

SB 93-A3
(LC 2389)
5/8/23 (LHF/ps)

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 93**

1 On page 1 of the printed A-engrossed bill, line 2, delete “amending ORS”
2 and insert “creating new provisions; amending ORS 418.259, 418.519, 418.521,
3 418.528, 419B.005, 419B.035,”.

4 After line 4, insert:

5 **“SECTION 1.** ORS 418.259 is amended to read:

6 “418.259. (1) The investigation conducted by the Department of Human
7 Services under ORS 418.258 must result in one of the following findings:

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

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

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

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

1 been received.

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

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

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

14 “(B) Review all relevant incident reports related to the child in care and
15 other reports related to the restraint or involuntary seclusion of the child
16 in care;

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

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

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

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

30 “(4) The department shall notify the following when a report of abuse is

1 substantiated:

2 “(a) The Director of Human Services.

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

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

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

13 “(e) The parents or guardians of the child in care who is the subject of
14 the abuse report and investigation if the child in care has not been commit-
15 ted to the custody of the department or the youth authority. Notification
16 under this paragraph may not include any details or information other than
17 that a report of abuse has been substantiated.

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

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

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

30 “(a) The name of any child-caring agency, including an out-of-state

1 child-caring agency, proctor foster home or developmental disabilities resi-
2 dential facility, or, provided there are five or more certified foster homes in
3 the county, the name of the county where a certified foster home is located,
4 where the department conducted an investigation pursuant to ORS 418.258
5 that resulted in a finding that the report of abuse was substantiated during
6 that quarter;

7 “(b) The approximate date that the abuse occurred;

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

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

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

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

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

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

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

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

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

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

29 “(e) The number of incidents in which an individual who was not appro-
30 priately trained in the use of the restraint used on a child in care in a pro-

1 gram; and

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

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

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

12 **“SECTION 2.** ORS 418.519 is amended to read:

13 “418.519. As used in ORS 418.519 to 418.532:

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

16 “(2) ‘Chemical restraint’ means a drug or medication that is administered
17 to a child in care to control behavior or restrict freedom of movement.

18 “(3) ‘Child-caring agency’ has the meaning given that term in ORS
19 418.205.

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

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

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

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

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

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

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

9 “(10) ‘Program’ means:

10 “(a) A child-caring agency;

11 “(b) A proctor foster home; or

12 “(c) A developmental disabilities residential facility that is a residential
13 training home or facility licensed under ORS 443.415 to serve children under
14 18 years of age.

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

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

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

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

28 “(15) ‘Secure children’s inpatient treatment program’ means a child-caring
29 agency that is an intensive treatment services program, as described by the
30 authority by rule, that provides inpatient psychiatric stabilization and

1 treatment services to children under 14 years of age who require a secure
2 intensive treatment setting.

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

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

8 **“SECTION 3.** ORS 418.521 is amended to read:

9 “418.521. (1) A child-caring agency, proctor foster home, certified foster
10 home or developmental disabilities residential facility may not place a child
11 in care in a restraint or involuntary seclusion as a form of discipline, pun-
12 ishment or retaliation or for the convenience of staff, contractors or volun-
13 teers of the child-caring agency, proctor foster home, certified foster home
14 or developmental disabilities residential facility.

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

17 “(a) Chemical restraint.

18 “(b) Mechanical restraint.

19 “(c) Prone restraint.

20 “(d) Supine restraint.

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

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

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

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

30 “(i) Any restraint that involves the intentional placement of [*hands, feet,*

1 *elbows, knees or*] any object **or a hand, knee, foot or elbow** on a child in
2 care's neck, throat, genitals or other intimate parts.

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

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

8 “**SECTION 4.** ORS 418.528 is amended to read:

9 “418.528. (1) A program must prepare and submit to the Department of
10 Human Services a quarterly report detailing the program's use of restraint
11 and involuntary seclusion for the preceding three-month period, including,
12 at a minimum:

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

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

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

16 “(d) The total number of rooms available for use by the program for in-
17 voluntary seclusion and a description of the dimensions and design of the
18 rooms.

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

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

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

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

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

29 “[*i*] **(j)** The number of incidents in which an individual who placed a
30 child in care in a restraint or involuntary seclusion was not certified as de-

1 scribed in ORS 418.529 or trained, as required by the department by rule, in
2 the use of the type of restraint or involuntary seclusion used.

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

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

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

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

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

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

29 “(c) Each program shall provide notice regarding how to access the
30 quarterly reports to the parents or guardians of children in care in the pro-

1 gram. The program shall provide the notice upon the child in care’s admis-
2 sion and at least two times each year thereafter.

