

A-Engrossed Senate Bill 790

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Sponsored by COMMITTEE ON HUMAN SERVICES

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.

Directs Department of Human Services to find public education program responsible for founded reports of abuse in specified circumstances. Modifies definition of "abuse" for purposes of child abuse to include violations of existing laws prohibiting infliction of corporal punishment on students *[and]*.

Modifies definition of "abuse" for purposes of child abuse to include violations of existing laws prohibiting use of restraint and seclusion on students. Restores definition on July 1, 2028.

Directs department to submit quarterly reports to Legislative Assembly regarding investigations of abuse involving child and school employee, contractor, agent or volunteer.

Prohibits department in specified circumstances from substantiating allegation of abuse against personnel of public education program who have not been appropriately trained. Repeals prohibition on June 30, 2028.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to violations of laws prohibiting harming students; creating new provisions; amending ORS
3 419B.005 and 419B.019; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 339.285 to**
6 **339.303.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Behavior intervention plan" has the meaning given that term in ORS 343.154.

9 (b) "504 Plan" means an education plan developed for a student in accordance with sec-
10 tion 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

11 (c) "Individualized education program" has the meaning given that term in ORS 343.035.

12 (2) When the Department of Human Services conducts an investigation under ORS
13 419B.019 of a report of suspected abuse of a student in a public education program and the
14 department finds that the report of abuse is founded, the department shall determine that
15 the public education program is responsible for the abuse if:

16 (a) The abuse involved the use of restraint or seclusion and the public education program
17 failed to ensure that a sufficient number of personnel, appropriately trained in the use of
18 restraint and seclusion, were available to comply with the individualized education programs,
19 504 Plans and behavior intervention plans of the students who were present in the setting
20 where the abuse occurred at the time the abuse occurred;

21 (b)(A) The abuse involved the use of restraint, seclusion or neglect and the public edu-
22 cation program failed to provide the personnel involved with the restraint, seclusion or neg-

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 lect with access to the student's individualized education program, 504 Plan or behavior
2 intervention program or failed to provide the personnel with adequate training to appropri-
3 ately perform health-related or personal care tasks; and

4 (B) The personnel were not aware of, and failed to provide the services and supports in
5 the manner required by, the student's individualized education program, 504 Plan or behavior
6 plan;

7 (c) The abuse involved the use of restraint or seclusion, a superior ordered personnel to
8 impose the restraint or seclusion, and the personnel who imposed the restraint or seclusion
9 reasonably believed that failure to comply with the order would result in termination or
10 discipline; or

11 (d)(A) The abuse involved the use of restraint or seclusion and the public education pro-
12 gram failed to ensure that the personnel who imposed the restraint or seclusion were ap-
13 propriately trained in the use of restraint and seclusion;

14 (B) The personnel who imposed the restraint or seclusion reasonably believed that failure
15 to impose the restraint or seclusion would lead to serious bodily injury of the student or
16 others; and

17 (C) If the personnel imposed a restraint, it was not a type of restraint prohibited under
18 ORS 339.288.

19 **SECTION 3.** ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, is amended
20 to read:

21 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

26 (B) Any mental injury to a child, which shall include only observable and substantial impairment
27 of the child's mental or psychological ability to function caused by cruelty to the child, with due
28 regard to the culture of the child.

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

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

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

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

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

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

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

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

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

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

9 **(K) The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 339.291,**
10 **339.303 or 339.308.**

11 **(L) The infliction of corporal punishment on a child in violation of ORS 339.250 (9).**

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

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

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

16 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
17 agency as that term is defined in ORS 418.205.

18 (3) "Higher education institution" means:

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

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

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

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

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

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

26 (5) "Law enforcement agency" means:

27 (a) A city or municipal police department.

28 (b) A county sheriff's office.

29 (c) The Oregon State Police.

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

31 (e) A county juvenile department.

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

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

35 (b) Dentist.

