

SB 106-7  
(LC 2420)  
4/26/23 (LAS/ps)

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO  
SENATE BILL 106**

1 In line 2 of the printed bill, after “investigations” insert “; creating new  
2 provisions; amending ORS 418.259, 418.519, 418.521, 418.528, 419B.005,  
3 419B.035 and 676.150; and prescribing an effective date”.

4 Delete lines 4 through 8 and insert:  
5

6 **“PUBLIC EDUCATION PROGRAMS**  
7

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

10 **“SECTION 2. An employee of a youth correction facility or a juve-  
11 nile detention facility established under ORS 419A.010 to 419A.020 and  
12 419A.050 to 419A.063 who uses restraint or seclusion on a student in  
13 connection with a Youth Corrections Education Program or Juvenile  
14 Detention Education Program, as those terms are defined in ORS  
15 326.695, is not subject to the prohibitions under ORS 339.285 to 339.303.**  
16

17 **“CHILD-CARING AGENCIES**  
18

19 **“SECTION 3. ORS 418.259 is amended to read:**

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

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

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

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

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

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

25       “(b) When investigating an allegation of inappropriate use of restraint  
26 or involuntary seclusion, the department shall:

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

28       “(B) Review all relevant incident reports related to the child in care and  
29 other reports related to the restraint or involuntary seclusion of the child  
30 in care;

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

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

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

9 “(F) Make all reasonable efforts to conduct trauma-informed interviews  
10 of each child witness, including the child in care who is the subject of sus-  
11 pected abuse unless the investigator makes a specific determination that the  
12 interview may significantly traumatize the child and is not in the best in-  
13 terests of the child.

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

16 “(a) The Director of Human Services.

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

19 “(c) The department’s lead personnel in that part of the department that  
20 is responsible for child welfare generally.

21 “(d) With respect to the child in care who is the subject of the abuse re-  
22 port and investigation, the case managers for the child, the attorney for the  
23 child, the child’s court appointed special advocate, the parents or guardians  
24 of the child, any attorney representing a parent or guardian of the child and  
25 any governmental agency that has a contract with the child-caring agency  
26 to provide care or services to the child.

27 “(e) The parents or guardians of the child in care who is the subject of  
28 the abuse report and investigation if the child in care has not been commit-  
29 ted to the custody of the department or the youth authority. Notification  
30 under this paragraph may not include any details or information other than

1 that a report of abuse has been substantiated.

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

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

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

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

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

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

28 “(e) Corrective actions taken or ordered by the department and the out-  
29 come of the corrective actions; and

30 “(f) Information the department received in that quarter regarding any

1 substantiated allegations of child abuse made by any other state involving  
2 a congregate care residential setting, as defined in ORS 418.322, in which the  
3 department has placed Oregon children.

4 “(6) The department’s quarterly report under subsection (5) of this section  
5 must also contain all of the following:

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

7 “(b) The total number of programs that reported the use of restraints of  
8 children in care that quarter;

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

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

13 “(e) The number of incidents in which an individual who was not appro-  
14 priately trained in the use of the restraint used on a child in care in a pro-  
15 gram; and

16 “(f) The number of incidents that were reported for potential inappropri-  
17 ate use of restraint.

18 “(7) In compiling records, reports and other information during an inves-  
19 tigation under ORS 418.258 (1) and in issuing findings, letters of concern or  
20 reprimands, the Director of Human Services or the director’s designee and  
21 the department may not refer to the employee, person or entity that is the  
22 subject of the investigation as an ‘alleged perpetrator’ but must refer to the  
23 employee, person or entity as the ‘respondent.’

24 “(8) As used in this section, ‘program,’ ‘reportable injury’ and ‘restraint’  
25 have the meanings given those terms in ORS 418.519.

26 **“SECTION 4.** ORS 418.519 is amended to read:

27 “418.519. As used in ORS 418.519 to 418.532:

28 “(1) ‘Certified foster home’ means a foster home subject to ORS 418.625  
29 to 418.645.

30 “(2) ‘Chemical restraint’ means a drug or medication that is administered

1 to a child in care to control behavior or restrict freedom of movement.

2 “(3) ‘Child-caring agency’ has the meaning given that term in ORS  
3 418.205.

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

5 “(5) ‘Children’s emergency safety intervention specialist’ means a quali-  
6 fied mental health professional licensed to order, monitor and evaluate the  
7 use of seclusion and restraint in accredited and certified facilities that pro-  
8 vide intensive mental health treatment services to individuals under 21 years  
9 of age.