3 **“SECTION 5.** ORS 419B.005, as amended by section 8, chapter 90, Oregon
4 Laws 2022, is amended to read:

5 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
6 quires otherwise:

7 “(1)(a) ‘Abuse’ means:

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

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

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

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

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

24 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
25 chapter 163, and any other conduct which allows, employs, authorizes, per-
26 mits, induces or encourages a child to engage in the performing for people
27 to observe or the photographing, filming, tape recording or other exhibition
28 which, in whole or in part, depicts sexual conduct or contact, as defined in
29 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
30 a child or rape of a child, but not including any conduct which is part of

1 any investigation conducted pursuant to ORS 419B.020 or which is designed
2 to serve educational or other legitimate purposes; and

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

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

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

12 “(H) Buying or selling a person under 18 years of age as described in ORS
13 163.537.

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

16 “(J) Unlawful exposure to a controlled substance, as defined in ORS
17 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
18 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
19 the child’s health or safety.

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

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

23 “(a) Is under 18 years of age; or

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

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

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

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

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

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

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

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

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

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

8 “(b) A county sheriff’s office.

9 “(c) The Oregon State Police.

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

12 “(e) A county juvenile department.

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

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

16 “(b) Dentist.

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

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

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

28 “(f) Peace officer.

29 “(g) Psychologist.

30 “(h) Member of the clergy.

- 1 “(i) Regulated social worker.
- 2 “(j) Optometrist.
- 3 “(k) Chiropractor.
- 4 “(L) Certified provider of foster care, or an employee thereof.
- 5 “(m) Attorney.
- 6 “(n) Licensed professional counselor.
- 7 “(o) Licensed marriage and family therapist.
- 8 “(p) Firefighter or emergency medical services provider.
- 9 “(q) A court appointed special advocate, as defined in ORS 419A.004.
- 10 “(r) A child care provider registered or certified under ORS 329A.030 and
11 329A.250 to 329A.450.
- 12 “(s) An elected official of a branch of government of this state or a state
13 agency, board, commission or department of a branch of government of this
14 state or of a city, county or other political 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 di-
19 rectly involved in investigations 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 pro-
24 vision of respite services, as defined in ORS 418.205, for parents pursuant to
25 a properly executed power of attorney under ORS 109.056.
- 26 “(bb) An employee of a public or private organization providing child-
27 related services or activities:
- 28 “(A) Including but not limited to an employee of a:
- 29 “(i) Youth group or center;
- 30 “(ii) Scout group or camp;

1 “(iii) Summer or day camp;

2 “(iv) Survival camp; or

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

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

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

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

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

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

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

16 “(hh) An individual who is paid by a public body, in accordance with ORS
17 430.215, to provide a service identified in an individualized written service
18 plan of a child with a developmental disability.

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

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

21 “(kk) **Behavior analyst or assistant behavior analyst licensed under**
22 **ORS 676.810 or behavior analysis interventionist registered under ORS**
23 **676.815.**

24 “**SECTION 6.** ORS 419B.005, as amended by section 58, chapter 631,
25 Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7,
26 chapter 90, Oregon Laws 2022, is amended to read:

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

29 “(1)(a) ‘Abuse’ means:

30 “(A) Any assault, as defined in ORS chapter 163, of a child and any

1 physical injury to a child which has been caused by other than accidental
2 means, including any injury which appears to be at variance with the ex-
3 planation given of the injury.

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

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

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

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

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

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

29 “(F) Negligent treatment or maltreatment of a child, including but not
30 limited to the failure to provide adequate food, clothing, shelter or medical

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

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

4 “(H) Buying or selling a person under 18 years of age as described in ORS
5 163.537.

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

8 “(J) Unlawful exposure to a controlled substance, as defined in ORS
9 475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
10 fined in ORS 475C.009, that subjects a child to a substantial risk of harm to
11 the child’s health or safety.

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

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

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

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

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

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

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

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

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

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

30 “(b) A county sheriff’s office.

- 1 “(c) The Oregon State Police.
- 2 “(d) A police department established by a university under ORS 352.121
3 or 353.125.
- 4 “(e) A county juvenile department.
- 5 “(6) ‘Public or private official’ means:
- 6 “(a) Physician or physician assistant licensed under ORS chapter 677 or
7 naturopathic physician, including any intern or resident.
- 8 “(b) Dentist.
- 9 “(c) School employee, including an employee of a higher education insti-
10 tution.
- 11 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
12 aide, home health aide or employee of an in-home health service.
- 13 “(e) Employee of the Department of Human Services, Oregon Health Au-
14 thority, Department of Early Learning and Care, Department of Education,
15 Youth Development Division, Office of Child Care, the Oregon Youth Au-
16 thority, a local health department, a community mental health program, a
17 community developmental disabilities program, a county juvenile department,
18 a child-caring agency as that term is defined in ORS 418.205 or an alcohol
19 and drug treatment program.
- 20 “(f) Peace officer.
- 21 “(g) Psychologist.
- 22 “(h) Member of the clergy.
- 23 “(i) Regulated social worker.
- 24 “(j) Optometrist.
- 25 “(k) Chiropractor.
- 26 “(L) Certified provider of foster care, or an employee thereof.
- 27 “(m) Attorney.
- 28 “(n) Licensed professional counselor.
- 29 “(o) Licensed marriage and family therapist.
- 30 “(p) Firefighter or emergency medical services provider.

