

# D R A F T

## SUMMARY

Digest: The Act limits the scope of the duty of the Department of Human Services to investigate child abuse based on a child abuse suspect's relationship with or access to the suspected abused child. The Act requires DHS to submit a report on the change to its duties. The Act directs the System of Care Advisory Council to study and submit a report about children who have shown problem sexual behaviors. The Act requires the SOCAC to consult with a group for advice. The group must be comprised of people who have lived or worked with such children or others impacted by the actions of such children. (Flesch Readability Score: 60.0).

Modifies when the Department of Human Services is required to investigate child abuse reports. Directs the department to provide interim legislative committees with a report on the implementation of the change no later than September 15, 2024.

Directs the System of Care Advisory Council, in consultation with an advisory committee, to study the statewide response to children exhibiting problematic sexual behavior. The council must submit a report to the interim legislative committees no later than September 15, 2024.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to children; creating new provisions; amending ORS 419B.020 and  
3 419B.026; and declaring an emergency.

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

5 **SECTION 1.** ORS 419B.020 is amended to read:

6 419B.020. (1) If the Department of Human Services or a law enforcement  
7 agency receives a report of child abuse, the department or the agency shall  
8 immediately:

9 (a) Cause an investigation to be made to determine the nature and cause  
10 of the abuse of the child; and

1 (b) Make the following notifications:

2 (A) To the Department of Early Learning and Care if the alleged child  
3 abuse occurred in a child care facility as defined in ORS 329A.250; or

4 (B) To the Department of Education if the alleged child abuse occurred  
5 in a school, was related to a school-sponsored activity or was conduct that  
6 may be subject to actions taken by the Department of Education under ORS  
7 339.370 to 339.400.

8 (2) The Department of Human Services shall ensure that an investigation  
9 required by subsection (1) of this section is completed if the report is not  
10 investigated by a law enforcement agency.

11 (3) If the alleged child abuse reported in subsection (1) of this section  
12 occurred at a child care facility or in a school, was related to a school-  
13 sponsored activity or was conduct that may be subject to actions taken by  
14 the Department of Education under ORS 339.370 to 339.400:

15 (a) The Department of Human Services and the law enforcement agency  
16 shall jointly determine the roles and responsibilities of the Department of  
17 Human Services and the agency in their respective investigations; and

18 (b) The Department of Human Services and the agency shall each report  
19 the outcomes of their investigations:

20 (A) To the Department of Early Learning and Care if the alleged child  
21 abuse occurred in a child care facility as defined in ORS 329A.250; or

22 (B) To the Department of Education if the alleged child abuse:

23 (i) Occurred in a school;

24 (ii) Was related to a school-sponsored activity; or

25 (iii) Was conduct that may be subject to actions taken by the Department  
26 of Education under ORS 339.370 to 339.400.

27 (4) If the law enforcement agency conducting the investigation finds rea-  
28 sonable cause to believe that abuse has occurred, the law enforcement  
29 agency shall notify the Department of Human Services by making an oral  
30 report followed by a written report to the centralized child abuse reporting  
31 system described in ORS 418.190. The department shall provide protective

1 social services of its own or of other available social agencies if necessary  
2 to prevent further abuses to the child or to safeguard the child's welfare.

3 (5) If a child is taken into protective custody by the Department of Hu-  
4 man Services, the department shall promptly make reasonable efforts to as-  
5 certain the name and address of the child's parents or guardian.

6 (6)(a) If a child is taken into protective custody by the Department of  
7 Human Services or a law enforcement official, the department or law  
8 enforcement official shall, if possible, make reasonable efforts to advise the  
9 parents or guardian immediately, regardless of the time of day, that the child  
10 has been taken into custody, the reasons the child has been taken into cus-  
11 tody and general information about the child's placement, and the telephone  
12 number of the local office of the department and any after-hours telephone  
13 numbers.

14 (b) Notice may be given by any means reasonably certain of notifying the  
15 parents or guardian, including but not limited to written, telephonic or in-  
16 person oral notification. If the initial notification is not in writing, the in-  
17 formation required by paragraph (a) of this subsection also shall be provided  
18 to the parents or guardian in writing as soon as possible.

19 (c) The department also shall make a reasonable effort to notify the  
20 noncustodial parent of the information required by paragraph (a) of this  
21 subsection in a timely manner.

