

**A-Engrossed**  
**Senate Bill 106**

Ordered by the Senate May 4  
Including Senate Amendments dated May 4

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services, Mental Health and Recovery)

**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.

*[Requires Department of Human Services to study disposition rates of child abuse investigations. Directs department to submit findings to interim committees of Legislative Assembly related to human services not later than September 15, 2024.]*

**Exempts employee of youth correction facility or juvenile detention facility from specified prohibitions on use of restraint or seclusion on students in public education programs.**

**Modifies provisions regarding use of restraint or seclusion on children in care.**

**Modifies definition of "abuse" for purposes of child abuse reporting and investigation. Permits Department of Human Services to disclose child abuse investigation reports and records to designated national nonprofit organization that provides assistance locating, recovering or providing services to missing children.**

**Modifies definition of "board" for purposes of professional misconduct oversight to include Behavior Analysis Regulatory Board.**

**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

1  
2 Relating to investigations; creating new provisions; amending ORS 418.259, 418.519, 418.521, 418.528,  
3 419B.005, 419B.035 and 676.150; and prescribing an effective date.

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

5  
6 **PUBLIC EDUCATION PROGRAMS**

7  
8 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 339.285 to**  
9 **339.303.**

10 **SECTION 2. An employee of a youth correction facility or a juvenile detention facility**  
11 **established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 who uses restraint or**  
12 **seclusion on a student in connection with a Youth Corrections Education Program or Juve-**  
13 **nile Detention Education Program, as those terms are defined in ORS 326.695, is not subject**  
14 **to the prohibitions under ORS 339.285 to 339.303.**

15  
16 **CHILD-CARING AGENCIES**

17  
18 **SECTION 3. ORS 418.259 is amended to read:**

19 418.259. (1) The investigation conducted by the Department of Human Services under ORS  
20 418.258 must result in one of the following findings:

**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 (a) That the report is substantiated. A report is substantiated when there is reasonable cause  
2 to believe that the abuse of a child in care occurred.

3 (b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence  
4 that the abuse of a child in care occurred.

5 (c) That the report is inconclusive. A report is inconclusive when there is some indication that  
6 the abuse occurred but there is insufficient evidence to conclude that there is reasonable cause to  
7 believe that the abuse occurred.

8 (2) When a report is received under ORS 418.258 alleging that a child in care may have been  
9 subjected to abuse, the department shall notify the case managers for the child, the attorney for the  
10 child, the child's court appointed special advocate, the parents or guardians of the child, any attor-  
11 ney representing a parent or guardian of the child and any governmental agency that has a contract  
12 with the child-caring agency or developmental disabilities residential facility to provide care or  
13 services to the child that a report has been received.

14 (3)(a) The department may interview the child in care who is the subject of suspected abuse and  
15 any witnesses, including other children, without the presence of employees of the child-caring  
16 agency, proctor foster home or developmental disabilities residential facility, the provider of services  
17 at a certified foster home or department personnel. The department shall inform the child in care  
18 that the child may have the child's parent or guardian, if the child has not been committed to the  
19 custody of the department or the Oregon Youth Authority, or attorney present when participating  
20 in an interview conducted in the course of an abuse investigation.

21 (b) When investigating an allegation of inappropriate use of restraint or involuntary seclusion,  
22 the department shall:

23 (A) Conduct the interviews described in paragraph (a) of this subsection;

24 (B) Review all relevant incident reports related to the child in care and other reports related  
25 to the restraint or involuntary seclusion of the child in care;

26 (C) Review any audio, video or photographic recordings of the restraint or involuntary seclusion,  
27 including the circumstances immediately before and following the incident;

28 (D) During an interview with the child in care who is the subject of the suspected abuse, ask  
29 the child about whether they experienced any reportable injury or pain as a result of the restraint  
30 or involuntary seclusion;

31 (E) Review the training records related to all of the individuals who were involved in the use  
32 of restraint or involuntary seclusion; and

33 (F) Make all reasonable efforts to conduct trauma-informed interviews of each child witness,  
34 including the child in care who is the subject of suspected abuse unless the investigator makes a  
35 specific determination that the interview may significantly traumatize the child and is not in the  
36 best interests of the child.

37 (4) The department shall notify the following when a report of abuse is substantiated:

38 (a) The Director of Human Services.

39 (b) Personnel in the department responsible for the licensing, certificate or authorization of  
40 child-caring agencies.

