

SB 769-1
(LC 1198)
2/24/23 (LAS/ps)

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
SENATE BILL 769**

1 On page 1 of the printed bill, line 3, after “329A.030” insert “, 419B.005
2 and 419B.020”.

3 Delete lines 5 through 27.

4 On page 2, delete lines 1 through 8.

5 In line 9, delete “2” and insert “1” and delete “(1)”.

6 Delete lines 15 through 22.

7 In line 23, delete “3” and insert “2”.

8 In line 42, after “abuse” insert “finding.” and delete the rest of the line
9 and delete lines 43 through 45.

10 On page 3, delete lines 1 through 5.

11 On page 5, line 7, delete “4” and insert “3”.

12 In line 25, after “abuse” insert “finding.” and delete the rest of the line
13 and delete lines 26 through 32.

14 On page 7, delete lines 35 through 39 and insert:

15 **“SECTION 4.** ORS 419B.005, as amended by section 8, chapter 90, Oregon
16 Laws 2022, is amended to read:

17 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
18 quires otherwise:

19 “(1)(a) ‘Abuse’ means:

20 “(A) Any assault, as defined in ORS chapter 163, of a child and any
21 physical injury to a child which has been caused by other than accidental

1 means, including any injury which appears to be at variance with the ex-
2 planation given of the injury.

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

7 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
8 unlawful sexual penetration and incest, as those acts are described in ORS
9 chapter 163.

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

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

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

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

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

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

30 “(H) Buying or selling a person under 18 years of age as described in ORS

1 163.537.

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

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

8 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline
9 results in one of the 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*
13 *at a child-caring agency as that term is defined in ORS 418.205]* **Is a child**
14 **in care, as defined in ORS 418.257.**

15 “(3) ‘Higher education institution’ means:

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

17 “(b) A public university listed in ORS 352.002;

18 “(c) The Oregon Health and Science University; and

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

20 “(4)(a) ‘Investigation’ means a detailed inquiry into or assessment of the
21 safety of a child alleged to have experienced abuse.

22 “(b) ‘Investigation’ does not include screening activities conducted upon
23 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
29 or 353.125.

30 “(e) A county juvenile department.

- 1 “(6) ‘Public or private official’ means:
- 2 “(a) Physician or physician assistant licensed under ORS chapter 677 or
3 naturopathic physician, including any intern or resident.
- 4 “(b) Dentist.
- 5 “(c) School employee, including an employee of a higher education insti-
6 tution.
- 7 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
8 aide, home health aide or employee of an in-home health service.
- 9 “(e) Employee of the Department of Human Services, Oregon Health Au-
10 thority, Early Learning Division, Department of Education, Youth Develop-
11 ment Division, Office of Child Care, the Oregon Youth Authority, a local
12 health department, a community mental health program, a community de-
13 velopmental disabilities program, a county juvenile department, a child-
14 caring agency as that term is defined in ORS 418.205 or an alcohol and drug
15 treatment program.
- 16 “(f) Peace officer.
- 17 “(g) Psychologist.
- 18 “(h) Member of the clergy.
- 19 “(i) Regulated social worker.
- 20 “(j) Optometrist.
- 21 “(k) Chiropractor.
- 22 “(L) Certified provider of foster care, or an employee thereof.
- 23 “(m) Attorney.
- 24 “(n) Licensed professional counselor.
- 25 “(o) Licensed marriage and family therapist.
- 26 “(p) Firefighter or emergency medical services provider.
- 27 “(q) A court appointed special advocate, as defined in ORS 419A.004.
- 28 “(r) A child care provider registered or certified under ORS 329A.030 and
29 329A.250 to 329A.450.
- 30 “(s) An elected official of a branch of government of this state or a state

1 agency, board, commission or department of a branch of government of this
2 state or of a city, county or other political subdivision in this state.

3 “(t) Physical, speech or occupational therapist.

4 “(u) Audiologist.

5 “(v) Speech-language pathologist.

6 “(w) Employee of the Teacher Standards and Practices Commission di-
7 rectly involved in investigations or discipline by the commission.

8 “(x) Pharmacist.

9 “(y) An operator of a preschool recorded program under ORS 329A.255.

10 “(z) An operator of a school-age recorded program under ORS 329A.255.

11 “(aa) Employee of a private agency or organization facilitating the pro-
12 vision of respite services, as defined in ORS 418.205, for parents pursuant to
13 a properly executed power of attorney under ORS 109.056.

14 “(bb) An employee of a public or private organization providing child-
15 related services or activities:

16 “(A) Including but not limited to an employee of a:

17 “(i) Youth group or center;

18 “(ii) Scout group or camp;

19 “(iii) Summer or day camp;

20 “(iv) Survival camp; or

21 “(v) Group, center or camp that is operated under the guidance, super-
22 vision or auspices of a religious, public or private educational system or a
23 community service organization; and

24 “(B) Excluding an employee of a qualified victim services program as de-
25 fined in ORS 147.600 that provides confidential, direct services to victims of
26 domestic violence, sexual assault, stalking or human trafficking.