22 (d) If a child is taken into custody while under the care and supervision  
23 of a person or organization other than the parent, the department, if possible,  
24 shall immediately notify the person or organization that the child has been  
25 taken into protective custody.

26 (7) If a law enforcement officer or the Department of Human Services,  
27 when taking a child into protective custody, has reasonable cause to believe  
28 that the child has been affected by sexual abuse and rape of a child as de-  
29 fined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists  
30 and is likely to disappear, the court may authorize a physical examination  
31 for the purposes of preserving evidence if the court finds that it is in the best

1 interest of the child to have such an examination. Nothing in this section  
2 affects the authority of the department to consent to physical examinations  
3 of the child at other times.

4 (8) A minor child of 12 years of age or older may refuse to consent to the  
5 examination described in subsection (7) of this section. The examination  
6 shall be conducted by or under the supervision of a physician licensed under  
7 ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525  
8 or a nurse practitioner licensed under ORS chapter 678 and, whenever prac-  
9 ticable, trained in conducting such examinations.

10 (9) When the Department of Human Services completes an investigation  
11 under this section, if the person who made the report of child abuse provided  
12 contact information to the department, the department shall notify the per-  
13 son about whether contact with the child was made, whether the department  
14 determined that child abuse occurred and whether services will be provided.  
15 The department is not required to disclose information under this subsection  
16 if the department determines that disclosure is not permitted under ORS  
17 419B.035.

18 (10) When the Department of Education receives a notification under  
19 subsection (1) of this section or a report on the outcomes of an investigation  
20 under subsection (3) of this section, the Department of Education shall act  
21 under, and is subject to, ORS 339.389.

22 **(11) Notwithstanding subsections (1) and (2) of this section, the**  
23 **Department of Human Services is only required to investigate a report**  
24 **of child abuse under this section if the individual suspected of the**  
25 **abuse is known to be:**

26 **(a) The child's parent;**

27 **(b) The child's caregiver, guardian or other person exercising sig-**  
28 **nificant authority over or responsibility for the child, including a**  
29 **provider of child care as that term is defined in ORS 329A.250 or an**  
30 **education provider as defined in ORS 339.370;**

31 **(c) A person residing in the child's home or who has access to the**

1 **child's home;**

2 **(d) A person who has access to the child based on the person's re-**  
3 **lationship to the child's parent, guardian, custodian, household mem-**  
4 **ber or caregiver;**

5 **(e) A person suspected of subjecting the child to trafficking, as de-**  
6 **scribed in ORS 163.266; or**

7 **(f) A representative, agent, volunteer or employee of the Oregon**  
8 **Youth Authority or a county juvenile department if the representative,**  
9 **agent, volunteer or employee was acting as a public or private official**  
10 **at the time of the alleged abuse and:**

11 **(A) The alleged abuse would constitute abuse under ORS 419B.005**  
12 **(1)(a)(C), (D), or (E); or**

13 **(B) A law enforcement agency is not investigating the alleged**  
14 **abuse.**

15 **(12) Nothing in this section limits a law enforcement agency's au-**  
16 **thority to conduct a criminal investigation into conduct that is the**  
17 **subject of a child abuse report.**

18 **SECTION 2.** ORS 419B.026 is amended to read:

19 419B.026. (1) An investigation conducted **by the Department of Human**  
20 **Services** under ORS 419B.020 must conclude in one of the following findings:

- 21 (a) That the report of child abuse is founded;  
22 (b) That the report of child abuse is unfounded; or  
23 (c) That the report of child abuse cannot be determined.

24 (2) All investigations conducted under ORS 419B.020 must be conducted  
25 in accordance with ORS 419B.005 to 419B.050 and, **if conducted by the de-**  
26 **partment**, result in the findings described in subsection (1) of this section  
27 until all of the following criteria have been met:

28 (a) The child welfare workload model for the department [*of Human Ser-*  
29 *vices*] is staffed at 95 percent or greater;

30 (b) A centralized, statewide child abuse hotline has been established and  
31 in operation for at least six consecutive months;

1 (c) The department has completed investigations within timelines man-  
2 dated by law and rule at least 90 percent of the time for at least six con-  
3 secutive months;

4 (d) The department has conducted in-person contacts with children who  
5 are the subject of reports of child abuse, as mandated by law and rule, in  
6 at least 90 percent of the reports of child abuse for at least six consecutive  
7 months; and

8 (e) The reabuse rate for children in this state is below the national av-  
9 erage.