10 “(6) ‘Developmental disabilities residential facility’ has the meaning given  
11 that term in ORS 418.257.

12 “(7)(a) ‘Involuntary seclusion’ means the confinement of a child in care  
13 alone in a room **or an enclosed space** from which the child in care is pre-  
14 vented from leaving by any means.

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

18 “(8) ‘Mechanical restraint’ means a device used to restrict the movement  
19 of a child in care or the movement or normal function of a portion of the  
20 body of a child in care.

21 “(9) ‘Proctor foster home’ means a foster home certified by a child-caring  
22 agency under ORS 418.248.

23 “(10) ‘Program’ means:

24 “(a) A child-caring agency;

25 “(b) A proctor foster home; or

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

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

1 “(12) ‘Reportable injury’ means any type of injury to a child in care, in-  
2 cluding but not limited to rug burns, fractures, sprains, bruising, pain, soft  
3 tissue injury, punctures, scratches, concussions, abrasions, dizziness, loss of  
4 consciousness, loss of vision, visual disturbance or death.

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

7 “(14) ‘Secure adolescent inpatient treatment program’ means a child-  
8 caring agency that is an intensive treatment services program, as described  
9 by the Oregon Health Authority by rule, that provides inpatient psychiatric  
10 stabilization and treatment services to individuals under 21 years of age who  
11 require a secure intensive treatment setting.

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

17 “(16) ‘Serious bodily injury’ means any significant impairment of the  
18 physical condition of an individual, as determined by qualified medical per-  
19 sonnel, whether self-inflicted or inflicted by someone else.

20 “(17) ‘Supine restraint’ means a restraint in which a child in care is held  
21 face up on the floor.

22 **“SECTION 5.** ORS 418.521 is amended to read:

23 “418.521. (1) A child-caring agency, proctor foster home, certified foster  
24 home or developmental disabilities residential facility may not place a child  
25 in care in a restraint or involuntary seclusion as a form of discipline, pun-  
26 ishment or retaliation or for the convenience of staff, contractors or volun-  
27 teers of the child-caring agency, proctor foster home, certified foster home  
28 or developmental disabilities residential facility.

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

1       “(a) Chemical restraint.

2       “(b) Mechanical restraint.

3       “(c) Prone restraint.

4       “(d) Supine restraint.

5       “(e) Any restraint that includes the **intentional and** nonincidental use  
6 of a solid object, including the ground, a wall or the floor, to impede a child  
7 in care’s movement.

8       “(f) Any restraint that places, or creates a risk of placing, pressure on a  
9 child in care’s neck or throat.

10       “(g) Any restraint that places, or creates a risk of placing, pressure on a  
11 child in care’s mouth.

12       “(h) Any restraint that impedes, or creates a risk of impeding, a child in  
13 care’s breathing.

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

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

20       “(k) Any other [*restraint*] **action**, the primary purpose of which is to in-  
21 flict pain.

22       “**SECTION 6.** ORS 418.528 is amended to read:

23       “418.528. (1) A program must prepare and submit to the Department of  
24 Human Services a quarterly report detailing the program’s use of restraint  
25 and involuntary seclusion for the preceding three-month period, including,  
26 at a minimum:

27       “(a) The total number of incidents involving restraint.

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

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

30       “(d) The total number of rooms available for use by the program for in-



1 voluntary seclusion and a description of the dimensions and design of the  
2 rooms.

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

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

5 “**(g) The total number of children who experienced both restraint**  
6 **and involuntary seclusion.**

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

9 “[h] **(i)** The number of children in care who were placed in restraint or  
10 involuntary seclusion more than three times during the preceding three-  
11 month period and a description of the steps the program has taken to de-  
12 crease the use of restraint and involuntary seclusion.

13 “[i] **(j)** The number of incidents in which an individual who placed a  
14 child in care in a restraint or involuntary seclusion was not certified as de-  
15 scribed in ORS 418.529 or trained, as required by the department by rule, in  
16 the use of the type of restraint or involuntary seclusion used.

17 “[j] **(k)** The demographic characteristics of the children in care who the  
18 program placed in a restraint or involuntary seclusion, including race,  
19 ethnicity, gender, disability status, migrant status, English proficiency and  
20 status as economically disadvantaged, unless the demographic information  
21 would reveal personally identifiable information about an individual child in  
22 care.