41 (c) The department's lead personnel in that part of the department that is responsible for child  
42 welfare generally.

43 (d) With respect to the child in care who is the subject of the abuse report and investigation,  
44 the case managers for the child, the attorney for the child, the child's court appointed special ad-  
45 vocate, the parents or guardians of the child, any attorney representing a parent or guardian of the

1 child and any governmental agency that has a contract with the child-caring agency to provide care  
2 or services to the child.

3 (e) The parents or guardians of the child in care who is the subject of the abuse report and in-  
4 vestigation if the child in care has not been committed to the custody of the department or the  
5 youth authority. Notification under this paragraph may not include any details or information other  
6 than that a report of abuse has been substantiated.

7 (f) Any governmental agency that has a contract with the child-caring agency to provide care  
8 or services to a child in care.

9 (g) The local citizen review board established by the Judicial Department under ORS 419A.090.

10 (5) The department shall report on a quarterly basis to the interim legislative committees on  
11 child welfare for the purposes of public review and oversight of the quality and safety of child-caring  
12 agencies, certified foster homes and developmental disabilities residential facilities that are licensed,  
13 certified or authorized by the department in this state and of proctor foster homes that are certified  
14 by the child-caring agencies. Information provided in reports under this subsection may not contain  
15 the name or any identifying information of a child in care but must contain all of the following:

16 (a) The name of any child-caring agency, including an out-of-state child-caring agency, proctor  
17 foster home or developmental disabilities residential facility, or, provided there are five or more  
18 certified foster homes in the county, the name of the county where a certified foster home is located,  
19 where the department conducted an investigation pursuant to ORS 418.258 that resulted in a finding  
20 that the report of abuse was substantiated during that quarter;

21 (b) The approximate date that the abuse occurred;

22 (c) The nature of the abuse and a brief narrative description of the abuse that occurred;

23 *[(d) Whether physical injury, sexual abuse or death resulted from the abuse;]*

24 **(d) Whether the abuse resulted in a reportable injury, sexual abuse or death;**

25 (e) Corrective actions taken or ordered by the department and the outcome of the corrective  
26 actions; and

27 (f) Information the department received in that quarter regarding any substantiated allegations  
28 of child abuse made by any other state involving a congregate care residential setting, as defined  
29 in ORS 418.322, in which the department has placed Oregon children.

30 (6) The department's quarterly report under subsection (5) of this section must also contain all  
31 of the following:

32 (a) The total number of restraints used in programs that quarter;

33 (b) The total number of programs that reported the use of restraints of children in care that  
34 quarter;

35 (c) The total number of individual children in care who were placed in restraints by programs  
36 that quarter;

37 (d) The number of reportable injuries to children in care that resulted from those restraints;

38 (e) The number of incidents in which an individual who was not appropriately trained in the use  
39 of the restraint used on a child in care in a program; and

40 (f) The number of incidents that were reported for potential inappropriate use of restraint.

41 (7) In compiling records, reports and other information during an investigation under ORS  
42 418.258 (1) and in issuing findings, letters of concern or reprimands, the Director of Human Services  
43 or the director's designee and the department may not refer to the employee, person or entity that  
44 is the subject of the investigation as an "alleged perpetrator" but must refer to the employee, person  
45 or entity as the "respondent."

1 (8) As used in this section, “program,” “reportable injury” and “restraint” have the meanings  
2 given those terms in ORS 418.519.

3 **SECTION 4.** ORS 418.519 is amended to read:

4 418.519. As used in ORS 418.519 to 418.532:

5 (1) “Certified foster home” means a foster home subject to ORS 418.625 to 418.645.

6 (2) “Chemical restraint” means a drug or medication that is administered to a child in care to  
7 control behavior or restrict freedom of movement.

8 (3) “Child-caring agency” has the meaning given that term in ORS 418.205.

9 (4) “Child in care” has the meaning given that term in ORS 418.257.

10 (5) “Children’s emergency safety intervention specialist” means a qualified mental health pro-  
11 fessional licensed to order, monitor and evaluate the use of seclusion and restraint in accredited and  
12 certified facilities that provide intensive mental health treatment services to individuals under 21  
13 years of age.

14 (6) “Developmental disabilities residential facility” has the meaning given that term in ORS  
15 418.257.