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

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

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

44 (f) Peace officer.

45 (g) Psychologist.

- 1 (h) Member of the clergy.
- 2 (i) Regulated social worker.
- 3 (j) Optometrist.
- 4 (k) Chiropractor.
- 5 (L) Certified provider of foster care, or an employee thereof.
- 6 (m) Attorney.
- 7 (n) Licensed professional counselor.
- 8 (o) Licensed marriage and family therapist.
- 9 (p) Firefighter or emergency medical services provider.
- 10 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 11 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 12 (s) An elected official of a branch of government of this state or a state agency, board, com-
13 mission or department of a branch of government of this state or of a city, county or other political
14 subdivision in this state.
- 15 (t) Physical, speech or occupational therapist.
- 16 (u) Audiologist.
- 17 (v) Speech-language pathologist.
- 18 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
19 gations or discipline by the commission.
- 20 (x) Pharmacist.
- 21 (y) An operator of a preschool recorded program under ORS 329A.255.
- 22 (z) An operator of a school-age recorded program under ORS 329A.255.
- 23 (aa) Employee of a private agency or organization facilitating the provision of respite services,
24 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
25 109.056.
- 26 (bb) An employee of a public or private organization providing child-related services or activ-
27 ities:
 - 28 (A) Including but not limited to an employee of a:
 - 29 (i) Youth group or center;
 - 30 (ii) Scout group or camp;
 - 31 (iii) Summer or day camp;
 - 32 (iv) Survival camp; or
 - 33 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
34 ligious, public or private educational system or a community service organization; and
 - 35 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
36 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
37 man trafficking.
- 38 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
39 if compensated and if the athlete is a child.
- 40 (dd) Personal support worker, as defined in ORS 410.600.
- 41 (ee) Home care worker, as defined in ORS 410.600.
- 42 (ff) Animal control officer, as defined in ORS 609.500.
- 43 (gg) Member of a school district board, an education service district board or a public charter
44 school governing body.
- 45 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a

1 service identified in an individualized written service plan of a child with a developmental disability.

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

3 **SECTION 4.** ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section
4 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read:
5 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

6 (1)(a) “Abuse” means:

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

10 (B) Any mental injury to a child, which shall include only observable and substantial impairment
11 of the child’s mental or psychological ability to function caused by cruelty to the child, with due
12 regard to the culture of the child.

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

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

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

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

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

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

30 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
31 to the child’s health or welfare.

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

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

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

38 **(K) The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 339.291,**
39 **339.303 or 339.308.**

40 **(L) The infliction of corporal punishment on a child in violation of ORS 339.250 (9).**

41 (b) “Abuse” does not include reasonable discipline unless the discipline results in one of the
42 conditions described in paragraph (a) of this subsection.

43 (2) “Child” means an unmarried person who:

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

45 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring

- 1 agency as that term is defined in ORS 418.205.
- 2 (3) “Higher education institution” means:
- 3 (a) A community college as defined in ORS 341.005;
- 4 (b) A public university listed in ORS 352.002;
- 5 (c) The Oregon Health and Science University; and
- 6 (d) A private institution of higher education located in Oregon.
- 7 (4)(a) “Investigation” means a detailed inquiry into or assessment of the safety of a child alleged
- 8 to have experienced abuse.
- 9 (b) “Investigation” does not include screening activities conducted upon the receipt of a report.
- 10 (5) “Law enforcement agency” means:
- 11 (a) A city or municipal police department.
- 12 (b) A county sheriff’s office.
- 13 (c) The Oregon State Police.
- 14 (d) A police department established by a university under ORS 352.121 or 353.125.
- 15 (e) A county juvenile department.
- 16 (6) “Public or private official” means:
- 17 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 18 including any intern or resident.
- 19 (b) Dentist.
- 20 (c) School employee, including an employee of a higher education institution.
- 21 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide
- 22 or employee of an in-home health service.
- 23 (e) Employee of the Department of Human Services, Oregon Health Authority, Department of
- 24 Early Learning and Care, Department of Education, Youth Development Division, Office of Child
- 25 Care, the Oregon Youth Authority, a local health department, a community mental health program,
- 26 a community developmental disabilities program, a county juvenile department, a child-caring
- 27 agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
- 28 (f) Peace officer.
- 29 (g) Psychologist.
- 30 (h) Member of the clergy.
- 31 (i) Regulated social worker.
- 32 (j) Optometrist.
- 33 (k) Chiropractor.
- 34 (L) Certified provider of foster care, or an employee thereof.
- 35 (m) Attorney.
- 36 (n) Licensed professional counselor.
- 37 (o) Licensed marriage and family therapist.
- 38 (p) Firefighter or emergency medical services provider.
- 39 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 40 (r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
- 41 (s) An elected official of a branch of government of this state or a state agency, board, com-
- 42 mission or department of a branch of government of this state or of a city, county or other political
- 43 subdivision in this state.
- 44 (t) Physical, speech or occupational therapist.
- 45 (u) Audiologist.

