

A-Engrossed
Senate Bill 994

Ordered by the Senate April 3
Including Senate Amendments dated April 3

Sponsored by 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.

[Directs Department of Human Services to study and make recommendations on provisions of state law relating to juveniles. Requires department to submit report on findings to Legislative Assembly by January 1, 2021.]

Requires person who has taken child into custody to request, prior to releasing child to custody of child's noncustodial parent, Department of Human Services to conduct criminal records check on noncustodial parent and all adults in same home as noncustodial parent.

A BILL FOR AN ACT

1
2 Relating to juveniles; creating new provisions; and amending ORS 419B.021, 419B.055 and 419B.165.

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

4 **SECTION 1.** ORS 419B.165 is amended to read:

5 419B.165. (1) **Subject to subsection (2) of this section,** the person taking the child into cus-
6 tody shall release the child to the custody of the child's parent or other responsible person in this
7 state, except in the following cases:

8 [(1)] (a) Where the court has issued an order directing that the child be taken into protective
9 custody.

10 [(2)] (b) Where the person taking the child into custody has probable cause to believe that the
11 welfare of the child or others may be immediately endangered by the release of the child.

12 (2)(a) **Prior to releasing a child to the custody of the child's noncustodial parent, a person**
13 **who has taken a child into custody shall request the Department of Human Services to**
14 **conduct a criminal records check on:**

15 (A) **The noncustodial parent; and**

16 (B) **All adults in the same home as the noncustodial parent.**

17 (b) **The department shall conduct a criminal records check under ORS 181A.200 (3) based**
18 **on a request received under paragraph (a) of this subsection.**

19 (c) **The department shall adopt rules consistent with this subsection and the require-**
20 **ments of the Department of State Police for use of the Law Enforcement Data System.**

21 **SECTION 2. The amendments to ORS 419B.165 by section 1 of this 2019 Act apply to any**
22 **release of a child that occurs on or after the effective date of this 2019 Act.**

23 **SECTION 3.** ORS 419B.021 is amended to read:

24 419B.021. (1) Except as provided in subsection (2) of this section, the following persons must
25 possess a bachelor's, master's or doctoral degree from an accredited institution of higher education:

26 (a) A person who conducts an investigation under ORS 419B.020; and

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 (b) A person who makes the following determinations:

2 (A) That a child must be taken into protective custody under ORS 419B.150; and

3 (B) That the child should not be released to the child's parent or other responsible person under
4 ORS 419B.165 [(2)] (1)(b).

5 (2) Subsection (1) of this section does not apply to:

6 (a) A person who was employed or otherwise engaged by the Department of Human Services for
7 the purpose of conducting investigations or making determinations before January 1, 2012, provided
8 the person's employment or engagement for these purposes has been continuous and uninterrupted.

9 (b) A law enforcement official as that term is defined in ORS 147.005.

10 **SECTION 4.** ORS 419B.055 is amended to read:

11 419B.055. (1) The Attorney General may bring an action in a circuit court for a citation or a
12 stalking protective order under ORS 30.866 or 163.730 to 163.750 on behalf of an employee of the
13 Department of Human Services who, because of being involved in the conduct described in sub-
14 section (3) of this section, is the subject of repeated and unwanted contact by another person that
15 causes alarm or coercion to the employee. The Attorney General's responsibility under this sub-
16 section is limited to circumstances in which an employee of the department submits a written re-
17 quest to the Attorney General that:

18 (a) Has been approved in writing by the Director of Human Services or the director's designee;

19 (b) Sets forth sufficient facts and evidence, the truth of which has been affirmed by the em-
20 ployee; and

21 (c) Based solely upon the opinion of the Attorney General, is an action that is likely to succeed.

22 (2) The action brought under this section may not include a request for:

23 (a) Special and general damages, including damages for emotional distress;

24 (b) Economic or noneconomic damages;

25 (c) Punitive damages; or

26 (d) Attorney fees and costs.

27 (3) Departmental employees on whose behalf the citation or stalking protective order may be
28 obtained under subsection (1) of this section include employees who:

29 (a) Conduct a child abuse investigation under ORS 419B.020;

30 (b) Make a determination that a child must be taken into protective custody under ORS
31 419B.150;

32 (c) Make a determination that a child should not be released to the child's parent or other re-
33 sponsible person under ORS 419B.165 [(2)] (1)(b); and

34 (d) Are involved in developing a case plan or making a placement decision for a child in the
35 legal custody of the department.

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