

Child Welfare Jurisdiction

Frequently Asked Questions about Legislative Concept 165

What does Legislative Concept 165 aim to achieve?

LC 165 seeks to maximize ODHS' capacity to protect children by clearly delineating its jurisdiction when an allegation of child abuse is made, and to ensure the Department can best serve the responsibilities described in ORS 419B.007 (emphasis added):

*The Legislative Assembly finds that for the purpose of **facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports.***

Who would no longer be investigated by ODHS?

LC 165 proposes that ODHS would no longer investigate subjects who are outside a child's family and trusted community setting, leaving these types of investigations to law enforcement. Examples include:

- An unknown person committing alleged internet crimes against a child
- An adult stranger in the community throwing rocks at children and causing injury
- An adult stranger in the community indecently exposing themselves to children
- An 18-year-old involved in a physical altercation with a 16-year-old peer
- A minor involved in gang violence toward another minor

An allegation *would* be assigned to ODHS if parental or caregiver neglect were a contributing factor to any of the situations above. An allegation would also be assigned to ODHS if over the course of an investigation by law enforcement, the subject is identified as an individual ODHS is required to investigate.

What is the intent and impact of removing ORS 419B.020 (2)?

In collaboration with community partners for child safety, it was determined that this amendment to statute, made in 2019, placed ODHS in a role that is beyond its scope. For example, the law enforcement agency is not required to provide ODHS with records that do not result in a concern of abuse, making it challenging for ODHS to comply with statute to "ensure" an investigation was completed. It is also an inappropriate role for ODHS to judge the adequacy or quality of an LEA investigation to ensure it meets the ORS 419B.005 (4)(a) definition of investigation.

Why does LC 165 include exceptions for Oregon Youth Authority and county juvenile departments?

Currently, ODHS conducts a child abuse investigation only when law enforcement does not, per ORS 419B.020. Given the proposed removal of ORS 419B.020, ODHS collaborated with Oregon Youth Authority (OYA) and leaders within county juvenile programs to determine what types of abuse investigations should continue to be conducted by law enforcement, and what cases would benefit from a concurrent investigation by ODHS. It was determined ODHS should be required to conduct child abuse investigations in OYA and county juvenile programs when the concern is an allegation of sexual abuse as defined in ORS 419B.005.

What is the impact of adding "the Department" to ORS 419B.026?

There is no impact of adding "the Department" to this statute, it is simply clarification that there is no expectation that law enforcement issue their findings as they conduct criminal investigations.

For additional information:

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