23 “**(L) The total number of children in care served by the program**  
24 **during the reporting period, including race, ethnicity, gender, disabil-**  
25 **ity status, migrant status, English proficiency and status as econom-**  
26 **ically disadvantaged, unless the demographic information would reveal**  
27 **personally identifiable information about an individual child in care.**

28 “(2)(a) If a program provides services in more than one location, the re-  
29 ports under subsection (1) of this section must separate the data for each  
30 location that serves five or more children in care.

1 “(b) If the site-specific data for a given location is not provided under  
2 paragraph (a) of this subsection because the program serves fewer than five  
3 children in care at that location, the program’s report must include a nota-  
4 tion indicating the aggregate number of children in care served by the pro-  
5 gram across all of the program’s locations and the reporting requirements  
6 under paragraph (a) of this subsection continue to apply to any of the  
7 program’s other locations serving five or more children in care.

8 “(3)(a) The department shall make each quarterly report it receives under  
9 this section available to the public on the department’s website.

10 “(b) Each program that submits a report under this section shall make its  
11 quarterly report available to the public upon request at the program’s main  
12 office and on the program’s website if the program maintains a website.

13 “(c) Each program shall provide notice regarding how to access the  
14 quarterly reports to the parents or guardians of children in care in the pro-  
15 gram. The program shall provide the notice upon the child in care’s admis-  
16 sion and at least two times each year thereafter.

17  
18 **“CHILD ABUSE**

19  
20 **“SECTION 7.** ORS 419B.005, as amended by section 8, chapter 90, Oregon  
21 Laws 2022, is amended to read:

22 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-  
23 quires otherwise:

24 “(1)(a) ‘Abuse’ means:

25 “(A) Any assault, as defined in ORS chapter 163, of a child and any  
26 physical injury to a child which has been caused by other than accidental  
27 means, including any injury which appears to be at variance with the ex-  
28 planation given of the injury.

29 “(B) Any mental injury to a child, which shall include only *[observable*  
30 *and substantial impairment of the child’s mental or psychological ability to*

1 *function caused by cruelty to the child, with due regard to the culture of the*  
2 *child]* **cruel or unconscionable acts or statements made, or threatened**  
3 **to be made, to a child if the acts, statements or threats result in se-**  
4 **vere harm to the child’s psychological, cognitive, emotional or social**  
5 **well-being and functioning.**

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

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

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

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

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

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

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

29 “(H) Buying or selling a person under 18 years of age as described in ORS  
30 163.537.

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

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

7 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline  
8 results in one of the conditions described in paragraph (a) of this subsection.

9 “(2) ‘Child’ means an unmarried person who:

10 “(a) Is under 18 years of age; or

11 “(b) Is [*under 21 years of age and residing in or receiving care or services*  
12 *at a child-caring agency as that term is defined in ORS 418.205*] **a child in**  
13 **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  
20 safety of a child alleged to have experienced abuse.

21 “(b) ‘Investigation’ does not include screening activities conducted upon  
22 the receipt of a report.

23 “(5) ‘Law enforcement agency’ means:

24 “(a) A city or municipal police department.

25 “(b) A county sheriff’s office.

26 “(c) The Oregon State Police.

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

29 “(e) A county juvenile department.

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

1       “(a) Physician or physician assistant licensed under ORS chapter 677 or  
2 naturopathic physician, including any intern or resident.

3       “(b) Dentist.

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

6       “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s  
7 aide, home health aide or employee of an in-home health service.

8       “(e) Employee of the Department of Human Services, Oregon Health Au-  
9 thority, Early Learning Division, Department of Education, Youth Develop-  
10 ment Division, Office of Child Care, the Oregon Youth Authority, a local  
11 health department, a community mental health program, a community de-  
12 velopmental disabilities program, a county juvenile department, a child-  
13 caring agency as that term is defined in ORS 418.205 or an alcohol and drug  
14 treatment program.

15       “(f) Peace officer.

16       “(g) Psychologist.

17       “(h) Member of the clergy.

18       “(i) Regulated social worker.

19       “(j) Optometrist.

20       “(k) Chiropractor.

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

22       “(m) Attorney.

23       “(n) Licensed professional counselor.

24       “(o) Licensed marriage and family therapist.

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

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

27       “(r) A child care provider registered or certified under ORS 329A.030 and  
28 329A.250 to 329A.450.