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

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

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

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

2 “(gg) Member of a school district board, an education service district
3 board or a public charter school governing body.

4 “(hh) An individual who is paid by a public body, in accordance with ORS
5 430.215, to provide a service identified in an individualized written service
6 plan of a child with a developmental disability.

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

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

9 “(7) **‘Qualified subject’ means:**

10 “(a) **A parent, guardian or custodian of the child; or**

11 “(b) **A person who has attained 18 years of age and who:**

12 “(A) **Lives in the child’s home and is not a child in care, as defined**
13 **in ORS 418.257;**

14 “(B) **Has access to the child based on the person’s relationship to**
15 **the child’s parent, guardian, custodian, household member or**
16 **caregiver or to any other person who may have authority or control**
17 **over the child;**

18 “(C) **Is in a role, position or occupation in which the person has**
19 **access to, responsibility for, power over or the trust of the child; or**

20 “(D) **Has been accused of subjecting the child to involuntary**
21 **servitude, as described in ORS 163.263 or 163.264, or trafficking, as de-**
22 **scribed in ORS 163.266.**

23 “**SECTION 5.** ORS 419B.005, as amended by section 58, chapter 631,
24 Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7,
25 chapter 90, Oregon Laws 2022, is amended to read:

26 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
27 quires otherwise:

28 “(1)(a) **‘Abuse’ means:**

29 “(A) **Any assault, as defined in ORS chapter 163, of a child and any**
30 **physical injury to a child which has been caused by other than accidental**

1 means, including any injury which appears to be at variance with the ex-
2 planation given of the injury.

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

7 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
8 unlawful sexual penetration and incest, as those acts are described in ORS
9 chapter 163.

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

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

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

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

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

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

30 “(H) Buying or selling a person under 18 years of age as described in ORS

1 163.537.

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

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

8 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline
9 results in one of the 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*
13 *at a child-caring agency as that term is defined in ORS 418.205]* **Is a child**
14 **in care, as defined in ORS 418.257.**

15 “(3) ‘Higher education institution’ means:

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

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18 “(c) The Oregon Health and Science University; and

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

20 “(4)(a) ‘Investigation’ means a detailed inquiry into or assessment of the
21 safety of a child alleged to have experienced abuse.

22 “(b) ‘Investigation’ does not include screening activities conducted upon
23 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
29 or 353.125.

30 “(e) A county juvenile department.

1 “(6) ‘Public or private official’ means:

2 “(a) Physician or physician assistant licensed under ORS chapter 677 or

3 naturopathic physician, including any intern or resident.

4 “(b) Dentist.

5 “(c) School employee, including an employee of a higher education insti-

6 tution.

7 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s

8 aide, home health aide or employee of an in-home health service.

9 “(e) Employee of the Department of Human Services, Oregon Health Au-

10 thority, Department of Early Learning and Care, Department of Education,

11 Youth Development Division, Office of Child Care, the Oregon Youth Au-

12 thority, a local health department, a community mental health program, a

13 community developmental disabilities program, a county juvenile department,

14 a child-caring agency as that term is defined in ORS 418.205 or an alcohol

15 and drug treatment program.

16 “(f) Peace officer.

17 “(g) Psychologist.

18 “(h) Member of the clergy.

19 “(i) Regulated social worker.

20 “(j) Optometrist.

21 “(k) Chiropractor.

22 “(L) Certified provider of foster care, or an employee thereof.

23 “(m) Attorney.

24 “(n) Licensed professional counselor.

25 “(o) Licensed marriage and family therapist.

26 “(p) Firefighter or emergency medical services provider.

27 “(q) A court appointed special advocate, as defined in ORS 419A.004.

28 “(r) A child care provider registered or certified under ORS 329A.250 to

29 329A.450.

30 “(s) An elected official of a branch of government of this state or a state

1 agency, board, commission or department of a branch of government of this
2 state or of a city, county or other political subdivision in this state.

3 “(t) Physical, speech or occupational therapist.

4 “(u) Audiologist.

5 “(v) Speech-language pathologist.

6 “(w) Employee of the Teacher Standards and Practices Commission di-
7 rectly involved in investigations or discipline by the commission.

8 “(x) Pharmacist.

9 “(y) An operator of a preschool recorded program under ORS 329A.255.

10 “(z) An operator of a school-age recorded program under ORS 329A.255.

11 “(aa) Employee of a private agency or organization facilitating the pro-
12 vision of respite services, as defined in ORS 418.205, for parents pursuant to
13 a properly executed power of attorney under ORS 109.056.