16 (7)(a) “Involuntary seclusion” means the confinement of a child in care alone in a room **or an**  
17 **enclosed space** from which the child in care is prevented from leaving by any means.

18 (b) “Involuntary seclusion” does not include age-appropriate discipline, including, but not limited  
19 to, time-out if the time-out is in a setting from which the child in care is not prevented from leaving  
20 **by any means.**

21 (8) “Mechanical restraint” means a device used to restrict the movement of a child in care or  
22 the movement or normal function of a portion of the body of a child in care.

23 (9) “Proctor foster home” means a foster home certified by a child-caring agency under ORS  
24 418.248.

25 (10) “Program” means:

26 (a) A child-caring agency;

27 (b) A proctor foster home; or

28 (c) A developmental disabilities residential facility that is a residential training home or facility  
29 licensed under ORS 443.415 to serve children under 18 years of age.

30 (11) “Prone restraint” means a restraint in which a child in care is held face down on the floor.

31 (12) “Reportable injury” means any type of injury to a child in care, including but not limited  
32 to rug burns, fractures, sprains, bruising, pain, soft tissue injury, punctures, scratches, concussions,  
33 abrasions, dizziness, loss of consciousness, loss of vision, visual disturbance or death.

34 (13) “Restraint” means the physical restriction of a child in care’s actions or movements by  
35 holding the child in care or using pressure or other means.

36 (14) “Secure adolescent inpatient treatment program” means a child-caring agency that is an  
37 intensive treatment services program, as described by the Oregon Health Authority by rule, that  
38 provides inpatient psychiatric stabilization and treatment services to individuals under 21 years of  
39 age who require a secure intensive treatment setting.

40 (15) “Secure children’s inpatient treatment program” means a child-caring agency that is an in-  
41 tensive treatment services program, as described by the authority by rule, that provides inpatient  
42 psychiatric stabilization and treatment services to children under 14 years of age who require a  
43 secure intensive treatment setting.

44 (16) “Serious bodily injury” means any significant impairment of the physical condition of an  
45 individual, as determined by qualified medical personnel, whether self-inflicted or inflicted by some-

1 one else.

2 (17) "Supine restraint" means a restraint in which a child in care is held face up on the floor.

3 **SECTION 5.** ORS 418.521 is amended to read:

4 418.521. (1) A child-caring agency, proctor foster home, certified foster home or developmental  
5 disabilities residential facility may not place a child in care in a restraint or involuntary seclusion  
6 as a form of discipline, punishment or retaliation or for the convenience of staff, contractors or  
7 volunteers of the child-caring agency, proctor foster home, certified foster home or developmental  
8 disabilities residential facility.

9 (2) Except as provided in ORS 418.523 (4), the use of the following types of restraint of a child  
10 in care are prohibited:

11 (a) Chemical restraint.

12 (b) Mechanical restraint.

13 (c) Prone restraint.

14 (d) Supine restraint.

15 (e) Any restraint that includes the **intentional and** nonincidental use of a solid object, including  
16 the ground, a wall or the floor, to impede a child in care's movement.

17 (f) Any restraint that places, or creates a risk of placing, pressure on a child in care's neck or  
18 throat.

19 (g) Any restraint that places, or creates a risk of placing, pressure on a child in care's mouth.

20 (h) Any restraint that impedes, or creates a risk of impeding, a child in care's breathing.

21 (i) Any restraint that involves the intentional placement of [*hands, feet, elbows, knees or*] any  
22 object **or a hand, knee, foot or elbow** on a child in care's neck, throat, genitals or other intimate  
23 parts.

24 (j) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be  
25 placed, on a child in care's stomach, chest, joints, throat or back by a knee, foot or elbow.

26 (k) Any other [*restraint*] **action**, the primary purpose of which is to inflict pain.

27 **SECTION 6.** ORS 418.528 is amended to read:

28 418.528. (1) A program must prepare and submit to the Department of Human Services a quar-  
29 terly report detailing the program's use of restraint and involuntary seclusion for the preceding  
30 three-month period, including, at a minimum:

31 (a) The total number of incidents involving restraint.

32 (b) The total number of incidents involving involuntary seclusion.

33 (c) The total number of involuntary seclusions in a locked room.

34 (d) The total number of rooms available for use by the program for involuntary seclusion and  
35 a description of the dimensions and design of the rooms.

36 (e) The total number of children in care placed in restraint.

37 (f) The total number of children in care placed in involuntary seclusion.