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

2 “(r) A child care provider registered or certified under ORS 329A.250 to
3 329A.450.

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

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

8 “(u) Audiologist.

9 “(v) Speech-language pathologist.

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

12 “(x) Pharmacist.

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

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

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

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

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

21 “(i) Youth group or center;

22 “(ii) Scout group or camp;

23 “(iii) Summer or day camp;

24 “(iv) Survival camp; or

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

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

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

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

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

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

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

8 “(hh) An individual who is paid by a public body, in accordance with ORS
9 430.215, to provide a service identified in an individualized written service
10 plan of a child with a developmental disability.

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

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

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

16 “**SECTION 7.** ORS 419B.035, as amended by section 10, chapter 27,
17 Oregon Laws 2022, and section 9, chapter 90, Oregon Laws 2022, is amended
18 to read:

19 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
20 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-
21 cessibility for public inspection of public records and public documents, re-
22 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
23 are confidential and may not be disclosed except as provided in this section.

24 The Department of Human Services shall make the records available to:

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

27 “(b) Any physician, physician assistant licensed under ORS 677.505 to
28 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the
29 request of the physician, physician assistant or nurse practitioner, regarding
30 any child brought to the physician, physician assistant or nurse practitioner

1 or coming before the physician, physician assistant or nurse practitioner for
2 examination, care or treatment;

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

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

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

13 “(f) The Early Learning Division for the purpose of carrying out the
14 functions of the division, including the certification, registration or regu-
15 lation of child care facilities and child care providers and the administration
16 of enrollment in the Central Background Registry;

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

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

20 “(i) Any person, upon request to the Department of Human Services, if
21 the reports or records requested regard an incident in which a child, as the
22 result of abuse, died or suffered serious physical injury as defined in ORS
23 161.015. Reports or records disclosed under this paragraph must be disclosed
24 in accordance with ORS 192.311 to 192.478;

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

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

30 “(L) The Department of Education for purposes of investigations con-

1 ducted under ORS 339.391; [and]

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

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

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

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

20 “(3) The Department of Human Services may make reports and records
21 compiled under the provisions of ORS 419B.010 to 419B.050 available to any
22 person, administrative hearings officer, court, agency, organization or other
23 entity when the department determines that such disclosure is necessary to
24 administer its child welfare services and is in the best interests of the af-
25 fected child, or that such disclosure is necessary to investigate, prevent or
26 treat child abuse and neglect, to protect children from abuse and neglect or
27 for research when the Director of Human Services gives prior written ap-
28 proval. The Department of Human Services shall adopt rules setting forth the
29 procedures by which it will make the disclosures authorized under this sub-
30 section or subsection (1) or (2) of this section. The name, address and other

1 identifying information about the person who made the report may not be
2 disclosed pursuant to this subsection and subsection (1) of this section.

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

10 “(5) A law enforcement agency, upon completing an investigation and
11 closing the file in a specific case relating to child abuse or neglect, shall
12 make reports and records in the case available upon request to any law
13 enforcement agency or community corrections agency in this state, to the
14 Department of Corrections, to the Oregon Youth Authority or to the State
15 Board of Parole and Post-Prison Supervision for the purpose of managing and
16 supervising offenders in custody or on probation, parole, post-prison super-
17 vision or other form of conditional or supervised release. A law enforcement
18 agency may make reports and records compiled under the provisions of ORS
19 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforce-
20 ment, community corrections, corrections or parole agencies in an open case
21 when the law enforcement agency determines that the disclosure will not
22 interfere with an ongoing investigation in the case. The name, address and
23 other identifying information about the person who made the report may not
24 be disclosed under this subsection or subsection (6)(b) of this section.

25 “(6)(a) Any record made available to a law enforcement agency or com-
26 munity corrections agency in this state, to the Department of Corrections,
27 the Oregon Youth Authority or the State Board of Parole and Post-Prison
28 Supervision or to a physician, physician assistant or nurse practitioner in
29 this state, as authorized by subsections (1) to (5) of this section, shall be kept
30 confidential by the agency, department, board, physician, physician assistant

1 or nurse practitioner. Any record or report disclosed by the Department of
2 Human Services to other persons or entities pursuant to subsections (1) and
3 (3) of this section shall be kept confidential.

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

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

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

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

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

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

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

- 1 In line 5, delete “1” and insert “8”.
- 2 On page 3, line 13, delete “2” and insert “9”.
- 3 In line 38, delete “3” and insert “10”
- 4 On page 4, line 29, delete “4” and insert “11”.
- 5 In line 34, delete “5” and insert “12”.
- 6 On page 5, after line 4, insert:
- 7 **“SECTION 13. Sections 1 to 7 of this 2023 Act become operative on**
- 8 **September 1, 2023.”**.
- 9 In line 5, delete “6” and insert “14”.
- 10 _____