14 “(bb) An employee of a public or private organization providing child-
15 related services or activities:

16 “(A) Including but not limited to an employee of a:

17 “(i) Youth group or center;

18 “(ii) Scout group or camp;

19 “(iii) Summer or day camp;

20 “(iv) Survival camp; or

21 “(v) Group, center or camp that is operated under the guidance, super-
22 vision or auspices of a religious, public or private educational system or a
23 community service organization; and

24 “(B) Excluding an employee of a qualified victim services program as de-
25 fined in ORS 147.600 that provides confidential, direct services to victims of
26 domestic violence, sexual assault, stalking or human trafficking.

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

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

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

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

2 “(gg) Member of a school district board, an education service district
3 board or a public charter school governing body.

4 “(hh) An individual who is paid by a public body, in accordance with ORS
5 430.215, to provide a service identified in an individualized written service
6 plan of a child with a developmental disability.

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

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

9 **“(7) ‘Qualified subject’ means:**

10 **“(a) A parent, guardian or custodian of the child; or**

11 **“(b) A person who has attained 18 years of age and who:**

12 **“(A) Lives in the child’s home and is not a child in care, as defined
13 in ORS 418.257;**

14 **“(B) Has access to the child based on the person’s relationship to
15 the child’s parent, guardian, custodian, household member or
16 caregiver or to any other person who may have authority or control
17 over the child;**

18 **“(C) Is in a role, position or occupation in which the person has
19 access to, responsibility for, power over or the trust of the child; or**

20 **“(D) Has been accused of subjecting the child to involuntary
21 servitude, as described in ORS 163.263 or 163.264, or trafficking, as de-
22 scribed in ORS 163.266.**

23 **“SECTION 6. ORS 419B.020 is amended to read:**

24 **“419B.020. (1) If the Department of Human Services or a law enforcement
25 agency receives a report of child abuse by a **qualified subject**, the depart-
26 ment or the agency shall immediately:**

27 **“(a) Jointly determine the roles and responsibilities of the depart-
28 ment and the agency in their respective investigations;**

29 **“[(a)] (b) Cause an investigation to be made to determine the nature and
30 cause of the abuse of the child; and**

1 “[(b)] (c) Make the following notifications:

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

4 “(B) To the Department of Education if the alleged child abuse occurred
5 in a school or was related to a school-sponsored activity.

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

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

12 “(a) The Department of Human Services and the law enforcement agency
13 shall jointly determine the roles and responsibilities of the department and
14 the agency in their respective investigations; and

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

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

19 “(B) To the Department of Education if the alleged child abuse occurred
20 in a school or was related to a school-sponsored activity.

21 “(4) If the law enforcement agency conducting the investigation finds
22 reasonable cause to believe that abuse has occurred, the law enforcement
23 agency shall notify by oral report followed by written report the local office
24 of the department. The Department of Human Services shall provide protec-
25 tive social services of its own or of other available social agencies if neces-
26 sary to prevent further abuses to the child or to safeguard the child’s
27 welfare.

28 “(5) If a child is taken into protective custody by the department, the
29 department shall promptly make reasonable efforts to ascertain the name and
30 address of the child’s parents or guardian.

1 “(6)(a) If a child is taken into protective custody by the department or a
2 law enforcement official, the department or law enforcement official shall,
3 if possible, make reasonable efforts to advise the parents or guardian imme-
4 diately, regardless of the time of day, that the child has been taken into
5 custody, the reasons the child has been taken into custody and general in-
6 formation about the child’s placement, and the telephone number of the local
7 office of the department and any after-hours telephone numbers.

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

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

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

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

29 “(8) A minor child of 12 years of age or older may refuse to consent to
30 the examination described in subsection (7) of this section. The examination

1 shall be conducted by or under the supervision of a physician licensed under
2 ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525
3 or a nurse practitioner licensed under ORS chapter 678 and, whenever prac-
4 ticable, trained in conducting such examinations.

5 “(9) When the department completes an investigation under this section,
6 if the person who made the report of child abuse provided contact informa-
7 tion to the department, the department shall notify the person about whether
8 contact with the child was made, whether the department determined that
9 child abuse occurred and whether services will be provided. The department
10 is not required to disclose information under this subsection if the depart-
11 ment determines that disclosure is not permitted under ORS 419B.035.

12 “(10) When the Department of Education receives a notification under
13 subsection (1) of this section or a report on the outcomes of an investigation
14 under subsection (3) of this section, the department shall act under, and is
15 subject to, ORS 339.389.

16 **“SECTION 7. (1) Section 1 of this 2023 Act and the amendments to**
17 **ORS 329A.030 by sections 2 and 3 of this 2023 Act apply to background**
18 **checks completed on or after the effective date of this 2023 Act.**

19 **“(2) The amendments to ORS 419B.005 and 419B.020 by sections 4 to**
20 **6 of this 2023 Act apply to abuse investigations arising from acts oc-**
21 **curring on or after the effective date of this 2023 Act.”.**

22 In line 40, delete “6” and insert “8”.

23