- 1 (v) Speech-language pathologist.
- 2 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
3 gations or discipline by the commission.
- 4 (x) Pharmacist.
- 5 (y) An operator of a preschool recorded program under ORS 329A.255.
- 6 (z) An operator of a school-age recorded program under ORS 329A.255.
- 7 (aa) Employee of a private agency or organization facilitating the provision of respite services,
8 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
9 109.056.
- 10 (bb) An employee of a public or private organization providing child-related services or activ-
11 ities:
 - 12 (A) Including but not limited to an employee of a:
 - 13 (i) Youth group or center;
 - 14 (ii) Scout group or camp;
 - 15 (iii) Summer or day camp;
 - 16 (iv) Survival camp; or
 - 17 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
18 ligious, public or private educational system or a community service organization; and
 - 19 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
20 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
21 man trafficking.
 - 22 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
23 if compensated and if the athlete is a child.
 - 24 (dd) Personal support worker, as defined in ORS 410.600.
 - 25 (ee) Home care worker, as defined in ORS 410.600.
 - 26 (ff) Animal control officer, as defined in ORS 609.500.
 - 27 (gg) Member of a school district board, an education service district board or a public charter
28 school governing body.
 - 29 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a
30 service identified in an individualized written service plan of a child with a developmental disability.
 - 31 (ii) Referral agent, as defined in ORS 418.351.
- 32 **SECTION 5.** ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, and section
33 3 of this 2023 Act, is amended to read:
 - 34 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
 - 35 (1)(a) "Abuse" means:
 - 36 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
37 which has been caused by other than accidental means, including any injury which appears to be
38 at variance with the explanation given of the injury.
 - 39 (B) Any mental injury to a child, which shall include only observable and substantial impairment
40 of the child's mental or psychological ability to function caused by cruelty to the child, with due
41 regard to the culture of the child.
 - 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 [*K*] *The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 339.291, 339.303 or*
23 *339.308.*]

24 [*L*] **(K)** The infliction of corporal punishment on a child in violation of ORS 339.250 (9).

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

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

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

29 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
30 agency as that term is defined in ORS 418.205.

31 (3) "Higher education institution" means:

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

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

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

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

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

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

39 (5) "Law enforcement agency" means:

40 (a) A city or municipal police department.

41 (b) A county sheriff's office.

42 (c) The Oregon State Police.

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

44 (e) A county juvenile department.