38 **(g) The total number of children who experienced both restraint and involuntary seclu-**  
39 **sion.**

40 [(g)] **(h)** The total number of incidents under paragraph (a) or (b) of this subsection that resulted  
41 in reportable injuries.

42 [(h)] **(i)** The number of children in care who were placed in restraint or involuntary seclusion  
43 more than three times during the preceding three-month period and a description of the steps the  
44 program has taken to decrease the use of restraint and involuntary seclusion.

45 [(i)] **(j)** The number of incidents in which an individual who placed a child in care in a restraint

1 or involuntary seclusion was not certified as described in ORS 418.529 or trained, as required by the  
2 department by rule, in the use of the type of restraint or involuntary seclusion used.

3 [(j)] (k) The demographic characteristics of the children in care who the program placed in a  
4 restraint or involuntary seclusion, including race, ethnicity, gender, disability status, migrant status,  
5 English proficiency and status as economically disadvantaged, unless the demographic information  
6 would reveal personally identifiable information about an individual child in care.

7 (L) **The total number of children in care served by the program during the reporting**  
8 **period, including race, ethnicity, gender, disability status, migrant status, English proficiency**  
9 **and status as economically disadvantaged, unless the demographic information would reveal**  
10 **personally identifiable information about an individual child in care.**

11 (2)(a) If a program provides services in more than one location, the reports under subsection (1)  
12 of this section must separate the data for each location that serves five or more children in care.

13 (b) If the site-specific data for a given location is not provided under paragraph (a) of this sub-  
14 section because the program serves fewer than five children in care at that location, the program's  
15 report must include a notation indicating the aggregate number of children in care served by the  
16 program across all of the program's locations and the reporting requirements under paragraph (a)  
17 of this subsection continue to apply to any of the program's other locations serving five or more  
18 children in care.

19 (3)(a) The department shall make each quarterly report it receives under this section available  
20 to the public on the department's website.

21 (b) Each program that submits a report under this section shall make its quarterly report  
22 available to the public upon request at the program's main office and on the program's website if  
23 the program maintains a website.

24 (c) Each program shall provide notice regarding how to access the quarterly reports to the  
25 parents or guardians of children in care in the program. The program shall provide the notice upon  
26 the child in care's admission and at least two times each year thereafter.

27  
28 **CHILD ABUSE**

29  
30 **SECTION 7.** ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, is amended  
31 to read:

32 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

33 (1)(a) "Abuse" means:

34 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
35 which has been caused by other than accidental means, including any injury which appears to be  
36 at variance with the explanation given of the injury.

37 (B) Any mental injury to a child, which shall include only *[observable and substantial impairment*  
38 *of the child's mental or psychological ability to function caused by cruelty to the child, with due regard*  
39 *to the culture of the child]* **cruel or unconscionable acts or statements made, or threatened to**  
40 **be made, to a child if the acts, statements or threats result in severe harm to the child's**  
41 **psychological, cognitive, emotional or social well-being and functioning.**

42 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
43 tration and incest, as those acts are described in ORS chapter 163.

44 (D) Sexual abuse, as described in ORS chapter 163.

45 (E) Sexual exploitation, including but not limited to:

1 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
2 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
3 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
4 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
5 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
6 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
7 which is designed to serve educational or other legitimate purposes; and

8 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in  
9 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as  
10 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

11 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to  
12 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
13 welfare of the child.

14 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm  
15 to the child's health or welfare.

16 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

17 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where  
18 methamphetamines are being manufactured.

19 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
20 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-  
21 stantial risk of harm to the child's health or safety.

22 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
23 conditions described in paragraph (a) of this subsection.

24 (2) "Child" means an unmarried person who:

25 (a) Is under 18 years of age; or

26 (b) Is *[under 21 years of age and residing in or receiving care or services at a child-caring agency*  
27 *as that term is defined in ORS 418.205]* **a child in care, as defined in ORS 418.257.**

28 (3) "Higher education institution" means:

29 (a) A community college as defined in ORS 341.005;

30 (b) A public university listed in ORS 352.002;

31 (c) The Oregon Health and Science University; and

32 (d) A private institution of higher education located in Oregon.

33 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged  
34 to have experienced abuse.

35 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

36 (5) "Law enforcement agency" means:

37 (a) A city or municipal police department.

38 (b) A county sheriff's office.

39 (c) The Oregon State Police.