29       “(s) An elected official of a branch of government of this state or a state  
30 agency, board, commission or department of a branch of government of this

1 state or of a city, county or other political subdivision in this state.

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

3 “(u) Audiologist.

4 “(v) Speech-language pathologist.

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

7 “(x) Pharmacist.

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

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

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

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

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

16 “(i) Youth group or center;

17 “(ii) Scout group or camp;

18 “(iii) Summer or day camp;

19 “(iv) Survival camp; or

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

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

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

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

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

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

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

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

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

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

8 “(kk) **Behavior analyst or assistant behavior analyst licensed under**  
9 **ORS 676.810 or behavior analysis interventionist registered under ORS**  
10 **676.815.**

11 “**SECTION 8.** ORS 419B.005, as amended by section 58, chapter 631,  
12 Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7,  
13 chapter 90, Oregon Laws 2022, is amended to read:

14 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-  
15 quires otherwise:

16 “(1)(a) ‘Abuse’ means:

17 “(A) Any assault, as defined in ORS chapter 163, of a child and any  
18 physical injury to a child which has been caused by other than accidental  
19 means, including any injury which appears to be at variance with the ex-  
20 planation given of the injury.

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

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

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

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

3       “(i) Contributing to the sexual delinquency of a minor, as defined in ORS

4 chapter 163, and any other conduct which allows, employs, authorizes, per-

5 mits, induces or encourages a child to engage in the performing for people

6 to observe or the photographing, filming, tape recording or other exhibition

7 which, in whole or in part, depicts sexual conduct or contact, as defined in

8 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving

9 a child or rape of a child, but not including any conduct which is part of

10 any investigation conducted pursuant to ORS 419B.020 or which is designed

11 to serve educational or other legitimate purposes; and

12       “(ii) Allowing, permitting, encouraging or hiring a child to engage in

13 prostitution as described in ORS 167.007 or a commercial sex act as defined

14 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413

15 or to engage in commercial sexual solicitation as described in ORS 167.008.

16       “(F) Negligent treatment or maltreatment of a child, including but not

17 limited to the failure to provide adequate food, clothing, shelter or medical

18 care that is likely to endanger the health or welfare of the child.

19       “(G) Threatened harm to a child, which means subjecting a child to a

20 substantial risk of harm to the child’s health or welfare.

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

22 163.537.

23       “(I) Permitting a person under 18 years of age to enter or remain in or

24 upon premises where methamphetamines are being manufactured.

25       “(J) Unlawful exposure to a controlled substance, as defined in ORS

26 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-

27 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to

28 the child’s health or safety.

29       “(b) ‘Abuse’ does not include reasonable discipline unless the discipline

30 results in one of the conditions described in paragraph (a) of this subsection.



1 “(2) ‘Child’ means an unmarried person who:

2 “(a) Is under 18 years of age; or

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

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

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

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

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

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

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

13 “(b) ‘Investigation’ does not include screening activities conducted upon  
14 the receipt of a report.

15 “(5) ‘Law enforcement agency’ means:

16 “(a) A city or municipal police department.

17 “(b) A county sheriff’s office.

18 “(c) The Oregon State Police.

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

21 “(e) A county juvenile department.

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

23 “(a) Physician or physician assistant licensed under ORS chapter 677 or  
24 naturopathic physician, including any intern or resident.

25 “(b) Dentist.

26 “(c) School employee, including an employee of a higher education insti-  
27 tution.

28 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s  
29 aide, home health aide or employee of an in-home health service.

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

1 thority, Department of Early Learning and Care, Department of Education,  
2 Youth Development Division, Office of Child Care, the Oregon Youth Au-  
3 thority, a local health department, a community mental health program, a  
4 community developmental disabilities program, a county juvenile department,  
5 a child-caring agency as that term is defined in ORS 418.205 or an alcohol  
6 and drug treatment program.

7 “(f) Peace officer.

8 “(g) Psychologist.

9 “(h) Member of the clergy.

10 “(i) Regulated social worker.

11 “(j) Optometrist.

12 “(k) Chiropractor.

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

14 “(m) Attorney.

15 “(n) Licensed professional counselor.

16 “(o) Licensed marriage and family therapist.

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

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

19 “(r) A child care provider registered or certified under ORS 329A.250 to  
20 329A.450.

21 “(s) An elected official of a branch of government of this state or a state  
22 agency, board, commission or department of a branch of government of this  
23 state or of a city, county or other political subdivision in this state.