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

- 1 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
2 including any intern or resident.
- 3 (b) Dentist.
- 4 (c) School employee, including an employee of a higher education institution.
- 5 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
6 or employee of an in-home health service.
- 7 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
8 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
9 Youth Authority, a local health department, a community mental health program, a community de-
10 velopmental disabilities program, a county juvenile department, a child-caring agency as that term
11 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 12 (f) Peace officer.
- 13 (g) Psychologist.
- 14 (h) Member of the clergy.
- 15 (i) Regulated social worker.
- 16 (j) Optometrist.
- 17 (k) Chiropractor.
- 18 (L) Certified provider of foster care, or an employee thereof.
- 19 (m) Attorney.
- 20 (n) Licensed professional counselor.
- 21 (o) Licensed marriage and family therapist.
- 22 (p) Firefighter or emergency medical services provider.
- 23 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 24 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 25 (s) An elected official of a branch of government of this state or a state agency, board, com-
26 mission or department of a branch of government of this state or of a city, county or other political
27 subdivision in this state.
- 28 (t) Physical, speech or occupational therapist.
- 29 (u) Audiologist.
- 30 (v) Speech-language pathologist.
- 31 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
32 gations or discipline by the commission.
- 33 (x) Pharmacist.
- 34 (y) An operator of a preschool recorded program under ORS 329A.255.
- 35 (z) An operator of a school-age recorded program under ORS 329A.255.
- 36 (aa) Employee of a private agency or organization facilitating the provision of respite services,
37 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
38 109.056.
- 39 (bb) An employee of a public or private organization providing child-related services or activ-
40 ities:
 - 41 (A) Including but not limited to an employee of a:
 - 42 (i) Youth group or center;
 - 43 (ii) Scout group or camp;
 - 44 (iii) Summer or day camp;
 - 45 (iv) Survival camp; or

1 (v) Group, center or camp that is operated under the guidance, supervision or auspices of a re-
2 ligious, public or private educational system or a community service organization; and

3 (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that
4 provides confidential, direct services to victims of domestic violence, sexual assault, stalking or hu-
5 man trafficking.

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

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

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

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

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

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

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

16 **SECTION 6.** ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section
17 16, chapter 27, Oregon Laws 2022, section 7, chapter 90, Oregon Laws 2022, and section 4 of this
18 2023 Act, is amended to read:

19 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

24 (B) Any mental injury to a child, which shall include only observable and substantial impairment
25 of the child's mental or psychological ability to function caused by cruelty to the child, with due
26 regard to the culture of the child.

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

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

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

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

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

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

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

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

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

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

7 [(K) *The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 339.291, 339.303 or*
8 *339.308.*]

9 [(L)] (K) The infliction of corporal punishment on a child in violation of ORS 339.250 (9).

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

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

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

14 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
15 agency as that term is defined in ORS 418.205.

16 (3) "Higher education institution" means:

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

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

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

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

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

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

24 (5) "Law enforcement agency" means:

25 (a) A city or municipal police department.

26 (b) A county sheriff's office.

27 (c) The Oregon State Police.

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

29 (e) A county juvenile department.

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

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

33 (b) Dentist.

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

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

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

42 (f) Peace officer.

43 (g) Psychologist.

44 (h) Member of the clergy.

45 (i) Regulated social worker.

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

SECTION 7. ORS 419B.019 is amended to read:

419B.019. (1) As used in this section:

(a) "Agent" means a person who:

(A) Acts as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as an agent for an education provider.

(b) "Contractor" means a person who:

(A) Provides services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as a contractor for an education provider.

(c) "Education provider" has the meaning given that term in ORS 339.370.

(d) "School employee" means a person who:

(A) Is an employee of an education provider; and

(B) Interacts with a child because of the person's status as an employee of an education provider.

(e) "Volunteer" means a person who:

(A) Acts as a volunteer for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as a volunteer of an education provider.

(2) A law enforcement agency or the Department of Human Services must conduct an investigation as provided by ORS 419B.020 if the law enforcement agency or department receives a report of abuse that involves a child and a person who is a school employee, contractor, agent or volunteer.

(3) A law enforcement agency shall notify the department as provided by ORS 419B.015 if the law enforcement agency receives a report described in subsection (2) of this section. The department shall notify a law enforcement agency as provided by ORS 419B.015 if the department receives a report described in subsection (2) of this section. The department shall ensure that an investigation related to the report is conducted if the report is not investigated by a law enforcement agency.