10 **SECTION 3. (1) The System of Care Advisory Council, in consulta-**  
11 **tion with the advisory committee created under subsection (4) of this**  
12 **section, shall study and make recommendations regarding the state-**  
13 **wide response to children exhibiting problematic sexual behavior. The**  
14 **council shall submit a report on the council's findings and recom-**  
15 **mendations, including any recommendations for legislation, to the**  
16 **interim legislative committees on child welfare, in the manner pro-**  
17 **vided in ORS 192.245, no later than September 15, 2024.**

18 **(2) The study must at a minimum:**

19 **(a) Identify the current state of services and resources available to**  
20 **children exhibiting problematic sexual behavior and to the families**  
21 **and caregivers of such children.**

22 **(b) Identify gaps in the response and services available to children**  
23 **exhibiting problematic sexual behavior and to the families and**  
24 **caregivers of such children.**

25 **(c) Determine the national best practices on trauma-informed**  
26 **multidisciplinary responses to children exhibiting problematic sexual**  
27 **behavior.**

28 **(d) Identify existing state and federal funding authorities to support**  
29 **trauma-informed multidisciplinary responses to children exhibiting**  
30 **problematic sexual behavior.**

31 **(e) Analyze solutions to identify and provide support, treatment and**

1 **resources for children exhibiting problematic sexual behavior and for**  
2 **the families and caregivers of such children.**

3 **(3) The council's recommendations must at a minimum describe or**  
4 **propose:**

5 **(a) Trauma-informed and national best practice strategies for**  
6 **identification of children exhibiting problematic sexual behaviors;**

7 **(b) Strategies and definitions to ensure a child is not identified as**  
8 **exhibiting problematic sexual behavior as a result of the child's:**

9 **(A) Sexual orientation, gender identity or disability;**

10 **(B) Sexual behavior resulting from the child's sexual orientation,**  
11 **gender identity or disability; or**

12 **(C) Consensual sexual activity or exploration, provided the activity**  
13 **or exploration is not criminal or abusive in nature.**

14 **(c) Services and treatment for children exhibiting problematic sex-**  
15 **ual behavior, including trauma-informed and family centered pro-**  
16 **grams and community-based supports.**

17 **(d) Comprehensive resources and educational opportunities to sup-**  
18 **port family members and caregivers impacted by children exhibiting**  
19 **problematic sexual behavior.**

20 **(e) National best practices for assessing the safety of children im-**  
21 **acted by another child's problematic sexual behavior.**

22 **(f) Strategies to prevent and minimize out-of-home placement or**  
23 **incarceration of children exhibiting problematic sexual behavior.**

24 **(4) The council shall appoint a committee to advise the council in**  
25 **conducting the study and preparing the reports described in this sec-**  
26 **tion. The committee membership shall include members of families**  
27 **with lived experience with a child exhibiting problematic sexual be-**  
28 **havior and professionals or representatives of organizations involved**  
29 **with children exhibiting problematic sexual behaviors. Such profes-**  
30 **sionals or representatives may include, but are not limited to, any of**  
31 **the following:**

1 (a) Representatives of the Oregon Health Authority.

2 (b) Children’s behavioral health professionals.

3 (c) Representatives of the Department of Justice.

4 (d) Representatives of children’s advocacy centers, as defined in  
5 ORS 418.782.

6 (e) Representatives of the Oregon Youth Authority.

7 (f) Representatives of county juvenile departments.

8 (g) Representatives of the Department of Human Services child  
9 welfare programs and developmental disability services programs.

10 (h) Representatives of the Department of Education.

11 (i) Representatives of county child abuse multidisciplinary teams  
12 with existing problematic sexual behavior subcommittees.

13 (j) District attorneys.

14 (k) Attorneys representing children.

15 (L) Juvenile delinquency judges.

16 (m) Relevant advocates for children.

17 **SECTION 4.** The Department of Human Services shall submit a re-  
18 port on the department’s implementation of the amendments to ORS  
19 419B.020 by section 1 of this 2024 Act to the interim legislative com-  
20 mittees on child welfare, in the manner provided in ORS 192.245, no  
21 later than September 15, 2024.

22 **SECTION 5.** Sections 3 and 4 of this 2024 Act are repealed on Jan-  
23 uary 2, 2026.

24 **SECTION 6.** This 2024 Act being necessary for the immediate pres-  
25 ervation of the public peace, health and safety, an emergency is de-  
26 clared to exist, and this 2024 Act takes effect on its passage.