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

25 “(u) Audiologist.

26 “(v) Speech-language pathologist.

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

29 “(x) Pharmacist.

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

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

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

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

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

8       “(i) Youth group or center;

9       “(ii) Scout group or camp;

10       “(iii) Summer or day camp;

11       “(iv) Survival camp; or

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

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

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

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

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

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

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

25       “(hh) An individual who is paid by a public body, in accordance with ORS  
26 430.215, to provide a service identified in an individualized written service  
27 plan of a child with a developmental disability.

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

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

30       “**(kk) Behavior analyst or assistant behavior analyst licensed under**

1 **ORS 676.810 or behavior analysis interventionist registered under ORS**  
2 **676.815.**

3 **“SECTION 9.** ORS 419B.035, as amended by section 10, chapter 27,  
4 Oregon Laws 2022, and section 9, chapter 90, Oregon Laws 2022, is amended  
5 to read:

6 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,  
7 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-  
8 cessibility for public inspection of public records and public documents, re-  
9 ports and records compiled under the provisions of ORS 419B.010 to 419B.050  
10 are confidential and may not be disclosed except as provided in this section.  
11 The Department of Human Services shall make the records available to:

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

14 “(b) Any physician, physician assistant licensed under ORS 677.505 to  
15 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the  
16 request of the physician, physician assistant or nurse practitioner, regarding  
17 any child brought to the physician, physician assistant or nurse practitioner  
18 or coming before the physician, physician assistant or nurse practitioner for  
19 examination, care or treatment;

20 “(c) Attorneys of record for the child or child’s parent or guardian in any  
21 juvenile court proceeding;

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

27 “(e) A court appointed special advocate in any juvenile court proceeding  
28 in which it is alleged that a child has been subjected to child abuse or neg-  
29 lect;

30 “(f) The Early Learning Division for the purpose of carrying out the

1 functions of the division, including the certification, registration or regu-  
2 lation of child care facilities and child care providers and the administration  
3 of enrollment in the Central Background Registry;

4 “(g) The Office of Children’s Advocate;

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

7 “(i) Any person, upon request to the Department of Human Services, if  
8 the reports or records requested regard an incident in which a child, as the  
9 result of abuse, died or suffered serious physical injury as defined in ORS  
10 161.015. Reports or records disclosed under this paragraph must be disclosed  
11 in accordance with ORS 192.311 to 192.478;

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

14 “(k) With respect to a report of abuse occurring at a school or in an ed-  
15 ucational setting that involves a child with a disability, Disability Rights  
16 Oregon;

17 “(L) The Department of Education for purposes of investigations con-  
18 ducted under ORS 339.391; *[and]*

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

21 **“(n) A national nonprofit organization designated by the Depart-**  
22 **ment of Human Services that provides assistance with locating, re-**  
23 **covering or providing services to children or youth determined by the**  
24 **department to be missing.**

25 “(2)(a) When disclosing reports and records pursuant to subsection (1)(i)  
26 of this section, the Department of Human Services may exempt from disclo-  
27 sure the names, addresses and other identifying information about other  
28 children, witnesses, victims or other persons named in the report or record  
29 if the department determines, in written findings, that the safety or well-  
30 being of a person named in the report or record may be jeopardized by dis-

1 closure of the names, addresses or other identifying information, and if that  
2 concern outweighs the public's interest in the disclosure of that information.

3 “(b) If the Department of Human Services does not have a report or re-  
4 cord of abuse regarding a child who, as the result of abuse, died or suffered  
5 serious physical injury as defined in ORS 161.015, the department may dis-  
6 close that information.

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

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

27 “(5) A law enforcement agency, upon completing an investigation and  
28 closing the file in a specific case relating to child abuse or neglect, shall  
29 make reports and records in the case available upon request to any law  
30 enforcement agency or community corrections agency in this state, to the

1 Department of Corrections, to the Oregon Youth Authority or to the State  
2 Board of Parole and Post-Prison Supervision for the purpose of managing and  
3 supervising offenders in custody or on probation, parole, post-prison super-  
4 vision or other form of conditional or supervised release. A law enforcement  
5 agency may make reports and records compiled under the provisions of ORS  
6 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforce-  
7 ment, community corrections, corrections or parole agencies in an open case  
8 when the law enforcement agency determines that the disclosure will not  
9 interfere with an ongoing investigation in the case. The name, address and  
10 other identifying information about the person who made the report may not  
11 be disclosed under this subsection or subsection (6)(b) of this section.

