

Proposed Amendment to LC 165

Summary:

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, 2025. 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 present preliminary findings and recommendations to the interim legislative committees on child welfare in September 2024. The council must submit a report to the interim legislative committees no later than September 15, 2025.

SECTION 1.

Amends ORS 419B.020

(1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

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

(b) Make the following notifications:

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

(B) To the Department of Education if the alleged child abuse occurred in a school or was related to a school-sponsored activity.

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

(2) The duty to investigate a report of child abuse established under subsection (1) of this section does not apply to the Oregon Department of Human Services where the individual suspected of abuse is known to be someone other than:

(a) The child's parent.

(b) The child's caregiver, guardian, or other person exercising significant authority over or responsibility for the child, including a provider of child care as that term is defined in ORS 329A.250 or an education provider as defined in ORS 339.370.

(c) A person residing within the child's home or who has access to the child's home,

(d) A person who has access to the child based on the person's relationship to the child's parent, guardian, custodian, household member, or caregiver.

(e) A person suspected of subjecting the child to trafficking, as described in ORS 163.266.

(f) Any other person who is a paid or unpaid position or occupation in which the person has access to, responsibility for, authority over, or trust of the child.

(3)(a) Notwithstanding subsection (2)(b)(E) of this section, if the abuse reported in subsection (1) of this section involves the conduct of a person who is in a paid or unpaid position or occupation in which the person has access to, responsibility for, authority over, or trust of the child because the person is a representative, agent, volunteer or employee of the Oregon Youth Authority or of a county juvenile department, the Department of Human Services may only investigate the report if the conduct would constitute abuse under ORS 419B.005 (1)(a)(C), (D), or (E).

(b) When the Department of Human Services investigates a report of abuse described in this section:

(A) The department, the law enforcement agency and, as applicable, the authority or juvenile department shall jointly determine the roles and responsibilities of the Department of Human Services, the agency and the authority or juvenile department in their respective investigations.

(B) The Department of Human Services, the agency and the authority or juvenile department may share information among each other regarding their respective related investigations.

(4) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility or in a school or was related to a school-sponsored activity:

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

(b) The department and the agency shall each report the outcomes of their investigations:

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

(B) To the Department of Education if the alleged child abuse occurred in a school or was related to a school-sponsored activity.

(5) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The Department of Human Services shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(6) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(7)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information

about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

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

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

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

(8) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse ~~and~~ or rape of a child as defined in ORS 419B.005 (1)(a)(C) or (D) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

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

(10) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035.

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

(12) Nothing in this section limits a law enforcement agency's authority to conduct a criminal investigation into the conduct that is the subject of a child abuse report.

SECTION 2

Amend 419B.026

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

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

(2) All investigations conducted under ORS 419B.020 must be conducted in accordance with ORS 419B.005 to 419B.050 and result in the findings described in subsection (1) of this section until all of the following criteria have been met:

- (a) The child welfare workload model for the Department of Human Services is staffed at 95 percent or greater;
- (b) A centralized, statewide child abuse hotline has been established and in operation for at least six consecutive months;
- (c) The department has completed investigations within timelines mandated by law and rule at least 90 percent of the time for at least six consecutive months;
- (d) The department has conducted in-person contacts with children who are the subject of reports of child abuse, as mandated by law and rule, in at least 90 percent of the reports of child abuse for at least six consecutive months; and
- (e) The reabuse rate for children in this state is below the national average.

SECTION 3 - STUDY

(1) The System of Care Advisory Council shall study and make recommendations regarding the statewide response to children exhibiting problematic sexual behavior.

(2) The study shall include:

- (a) Identification of current state of services and resources available to families/caregivers and children exhibiting problematic sexual behavior.**
- (b) Identification of gaps in the response and services available to children exhibiting problematic sexual behavior and their families/caregivers.**
- (c) National best practices on trauma informed multi-disciplinary response to children exhibiting problematic sexual behavior.**
- (d) Identification of existing state and federal funding authorities to support trauma informed multi-disciplinary response to children exhibiting problematic sexual behavior; and**
- (e) Solutions to identify and provide support, treatment, and resources for children exhibiting problematic sexual behavior and their families.**

(3) The recommendations from the System of Care Advisory Council shall include identification of the following:

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

- (b) Strategies and definitions to ensure children are not identified as exhibiting problematic sexual behaviors as a result of their sexual orientation, gender identity, disability, or consensual sexual activity or exploration that is not criminal or abusive in nature.**
- (c) Services and treatment for children exhibiting problematic sexual behavior programs that are trauma informed, family centered, and community-based supports.**
- (d) Comprehensive resources and educational opportunities to support family members and caregivers impacted by children exhibiting problematic sexual behavior.**
- (e) National best practices for assessing the safety of children impacted by another child’s problematic sexual behaviors; and**
- (f) Strategies to prevent and minimize out of home placement or incarceration of children exhibiting problematic sexual behaviors.**

(4) The SOCAC shall appoint a study committee that shall include:

Families with lived experience with a child exhibiting problematic sexual behaviors and representatives of organizations involved with children exhibiting problematic sexual behaviors. Such organizations may include, but are not limited to, Oregon Health Authority, children’s behavioral health professionals, the Department of Justice, Children’s Advocacy Centers, Oregon Youth Authority, County Juvenile Departments, Child Welfare, Office of Developmental Disability Services, Oregon Department of Education, multi-disciplinary teams with existing problematic sexual behavior subcommittees, District Attorneys, attorneys representing children, delinquency Judges, and other relevant advocates for children. The study committee shall present on preliminary findings and recommendations, including any recommended statutory changes, to the interim legislative committees on child welfare in September 2024. The study committee shall submit a report on the study’s findings and recommendations, including any recommended statutory changes, to the interim legislative committees on child welfare no later than September 15, 2025.

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SECTION 4.

No later than September 15, 2025, the department shall report to the interim legislative committees on child welfare regarding the implementation of section (1) of this act.

[Operative and Repeal Dates](#)

SECTION 5. Sections 1 and 2 of this 2024 Act become operative on the 91st day after the sine die.

SECTION 6. Section 3 of this 2024 Act is repealed on December 31, 2025.

SECTION 7. Section 4 of this 2024 Act is repealed on December 31, 2027.