A-Bill for an Act
Relating to records of investigations of child abuse occurring in state programs; creating new provisions; amending ORS 419B.035; and declaring an emergency.

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

SECTION 1. (1) As used in this section:
(a) “Abuse investigation” means an investigation by the Department of Human Services under ORS 418.257 to 418.259 and 419B.010 to 419B.050 of an allegation of child abuse occurring at a state-authorized program.

(b) “State-authorized program” means:
(A) A child-caring agency, as defined in ORS 418.205, except that “state-authorized program” does not include a proctor foster home, as defined in ORS 418.205;
(B) An education provider, as defined in ORS 339.370;
(C) A child care facility, as described in ORS 329A.250; or
(D) A developmental disabilities residential facility, as defined in ORS 418.257.

(2) The Legislative Assembly finds that it is in the interest of the public and of children who are receiving services from state-authorized programs to ensure the effective oversight, regulation and improvement of state-authorized programs by, upon written request, making completed abuse investigation reports described in subsection (3) of this section available for inspection as provided in subsection (4) of this section.

(3)(a) At the conclusion of an abuse investigation, the department shall prepare a completed abuse investigation report.

(b) The completed abuse investigation report must reflect the department's investigation activities and abuse findings or determinations and include, at a minimum, all of the following:

(A) A description of the allegation of abuse that was investigated, including the date and
location of the act or acts of alleged abuse, if known.

(B) An outline of the department’s steps taken and information gathered in the investigation, including but not limited to a list of all witnesses interviewed and a summary of information obtained from those interviews, and a list of sources of information reviewed, including records, documents and reports, and a summary of information obtained from those information sources.

(C) A specific determination of whether the abuse allegation is founded or substantiated, unfounded or unsubstantiated or unable to be determined or inconclusive, and the basis for that determination.

(D) A list of every entity to which the department provided notice of the investigation outcome.

(E) The name and title of the individual who prepared the completed abuse investigation report.

(4)(a) Except as provided in paragraph (b) of this subsection, a completed abuse investigation report described in subsection (3) of this section is exempt from disclosure under ORS 192.314.

(b) If the department has issued a final order after the applicable administrative or contested case process is complete for each type of finding, the department may allow the following persons to inspect the completed abuse investigation report:

(A) Members of the Legislative Assembly and other officers or employees of a public body, as defined in ORS 174.109, if the duties of the officers or employees include policy development, regulation, funding and oversight of a state-authorized program.

(B) Board members who exercise authority over a state-authorized program.

(C) A person who received or is receiving services at the state-authorized program at which the alleged abuse occurred.

(D) Parents or guardians of minor children who received or are receiving services from the state-authorized program at which the alleged abuse occurred.

(E) The Secretary of State or a designee of the Secretary of State for the purposes of an audit.

(F) A professional licensing board for the purpose of assessing compliance with rules and standards adopted by the licensing board.

(G) If the request is to inspect a completed abuse investigation report that was prepared within 18 months before or 18 months following the death or serious injury of a child at the state-authorized program, any person.

(H) Any other appropriate person, as determined by the department by rule, for purposes of effective oversight, regulation and improvement of state-authorized programs.

(c) The department shall redact the following information from a completed abuse investigation report before permitting inspection of the report:

(A) The name, contact information and any other personally identifying information of a child alleged to be the victim of abuse, including information that could cause a reasonable inference to be made about the child’s identity by the general public.

(B) The name, contact information and any other personally identifying information of a person who reported or witnessed the alleged abuse if the person is not alleged to have committed the abuse.

(C) The name, contact information and any other personally identifying information of a
person alleged to have committed the abuse.

(D) Any documents or records gathered as evidence or supporting documentation during
the investigation that may be referenced in the completed abuse investigation report.

(E) Any individually identifiable health information, as defined in ORS 192.556.

(d) Paragraph (e)(C) of this subsection does not apply if:

(A) The person inspecting the report is the alleged victim or the alleged victim’s represen-
tative; or

(B) The department found that the allegation of abuse is substantiated or founded and
the abuse resulted in the death, sexual abuse or serious physical injury of a child.

(e) Paragraph (e)(D) of this subsection does not apply if the person inspecting the report
is the alleged victim or the alleged victim’s representative.

(f) A person who is permitted to inspect a completed abuse investigation report under
this subsection shall maintain the confidentiality of any privileged or confidential information
or records contained in the report and may use the information or records only for the
purposes of the oversight, regulation and improvement of state-authorized programs.

SECTION 2. ORS 419B.035, as amended by section 10, chapter 27, Oregon Laws 2022, and sec-
tion 9, chapter 90, Oregon Laws 2022, is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to
192.311 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of
public records and public documents, and except as provided in section 1 of this 2023 Act, reports
and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may
not be disclosed except as provided in this section. The Department of Human Services shall make
the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of
subsequent investigation of child abuse;

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practi-
tioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant
or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse
practitioner or coming before the physician, physician assistant or nurse practitioner for examina-
tion, care or treatment;

(c) Attorneys of record for the child or child’s parent or guardian in any juvenile court pro-
ceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically
reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile
court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
that a child has been subjected to child abuse or neglect;

(f) The Early Learning Division for the purpose of carrying out the functions of the division,
including the certification, registration or regulation of child care facilities and child care providers
and the administration of enrollment in the Central Background Registry;

(g) The Office of Children’s Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS
339.390 or 342.176 involving any child or any student;

(i) Any person, upon request to the Department of Human Services, if the reports or records
requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;

(j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(e)(G) to (J);

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

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

(m) An education provider for the purpose of making determinations under ORS 339.388; and

(n) A national nonprofit organization designated by the Department of Human Services that provides assistance with locating, recovering or providing services to children or youth who are determined by the department to be missing.

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

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

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

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect or necessary to determine a claim for crime victim compensation under ORS 147.005 to 147.367.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010
to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

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

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

(A) A law enforcement agency, a community corrections agency, the Department of Corrections, the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) The Department of Corrections and the Oregon Youth Authority may disclose records made available to them under subsection (5) of this section regarding a person in the custody of the Department of Corrections or the Oregon Youth Authority to each other, to the court, to the district attorney and to the person's attorney for the purpose of the person's hearing under ORS 420A.200 to 420A.206.

(C) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) Except as provided by ORS 339.389, an officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, “law enforcement agency” has the meaning given that term in ORS 181A.010.

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

SECTION 3. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.