40 (d) A police department established by a university under ORS 352.121 or 353.125.

41 (e) A county juvenile department.

42 (6) "Public or private official" means:

43 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,  
44 including any intern or resident.

45 (b) Dentist.

- 1 (c) School employee, including an employee of a higher education institution.
- 2 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide  
3 or employee of an in-home health service.
- 4 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning  
5 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon  
6 Youth Authority, a local health department, a community mental health program, a community de-  
7 velopmental disabilities program, a county juvenile department, a child-caring agency as that term  
8 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 9 (f) Peace officer.
- 10 (g) Psychologist.
- 11 (h) Member of the clergy.
- 12 (i) Regulated social worker.
- 13 (j) Optometrist.
- 14 (k) Chiropractor.
- 15 (L) Certified provider of foster care, or an employee thereof.
- 16 (m) Attorney.
- 17 (n) Licensed professional counselor.
- 18 (o) Licensed marriage and family therapist.
- 19 (p) Firefighter or emergency medical services provider.
- 20 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 21 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 22 (s) An elected official of a branch of government of this state or a state agency, board, com-  
23 mission or department of a branch of government of this state or of a city, county or other political  
24 subdivision in this state.
- 25 (t) Physical, speech or occupational therapist.
- 26 (u) Audiologist.
- 27 (v) Speech-language pathologist.
- 28 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
29 gations or discipline by the commission.
- 30 (x) Pharmacist.
- 31 (y) An operator of a preschool recorded program under ORS 329A.255.
- 32 (z) An operator of a school-age recorded program under ORS 329A.255.
- 33 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
34 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
35 109.056.
- 36 (bb) An employee of a public or private organization providing child-related services or activ-  
37 ities:
  - 38 (A) Including but not limited to an employee of a:
    - 39 (i) Youth group or center;
    - 40 (ii) Scout group or camp;
    - 41 (iii) Summer or day camp;
    - 42 (iv) Survival camp; or
    - 43 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-  
44 ligious, public or private educational system or a community service organization; and
  - 45 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that



1 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-  
2 man trafficking.

3 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
4 if compensated and if the athlete is a child.

5 (dd) Personal support worker, as defined in ORS 410.600.

6 (ee) Home care worker, as defined in ORS 410.600.

7 (ff) Animal control officer, as defined in ORS 609.500.

8 (gg) Member of a school district board, an education service district board or a public charter  
9 school governing body.

10 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a  
11 service identified in an individualized written service plan of a child with a developmental disability.

12 (ii) Referral agent, as defined in ORS 418.351.

13 **(jj) Parole and probation officer, as defined in ORS 181A.355.**

14 **(kk) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or be-  
15 havior analysis interventionist registered under ORS 676.815.**

16 **SECTION 8.** ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section  
17 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read:  
18 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

19 (1)(a) "Abuse" means:

20 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
21 which has been caused by other than accidental means, including any injury which appears to be  
22 at variance with the explanation given of the injury.

23 (B) Any mental injury to a child, which shall include only *[observable and substantial impairment*  
24 *of the child's mental or psychological ability to function caused by cruelty to the child, with due regard*  
25 *to the culture of the child]* **cruel or unconscionable acts or statements made, or threatened to**  
26 **be made, to a child if the acts, statements or threats result in severe harm to the child's**  
27 **psychological, cognitive, emotional or social well-being and functioning.**

28 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
29 tration and incest, as those acts are described in ORS chapter 163.

30 (D) Sexual abuse, as described in ORS chapter 163.

31 (E) Sexual exploitation, including but not limited to:

32 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
33 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
34 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
35 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
36 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
37 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
38 which is designed to serve educational or other legitimate purposes; and

39 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in  
40 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as  
41 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

42 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to  
43 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
44 welfare of the child.

45 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm

1 to the child's health or welfare.

2 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

3 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where  
4 methamphetamines are being manufactured.

5 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
6 manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a sub-  
7 stantial risk of harm to the child's health or safety.

8 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
9 conditions described in paragraph (a) of this subsection.

10 (2) "Child" means an unmarried person who:

11 (a) Is under 18 years of age; or

12 (b) Is [*under 21 years of age and residing in or receiving care or services at a child-caring agency*  
13 *as that term is defined in ORS 418.205*] **a child in care, as defined in ORS 418.257.**

14 (3) "Higher education institution" means:

15 (a) A community college as defined in ORS 341.005;

16 (b) A public university listed in ORS 352.002;

17 (c) The Oregon Health and Science University; and

18 (d) A private institution of higher education located in Oregon.

