

# Senate Bill 135

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Oregon Youth Authority)

## 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**.

Authorizes disclosure of child abuse investigation reports and records to Oregon Youth Authority. Permits Oregon Youth Authority and Department of Corrections to disclose records to certain persons for purposes of second look hearing.

## A BILL FOR AN ACT

1  
2 Relating to child abuse investigation records; amending ORS 419B.035.

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

4 **SECTION 1.** ORS 419B.035 is amended to read:

5 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and  
6 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records  
7 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
8 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
9 ment of Human Services shall make the records available to:

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

12 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-  
13 tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant  
14 or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse  
15 practitioner or coming before the physician, physician assistant or nurse practitioner for examina-  
16 tion, care or treatment;

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

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

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

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

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

28 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
29 339.390 or 342.176 involving any child or any student;

30 (i) Any person, upon request to the Department of Human Services, if the reports or records

**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 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
2 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
3 disclosed in accordance with ORS 192.311 to 192.478;

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

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

7 (L) The Department of Education for purposes of investigations conducted under ORS 339.391;  
8 and

9 (m) An education provider for the purpose of making determinations under ORS 339.388.

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

16 (b) If the Department of Human Services does not have a report or record of abuse regarding  
17 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
18 161.015, the department may disclose that information.

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

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

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

1 subsection or subsection (6)(b) of this section.

2 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
3 in this state, to the Department of Corrections, **the Oregon Youth Authority** or the State Board  
4 of Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in  
5 this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the  
6 agency, department, board, physician, physician assistant or nurse practitioner. Any record or report  
7 disclosed by the Department of Human Services to other persons or entities pursuant to subsections  
8 (1) and (3) of this section shall be kept confidential.

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

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

17 **(B) The Department of Corrections and the Oregon Youth Authority may disclose records**  
18 **made available to them under subsection (5) of this section regarding a person in the custody**  
19 **of the Department of Corrections or the Oregon Youth Authority to each other, to the court,**  
20 **to the district attorney and to the person's attorney for the purpose of the person's hearing**  
21 **under ORS 420A.200 to 420A.206.**

22 ~~[(B)]~~ (C) A person may disclose records made available to the person under subsection (1)(i) of  
23 this section if the records are disclosed for the purpose of advancing the public interest.

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

27 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
28 181A.010.

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

30

---