

# House Bill 2434

Sponsored by Representative SCHARF (Presession filed.)

## 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**.

Directs Office of Children's Advocate to investigate reports of child abuse involving child or ward in care or custody of Department of Human Services. Requires department or law enforcement agency receiving report of child abuse to notify office of child abuse reports involving child or ward in care or custody of department.

## A BILL FOR AN ACT

1  
2 Relating to child abuse investigations; creating new provisions; and amending ORS 417.815 and  
3 419B.020.

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

5 **SECTION 1.** ORS 417.815 is amended to read:

6 417.815. (1) The Office of Children's Advocate shall be accessible to the public through the state  
7 toll-free telephone line maintained pursuant to ORS 417.805 and through other electronic and writ-  
8 ten forms of communication. The office shall:

9 (a) Disseminate information and educate the public about the detection and prevention of child  
10 abuse and about the prosecution of persons accused of child abuse;

11 (b) Cooperate with other units within the Department of Human Services and law enforcement  
12 officials in performing duties under ORS 418.747 and 418.748 and 419B.005 to 419B.050 when the in-  
13 vestigation involves alleged child abuse;

14 (c) Provide technical assistance in the development and implementation of state and local pro-  
15 grams that relate to child abuse;

16 (d) In cooperation with the department, objectively review the department's systems for handling  
17 child abuse cases; and

18 (e) Analyze data collected by the office to discern general patterns and trends, chronic problems  
19 and other systemic difficulties in the detection, reporting, investigation, prosecution and resolution  
20 of cases of child abuse.

21 (2) In addition to the duties required under subsection (1) of this section, the office shall:

22 (a) Review *[any]* **every** complaint regarding the department's involvement in a specific child  
23 abuse case, *unless the office determines there is an adequate remedy for the complaint*;

24 (b) Make any appropriate referrals of the complaint or complainant at the time the office re-  
25 ceives the complaint or during the office's review process;

26 (c) Inform the complainant of the referral of the complaint or any other action taken by the  
27 office on the complaint;

28 (d) Inform the department of the office's intention to review the department's action, unless the  
29 office determines that advance notice will unduly hinder the review; *[and]*

30 (e) Conduct a review of the department's action when appropriate, and inform the department

**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 of the results of the review, including any recommendation the Children’s Advocate believes would  
 2 resolve any case or any systemic issues identified in the review[.]; **and**

3 **(f) Investigate allegations of abuse involving children or wards in the care or custody of**  
 4 **the department.**

5 (3) If the office has knowledge of confidential information relating to a child involved or  
 6 allegedly involved in child abuse, the office shall keep the information confidential from public dis-  
 7 closure. However, the office is subject to legal mandates in ORS 418.747 and 418.748 and 419B.005  
 8 to 419B.050.

9 (4) A person who files a complaint under this section or ORS 417.805 or participates in any in-  
 10 vestigation under this section may not be, because of that action:

11 (a) Subject to any penalties, sanctions or restrictions imposed by the department;

12 (b) Subject to any penalties, sanctions or restrictions connected with the person’s employment;

13 or

14 (c) Denied any right, privilege or benefit.

15 (5) If deemed necessary by the Children’s Advocate for the purposes of carrying out the duties  
 16 of the office, the office may conduct criminal records checks pursuant to ORS 181A.200 on a person  
 17 through the Law Enforcement Data System maintained by the Department of State Police.

18 **SECTION 2.** ORS 419B.020 is amended to read:

19 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-  
 20 port of child abuse, the department or the agency shall immediately:

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

23 (b) Make the following notifications:

24 (A) To the Office of Child Care if the alleged child abuse occurred in a child care facility as  
 25 defined in ORS 329A.250; [or]

26 (B) To the Department of Education if the alleged child abuse occurred in a school or was re-  
 27 lated to a school-sponsored activity[.]; or

28 **(C) To the Office of Children’s Advocate if the alleged child abuse involves a child or ward**  
 29 **in the care or custody of the Department of Human Services.**

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

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

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

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

38 (A) To the Office of Child Care if the alleged child abuse occurred in a child care facility as  
 39 defined in ORS 329A.250; or

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

42 (4) If the law enforcement agency conducting the investigation finds reasonable cause to believe  
 43 that abuse has occurred, the law enforcement agency shall notify by oral report followed by written  
 44 report the local office of the department. The Department of Human Services shall provide protec-  
 45 tive social services of its own or of other available social agencies if necessary to prevent further

1 abuses to the child or to safeguard the child's welfare.

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

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

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

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

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

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

26 (8) A minor child of 12 years of age or older may refuse to consent to the examination described  
 27 in subsection (7) of this section. The examination shall be conducted by or under the supervision  
 28 of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to  
 29 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained  
 30 in conducting such examinations.

31 (9) When the department completes an investigation under this section, if the person who made  
 32 the report of child abuse provided contact information to the department, the department shall no-  
 33 tify the person about whether contact with the child was made, whether the department determined  
 34 that child abuse occurred and whether services will be provided. The department is not required to  
 35 disclose information under this subsection if the department determines that disclosure is not per-  
 36 mitted under ORS 419B.035.

37 (10) When the Department of Education receives a notification under subsection (1) of this sec-  
 38 tion or a report on the outcomes of an investigation under subsection (3) of this section, the de-  
 39 partment shall act under, and is subject to, ORS 339.389.

40 **SECTION 3. The amendments to ORS 417.815 and 419B.020 by sections 1 and 2 of this 2023**  
 41 **Act apply to child abuse investigations conducted on or after the effective date of this 2023**  
 42 **Act.**