 21 subsection shall remain on administrative leave until:

22 (A) The Department of Human Services or a law enforcement agency determines that the report
 23 cannot be substantiated or that the report will not be pursued; or

24 (B) The Department of Human Services or a law enforcement agency determines that the report
 25 is substantiated and the education provider takes the appropriate disciplinary action against the
 26 school employee.

27 [(4)] (c) An education provider may reinstate a school employee placed on paid administrative
 28 leave for suspected abuse as provided under [subsection (3) of this section] **paragraph (b) of this**
 29 **subsection** or may take the appropriate disciplinary action against the employee if the Department
 30 of Human Services or a law enforcement agency is unable to determine, based on a report of sus-
 31 pected abuse, whether abuse occurred.

32 (4) **In addition to any investigations conducted by a law enforcement agency, the De-**
 33 **partment of Human Services or the Department of Education, an education provider shall**
 34 **conduct an investigation in response to a report of suspected abuse or sexual conduct by a**
 35 **school employee. The education provider may take into account the findings of the law**
 36 **enforcement agency or the department when the education provider conducts an investi-**
 37 **gation or takes disciplinary action against the school employee.**

38 (5) If, following an investigation, an education provider determines that a report of suspected
 39 abuse or sexual conduct by a school employee is a substantiated report, the education provider shall:

40 (a) Inform the school employee that the education provider has determined that the report has
 41 been substantiated.

42 (b) Provide the school employee with information about the appropriate appeal process for the
 43 determination made by the education provider. The appeal process may be the process provided by
 44 a collective bargaining agreement or a process administered by a neutral third party and paid for
 45 by the school district.

1 (c) Following notice of a school employee’s decision not to appeal the determination **of an ed-**
 2 **ucation provider** or following the determination of an appeal that sustained the substantiated re-
 3 port, create a record of the substantiated report and place the record in *[the personnel file of] any*
 4 **files maintained by the education provider on** the school employee. Records created pursuant to
 5 this paragraph are confidential and are not public records as defined in ORS 192.311. An education
 6 provider may use the record as a basis for providing the information required to be disclosed under
 7 ORS 339.378.

8 (d) Inform the school employee that information about substantiated reports may be disclosed
 9 to a potential employer as provided by *[subsection (8) of this section and]* ORS 339.378.

10 (6)(a) Notwithstanding the requirements of subsections (3)[, (4)] and (5) of this section, an edu-
 11 cation provider that is a private school:

12 (A) May discipline or terminate a school employee according to:

13 (i) The provisions of *[subsections (3) and (4)]* **subsection (3)** of this section; or

14 (ii) The standards and policies of the private school if the standards and policies provide the
 15 same or greater safeguards for the protection of children compared to the safeguards described in
 16 *[subsections (3) and (4)]* **subsection (3)** of this section.

17 (B) May follow the procedures described in subsection (5) of this section or may follow any ap-
 18 peals process established by the private school related to suspected child abuse or sexual conduct.

19 (b) A private school that chooses to discipline or terminate a school employee according to the
 20 standards and policies of the school must provide the information required to be disclosed under
 21 ORS 339.378.

22 (7) Upon request from a law enforcement agency, the Department of Human Services, **the De-**
 23 **partment of Education** or the Teacher Standards and Practices Commission, a school district shall
 24 provide the records of investigations of suspected abuse by a school employee or former school em-
 25 ployee.

26 *[(8)(a) The disciplinary records of a school employee or former school employee convicted of a crime*
 27 *listed in ORS 342.143 are not exempt from disclosure under ORS 192.345 or 192.355.]*

28 *[(b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider that*
 29 *is the employer of the employee shall disclose the disciplinary records of the employee to any person*
 30 *upon request.]*

31 *[(c) If a former school employee is convicted of a crime listed in ORS 342.143, the education pro-*
 32 *vider that was the employer of the former employee when the crime was committed shall disclose the*
 33 *disciplinary records of the former employee to any person upon request.]*

34 *[(9) Prior to disclosure of a disciplinary record under subsection (8) of this section, an education*
 35 *provider shall remove any personally identifiable information from the record that would disclose the*
 36 *identity of a child, a crime victim or a school employee or former school employee who is not the subject*
 37 *of the disciplinary record.]*

38 **SECTION 7.** ORS 339.392 is amended to read:

39 339.392. (1) An education provider may not enter into a collective bargaining agreement, an
 40 employment contract, an agreement for resignation or termination, a severance agreement or any
 41 other contract or agreement that:

42 (a) Has the effect of **impairing or terminating an ongoing investigation, or** suppressing in-
 43 formation relating to an ongoing investigation, related to a report of suspected abuse or sexual
 44 conduct *[or];*

45 **(b) Has the effect of suppressing information** relating to a substantiated report of abuse or

1 sexual conduct by a current or former employee;

2 [(b)] (c) Affects the duties of the education provider to report suspected abuse or sexual conduct
3 or to discipline a current or former employee for a substantiated report of abuse or sexual conduct;

4 [(c)] (d) Impairs the ability of the education provider to discipline an employee for a substanti-
5 ated report of abuse or sexual conduct; or

6 [(d)] (e) Requires the education provider to expunge substantiated information about abuse or
7 sexual conduct from any documents maintained by an education provider.

8 (2) Any provision of an employment contract or agreement that is contrary to this section is
9 void and unenforceable.

10 (3) Nothing in this section prevents an education provider from entering into a collective bar-
11 gaining agreement that includes:

12 (a) Standards for investigation of a report of abuse or sexual conduct; or

13 (b) An appeal process from the determination by an education provider that a report of abuse
14 or sexual conduct has been substantiated as provided in ORS 339.388 (5).

15 **SECTION 8. The amendments to ORS 339.392 by section 7 of this 2019 Act apply to**
16 **agreements and contracts entered into on or after the effective date of this 2019 Act.**

17 **SECTION 9. Section 10 of this 2019 Act is added to and made a part of ORS 339.370 to**
18 **339.400.**

19 **SECTION 10. (1) When the Department of Education receives a report of suspected sex-**
20 **ual conduct under ORS 339.388 or 419B.015, the department shall immediately cause an in-**
21 **vestigation to be made. An investigation and final determination related to the report must**
22 **be made within 60 calendar days following the date on which the report was filed with the**
23 **Department of Education. The timeline prescribed by this subsection may be extended by up**
24 **to 30 days if the Department of Education determines that a longer period of time is neces-**
25 **sary for good cause, including a request from a law enforcement agency or the Department**
26 **of Human Services to suspend an investigation.**

27 (2) For a report of suspected sexual conduct that may include abuse, the Department of
28 Education shall:

29 (a) Notify the law enforcement agency within the county where the report was made and
30 the local office of the Department of Human Services within the county where the report
31 was made; and

32 (b) Conduct an investigation concurrently with the law enforcement agency and the De-
33 partment of Human Services based upon the protocols and procedures of the county
34 multidisciplinary child abuse team that has jurisdiction over the report.

35 (3) For an investigation of a report of suspected sexual conduct, the Department of Ed-
36 ucation shall appoint an investigator and shall furnish the investigator with appropriate
37 professional and other special assistance reasonably required to conduct an investigation.
38 An investigator appointed under this subsection is empowered to:

39 (a) Issue subpoenas to require the attendance of witnesses or the production of docu-
40 ments;

41 (b) Subpoena witnesses;

42 (c) Swear witnesses and compel obedience in the same manner as provided under ORS
43 183.440 (2); and

44 (d) Request records from a law enforcement agency or the Department of Human Ser-
45 vices as provided by ORS 419B.035.

1 **(4) An investigation shall be conducted under this section regardless of any investigations**
 2 **being conducted by an education provider concerning the same report. If the education pro-**
 3 **vider is conducting an investigation concerning the same report, the Department of Educa-**
 4 **tion may conduct the investigation concurrently with the education provider.**

5 **(5) If the Department of Education finds that a report is substantiated, the department**
 6 **shall:**

7 **(a) Notify the education provider that is the employer of the school employee; and**

8 **(b) Notify any regulatory board that licenses, registers, certifies or otherwise authorizes**
 9 **the school employee to practice a profession or to provide professional services.**

10 **(6)(a) Except as provided in paragraph (b) of this subsection, the documents and materi-**
 11 **als used in the investigation undertaken under this section, and the report related to the**
 12 **investigation, are confidential and not subject to public inspection.**

13 **(b) Records made available to the Department of Education under ORS 419B.035 shall be**
 14 **kept confidential.**

15 **(7) The Department of Education shall retain documents and materials related to any**
 16 **report received under this section.**