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

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

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

30 “(B) The Department of Corrections and the Oregon Youth Authority may

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

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

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

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

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

18

19 **"PROFESSIONAL MISCONDUCT**

20

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

22 "676.150. (1) As used in this section:

23 "(a) 'Board' means the:

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



1 “(G) State Board of Massage Therapists;  
2 “(H) Oregon Board of Naturopathic Medicine;  
3 “(I) Oregon State Board of Nursing;  
4 “(J) Long Term Care Administrators Board;  
5 “(K) Oregon Board of Optometry;  
6 “(L) State Board of Pharmacy;  
7 “(M) Oregon Medical Board;  
8 “(N) Occupational Therapy Licensing Board;  
9 “(O) Oregon Board of Physical Therapy;  
10 “(P) Oregon Board of Psychology;  
11 “(Q) Board of Medical Imaging;  
12 “(R) State Board of Direct Entry Midwifery;  
13 “(S) State Board of Denture Technology;  
14 “(T) Respiratory Therapist and Polysomnographic Technologist Licensing  
15 Board;  
16 “(U) Oregon Health Authority, to the extent that the authority licenses  
17 emergency medical services providers;  
18 “(V) Oregon State Veterinary Medical Examining Board; [or]  
19 “(W) State Mortuary and Cemetery Board[.]; **or**  
20 **“(X) Behavior Analysis Regulatory Board.**  
21 “(b) ‘Licensee’ means a health professional licensed or certified by or  
22 registered with a board.  
23 “(c) ‘Prohibited conduct’ means conduct by a licensee that:  
24 “(A) Constitutes a criminal act against a patient or client; or  
25 “(B) Constitutes a criminal act that creates a risk of harm to a patient  
26 or client.  
27 “(d) ‘Unprofessional conduct’ means conduct unbecoming a licensee or  
28 detrimental to the best interests of the public, including conduct contrary  
29 to recognized standards of ethics of the licensee’s profession or conduct that  
30 endangers the health, safety or welfare of a patient or client.

1 “(2) Unless state or federal laws relating to confidentiality or the pro-  
2 tection of health information prohibit disclosure, a licensee who has rea-  
3 sonable cause to believe that another licensee has engaged in prohibited or  
4 unprofessional conduct shall report the conduct to the board responsible for  
5 the licensee who is believed to have engaged in the conduct. The reporting  
6 licensee shall report the conduct without undue delay, but in no event later  
7 than 10 working days after the reporting licensee learns of the conduct.

8 “(3) A licensee who is convicted of a misdemeanor or felony or who is  
9 arrested for a felony crime shall report the conviction or arrest to the  
10 licensee’s board within 10 days after the conviction or arrest.

11 “(4) The board responsible for a licensee who is reported to have engaged  
12 in prohibited or unprofessional conduct shall investigate in accordance with  
13 the board’s rules. If the board has reasonable cause to believe that the  
14 licensee has engaged in prohibited conduct, the board shall present the facts  
15 to an appropriate law enforcement agency without undue delay, but in no  
16 event later than 10 working days after the board finds reasonable cause to  
17 believe that the licensee engaged in prohibited conduct.

18 “(5) A licensee who fails to report prohibited or unprofessional conduct  
19 as required by subsection (2) of this section or the licensee’s conviction or  
20 arrest as required by subsection (3) of this section is subject to discipline  
21 by the board responsible for the licensee.

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

24 “(7)(a) Notwithstanding any other provision of law, a report under sub-  
25 section (2) or (3) of this section is confidential under ORS 676.175.

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

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

30 “(8) Except as part of an application for a license or for renewal of a li-

1 cense and except as provided in subsection (3) of this section, a board may  
2 not require a licensee to report the licensee’s criminal conduct.

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

6 “(10) A licensee who reports to a board in good faith as required by sub-  
7 section (2) of this section is immune from civil liability for making the re-  
8 port.

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

12

13 **“CAPTIONS**

14

15 **“SECTION 11. The unit captions used in this 2023 Act are provided**  
16 **only for the convenience of the reader and do not become part of the**  
17 **statutory law of this state or express any legislative intent in the**  
18 **enactment of this 2023 Act.**

19

20 **“EFFECTIVE DATE**

21

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

25

\_\_\_\_\_