19 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged  
20 to have experienced abuse.

21 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

22 (5) "Law enforcement agency" means:

23 (a) A city or municipal police department.

24 (b) A county sheriff's office.

25 (c) The Oregon State Police.

26 (d) A police department established by a university under ORS 352.121 or 353.125.

27 (e) A county juvenile department.

28 (6) "Public or private official" means:

29 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,  
30 including any intern or resident.

31 (b) Dentist.

32 (c) School employee, including an employee of a higher education institution.

33 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide  
34 or employee of an in-home health service.

35 (e) Employee of the Department of Human Services, Oregon Health Authority, Department of  
36 Early Learning and Care, Department of Education, Youth Development Division, Office of Child  
37 Care, the Oregon Youth Authority, a local health department, a community mental health program,  
38 a community developmental disabilities program, a county juvenile department, a child-caring  
39 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

40 (f) Peace officer.

41 (g) Psychologist.

42 (h) Member of the clergy.

43 (i) Regulated social worker.

44 (j) Optometrist.

45 (k) Chiropractor.

- 1 (L) Certified provider of foster care, or an employee thereof.
- 2 (m) Attorney.
- 3 (n) Licensed professional counselor.
- 4 (o) Licensed marriage and family therapist.
- 5 (p) Firefighter or emergency medical services provider.
- 6 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 7 (r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
- 8 (s) An elected official of a branch of government of this state or a state agency, board, com-  
9 mission or department of a branch of government of this state or of a city, county or other political  
10 subdivision in this state.
- 11 (t) Physical, speech or occupational therapist.
- 12 (u) Audiologist.
- 13 (v) Speech-language pathologist.
- 14 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
15 gations or discipline by the commission.
- 16 (x) Pharmacist.
- 17 (y) An operator of a preschool recorded program under ORS 329A.255.
- 18 (z) An operator of a school-age recorded program under ORS 329A.255.
- 19 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
20 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
21 109.056.
- 22 (bb) An employee of a public or private organization providing child-related services or activ-  
23 ities:
  - 24 (A) Including but not limited to an employee of a:
    - 25 (i) Youth group or center;
    - 26 (ii) Scout group or camp;
    - 27 (iii) Summer or day camp;
    - 28 (iv) Survival camp; or
    - 29 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-  
30 ligious, public or private educational system or a community service organization; and
  - 31 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that  
32 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-  
33 man trafficking.
- 34 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
35 if compensated and if the athlete is a child.
- 36 (dd) Personal support worker, as defined in ORS 410.600.
- 37 (ee) Home care worker, as defined in ORS 410.600.
- 38 (ff) Animal control officer, as defined in ORS 609.500.
- 39 (gg) Member of a school district board, an education service district board or a public charter  
40 school governing body.
- 41 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a  
42 service identified in an individualized written service plan of a child with a developmental disability.
- 43 (ii) Referral agent, as defined in ORS 418.351.
- 44 **(jj) Parole and probation officer, as defined in ORS 181A.355.**
- 45 **(kk) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or be-**

1 **havior analysis interventionist registered under ORS 676.815.**

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

4 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and  
5 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records  
6 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
7 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
8 ment of Human Services shall make the records available to:

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

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

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

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

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

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

27 (g) The Office of Children's Advocate;

28 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
29 339.390 or 342.176 involving any child or any student;

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

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

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

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

40 (m) An education provider for the purpose of making determinations under ORS 339.388[.]; **and**

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

44 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-  
45 partment of Human Services may exempt from disclosure the names, addresses and other identifying

1 information about other children, witnesses, victims or other persons named in the report or record  
2 if the department determines, in written findings, that the safety or well-being of a person named in  
3 the report or record may be jeopardized by disclosure of the names, addresses or other identifying  
4 information, and if that concern outweighs the public's interest in the disclosure of that information.

5 (b) If the Department of Human Services does not have a report or record of abuse regarding  
6 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
7 161.015, the department may disclose that information.

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

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

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

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

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

44 (A) A law enforcement agency, a community corrections agency, the Department of Corrections,  
45 the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose

1 records made available to them under subsection (5) of this section to each other, to law enforce-  
2 ment, community corrections, corrections and parole agencies of other states and to authorized  
3 treatment providers for the purpose of managing and supervising offenders in custody or on pro-  
4 bation, parole, post-prison supervision or other form of conditional or supervised release.