17 **(8) The Department of Education shall establish and maintain a sexual conduct registry**
 18 **related to any substantiated reports and shall make information on the database available**
 19 **to education providers for the purpose of ORS 339.374 (5).**

20 **(9)(a) The Department of Education may impose a civil penalty on an education provider**
 21 **and on any agents of the education provider who willingly fail to cooperate with an investi-**
 22 **gation conducted under this section.**

23 **(b) The Department of Education shall adopt by rule a schedule of civil penalties for vi-**
 24 **olations under this subsection. A civil penalty may not exceed \$1,000 per violation.**

25 **(c) All civil penalties recovered under this subsection shall be applied to the costs of the**
 26 **Department of Education's investigation and any administrative proceedings that result from**
 27 **the investigation.**

28 **SECTION 11.** ORS 419B.015 is amended to read:

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

38 (b) When a report of child abuse is received by the department, the department shall notify a
 39 law enforcement agency within the county where the report was made. When a report of child abuse
 40 is received by a designee of the department, the designee shall notify, according to the contract,
 41 either the department or a law enforcement agency within the county where the report was made.
 42 When a report of child abuse is received by a law enforcement agency, the agency shall notify the
 43 local office of the department within the county where the report was made.

44 (c) When a report of child abuse is received by the department or by a law enforcement agency,
 45 the department or law enforcement agency, or both, may collect information concerning the military

1 status of the parent or guardian of the child who is the subject of the report and may share the
 2 information with the appropriate military authorities. Disclosure of information under this para-
 3 graph is subject to ORS 419B.035 (7).

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

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

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

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

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

20 **(4)(a) The department shall notify the Department of Education that a report has been**
 21 **received when the Department of Human Services receives a report alleging that a child may**
 22 **have been subject to abuse by a school employee, as defined in ORS 339.370, and the school**
 23 **employee is not the parent of the child.**

24 **(b) The name and address of and other identifying information about the person who**
 25 **made the report may not be disclosed under this subsection, but the Department of Human**
 26 **Services shall make available any information necessary to ensure the safety of the child.**
 27 **Any person or entity to whom notification is made under this subsection may not release**
 28 **any information not authorized by this subsection.**

29 **(c) The Department of Human Services shall make the notification required by this sub-**
 30 **section within three business days of receiving the report of abuse and the Department of**
 31 **Education shall immediately notify the appropriate education providers to ensure the safety**
 32 **of the child.**

33 **SECTION 12. The amendments to ORS 419B.015 by section 11 of this 2019 Act apply to**
 34 **reports received on or after the effective date of this 2019 Act.**

35 **SECTION 13. ORS 419B.035 is amended to read:**

36 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
 37 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
 38 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
 39 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
 40 ment of Human Services shall make the records available to:

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

43 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic phy-
 44 sician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390,
 45 at the request of the physician, physician assistant, naturopathic physician or nurse practitioner,

1 regarding any child brought to the physician, physician assistant, naturopathic physician or nurse
2 practitioner or coming before the physician, physician assistant, naturopathic physician or nurse
3 practitioner for examination, care or treatment;

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

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

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

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

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

15 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
16 342.176 involving any child or any student in grade 12 or below;

17 (i) Any person, upon request to the Department of Human Services, if the reports or records
18 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-
19 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
20 disclosed in accordance with ORS 192.311 to 192.478;

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

22 (k) With respect to a report of abuse occurring at a school or in an educational setting that
23 involves a child with a disability, Disability Rights Oregon[.]; **and**

24 **(L) The Department of Education for purposes of investigations made under section 10**
25 **of this 2019 Act.**

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

32 (b) If the Department of Human Services does not have a report or record of abuse regarding
33 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
34 161.015, the department may disclose that information.

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

45 (4) A law enforcement agency may make reports and records compiled under the provisions of

1 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-
2 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement
3 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
4 to child abuse and neglect or necessary to determine a claim for crime victim compensation under
5 ORS 147.005 to 147.367.

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

17 (6)(a) Any record made available to a law enforcement agency or community corrections agency
18 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-
19 vision or to a physician, physician assistant, naturopathic physician or nurse practitioner in this
20 state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency,
21 department, board, physician, physician assistant, naturopathic physician or nurse practitioner. Any
22 record or report disclosed by the Department of Human Services to other persons or entities pur-
23 suant to subsections (1) and (3) of this section shall be kept confidential.

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

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

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

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

36 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
37 181A.010.

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

39