(4)(a) Within three business days of receiving a report or notification of a report described in subsection (2) of this section, the department shall notify:

(A) The appropriate education provider to ensure the safety of the child, if the department believes the report of suspected abuse involves the child and a person who is a school employee, contractor, agent or volunteer;

(B) The Teacher Standards and Practices Commission, if the department believes the school employee, contractor, agent or volunteer is licensed, registered or certified by the commission; or

(C) The Department of Education, if the Department of Human Services believes the report of suspected abuse:

(i) Occurred in a school or was related to a school-sponsored activity; or

(ii) Involves a child and a person who is a school employee, contractor, agent or volunteer.

(b) For the purpose of notification made under this subsection, the Department of Human Services may not disclose the name and address of, and other identifying information about, the person who made the report, but the department shall make available any information necessary to ensure the safety of the child, including the name of the school and the name of the person who may have conducted the suspected abuse. Except as provided by ORS 339.389, any person or entity to whom notification is made under this subsection may not release any information not authorized by this

1 subsection.

2 (c) When the Department of Education receives notification under this subsection, the depart-
3 ment shall act under, and is subject to, ORS 339.389.

4 **(5) The Department of Human Services shall submit a report on the first day of every**
5 **calendar quarter to the committees or interim committees of the Legislative Assembly re-**
6 **lated to child welfare, for the purposes of public review and oversight of the quality and**
7 **safety of education providers. Information provided in reports under this subsection may not**
8 **contain the name of a child or any identifying information about a child. The reports must**
9 **contain all of the following information about each investigation described in subsection (2)**
10 **of this section that resulted in a finding, during the preceding quarter, that the report of**
11 **abuse was substantiated:**

12 (a) The name of the education provider where the department conducted the investi-
13 gation;

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

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

17 (d) Whether a reportable injury, sexual abuse or death resulted from the abuse.

18 [(5)] (6) The department [of *Human Services*] may adopt any rules necessary for the adminis-
19 tration of this section.

20 **SECTION 8. (1) Notwithstanding ORS 419B.005 (1)(a)(K), at the conclusion of an investi-**
21 **gation under ORS 419B.020, the Department of Human Services may not substantiate an**
22 **allegation of abuse against personnel of a public education program who have not been**
23 **trained to the standard established in ORS 339.300 but who impose a restraint on a student**
24 **if:**

25 (a) The restraint is imposed in response to an imminent risk of serious bodily injury of
26 any person;

27 (b) The person imposing the restraint does not act with reckless disregard for student
28 safety; and

29 (c) The restraint does not impose a significant risk of impeding the student's breathing.

30 (2) Nothing in this section prohibits the department from finding that the public educa-
31 tion program is responsible under section 2 of this 2023 Act for abuse arising from the un-
32 trained personnel's inappropriate use of restraint.

33 (3) As used in this section, "public education program" and "restraint" have the
34 meanings given those terms in ORS 339.285.

35 **SECTION 9. Section 8 of this 2023 Act is repealed on June 30, 2028.**

36 **SECTION 10. (1) Section 2 of this 2023 Act and the amendments to ORS 419B.005 by**
37 **sections 3 and 4 of this 2023 Act apply to incidents occurring on or after July 1, 2023.**

38 (2) The amendments to ORS 419B.005 by sections 5 and 6 of this 2023 Act apply to inci-
39 dents occurring on or after July 1, 2028.

40 (3) The quarterly report described in the amendments to ORS 419B.019 by section 7 of
41 this 2023 Act, is first due on January 1, 2024.

42 **SECTION 11. The amendments to ORS 419B.005 by sections 5 and 6 of this 2023 Act be-**
43 **come operative on July 1, 2028.**

44 **SECTION 12. This 2023 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**

1 **on its passage.**

2