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

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

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

16 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
17 181A.010.

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

19  
20 **PROFESSIONAL MISCONDUCT**

21  
22 **SECTION 10.** ORS 676.150 is amended to read:

23 676.150. (1) As used in this section:

24 (a) "Board" means the:

25 (A) State Board of Examiners for Speech-Language Pathology and Audiology;

26 (B) State Board of Chiropractic Examiners;

27 (C) State Board of Licensed Social Workers;

28 (D) Oregon Board of Licensed Professional Counselors and Therapists;

29 (E) Oregon Board of Dentistry;

30 (F) Board of Licensed Dietitians;

31 (G) State Board of Massage Therapists;

32 (H) Oregon Board of Naturopathic Medicine;

33 (I) Oregon State Board of Nursing;

34 (J) Long Term Care Administrators Board;

35 (K) Oregon Board of Optometry;

36 (L) State Board of Pharmacy;

37 (M) Oregon Medical Board;

38 (N) Occupational Therapy Licensing Board;

39 (O) Oregon Board of Physical Therapy;

40 (P) Oregon Board of Psychology;

41 (Q) Board of Medical Imaging;

42 (R) State Board of Direct Entry Midwifery;

43 (S) State Board of Denture Technology;

44 (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

45 (U) Oregon Health Authority, to the extent that the authority licenses emergency medical ser-

1 vices providers;

2 (V) Oregon State Veterinary Medical Examining Board; *[or]*

3 (W) State Mortuary and Cemetery Board[.]; **or**

4 **(X) Behavior Analysis Regulatory Board.**

5 (b) "Licensee" means a health professional licensed or certified by or registered with a board.

6 (c) "Prohibited conduct" means conduct by a licensee that:

7 (A) Constitutes a criminal act against a patient or client; or

8 (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

9 (d) "Unprofessional conduct" means conduct unbecoming a licensee or detrimental to the best  
10 interests of the public, including conduct contrary to recognized standards of ethics of the licensee's  
11 profession or conduct that endangers the health, safety or welfare of a patient or client.

12 (2) Unless state or federal laws relating to confidentiality or the protection of health information  
13 prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has en-  
14 gaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for  
15 the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the  
16 conduct without undue delay, but in no event later than 10 working days after the reporting licensee  
17 learns of the conduct.

18 (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime  
19 shall report the conviction or arrest to the licensee's board within 10 days after the conviction or  
20 arrest.

21 (4) The board responsible for a licensee who is reported to have engaged in prohibited or un-  
22 professional conduct shall investigate in accordance with the board's rules. If the board has rea-  
23 sonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present  
24 the facts to an appropriate law enforcement agency without undue delay, but in no event later than  
25 10 working days after the board finds reasonable cause to believe that the licensee engaged in pro-  
26 hibited conduct.

27 (5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection  
28 (2) of this section or the licensee's conviction or arrest as required by subsection (3) of this section  
29 is subject to discipline by the board responsible for the licensee.

30 (6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section  
31 commits a Class A violation.

32 (7)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this  
33 section is confidential under ORS 676.175.

34 (b) A board may disclose a report as provided in ORS 676.177.

35 (c) If the Health Licensing Office receives a report described in this subsection, the report is  
36 confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.

37 (8) Except as part of an application for a license or for renewal of a license and except as pro-  
38 vided in subsection (3) of this section, a board may not require a licensee to report the licensee's  
39 criminal conduct.

40 (9) The obligations imposed by this section are in addition to and not in lieu of other obligations  
41 to report unprofessional conduct as provided by statute.

42 (10) A licensee who reports to a board in good faith as required by subsection (2) of this section  
43 is immune from civil liability for making the report.

44 (11) A board and the members, employees and contractors of the board are immune from civil  
45 liability for actions taken in good faith as a result of a report received under subsection (2) or (3)

1 of this section.

2

3

**CAPTIONS**

4

5 **SECTION 11. The unit captions used in this 2023 Act are provided only for the conven-**  
6 **ience of the reader and do not become part of the statutory law of this state or express any**  
7 **legislative intent in the enactment of this 2023 Act.**

8

9

**EFFECTIVE DATE**

10

11 **SECTION 12. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
12 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

13

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