

Senate Bill 92

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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**.

Extends confidentiality requirements for child abuse records to records of abuse of child in care.

A BILL FOR AN ACT

1
2 Relating to the confidentiality of child abuse 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 **418.257 to 418.259**
8 **or** 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section.
9 The Department 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
31 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-

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 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
2 disclosed in accordance with ORS 192.311 to 192.478;

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

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

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

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

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

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

18 (3) The Department of Human Services may make reports and records compiled under the pro-
19 visions of ORS **418.257 to 418.259 or** 419B.010 to 419B.050 available to any person, administrative
20 hearings officer, court, agency, organization or other entity when the department determines that
21 such disclosure is necessary to administer its child welfare services and is in the best interests of
22 the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse
23 and neglect, to protect children from abuse and neglect or for research when the Director of Human
24 Services gives prior written approval. The Department of Human Services shall adopt rules setting
25 forth the procedures by which it will make the disclosures authorized under this subsection or sub-
26 section (1) or (2) of this section. The name, address and other identifying information about the
27 person who made the report may not be disclosed pursuant to this subsection and subsection (1) of
28 this section.

29 (4) A law enforcement agency may make reports and records compiled under the provisions of
30 ORS **418.257 to 418.259 or** 419B.010 to 419B.050 available to other law enforcement agencies, district
31 attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the
32 law enforcement agency determines that disclosure is necessary for the investigation or enforcement
33 of laws relating to child abuse and neglect or necessary to determine a claim for crime victim
34 compensation under 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 or to the State Board of Parole and Post-Prison Supervision for the purpose
39 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
40 or other form of conditional or supervised release. A law enforcement agency may make reports and
41 records compiled under the provisions of ORS **418.257 to 418.259 or** 419B.010 to 419B.050 available
42 to law enforcement, community corrections, corrections or parole agencies in an open case when the
43 law enforcement agency determines that the disclosure will not interfere with an ongoing investi-
44 gation in the case. The name, address and other identifying information about the person who made
45 the report may not be disclosed under this subsection or subsection (6)(b) of this section.

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

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

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

15 (B) A person may disclose records made available to the person under subsection (1)(i) of this
16 section if the records are disclosed for the purpose of advancing the public 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, "law enforcement agency" has the meaning given that term in ORS
21 181A.010.

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