

Enrolled House Bill 2221

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

CHAPTER

AN ACT

Relating to child abuse; creating new provisions; amending ORS 192.537, 192.539, 192.690, 409.185, 418.746, 418.747, 418.748, 418.751, 418.753, 418.780, 418.782, 418.784, 418.786, 418.788, 418.790, 418.792, 418.793, 418.794, 418.796, 419B.005 and 419B.050; and declaring an emergency.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS 418.780 to 418.796.

SECTION 2. (1) The Child Abuse Multidisciplinary Intervention Program is established in the Department of Justice. The purpose of the program is to:

- (a) Establish and maintain a coordinated multidisciplinary community-based system for responding to allegations of child abuse that is sensitive to the needs of children;**
- (b) Ensure the safety and health of children who are victims of child abuse to the greatest extent possible; and**
- (c) Administer the grant programs established under ORS 418.746 and 418.786.**

(2) The Attorney General or the Attorney General's designee is the administrator of the Child Abuse Multidisciplinary Intervention Program and of the Child Abuse Multidisciplinary Intervention Account established in ORS 418.746.

SECTION 3. ORS 418.746, 418.747, 418.748 and 418.751 are added to and made a part of ORS 418.780 to 418.796.

SECTION 4. ORS 418.780 is amended to read:

418.780. (1) The Legislative Assembly recognizes **that:**

- (a) Protection of the child is of primary importance.**
- (b) A serious need [for the adequate assessment] exists for a coordinated multidisciplinary approach to the prevention and investigation of child abuse, for intervention and for the treatment of children who are victims of child abuse in a manner that is sensitive to the needs of children. No child in this state should be denied access to a [complete] child abuse medical assessment because of an inability to pay. The cost of not assessing and treating abused children [thoroughly] with the aid of specially trained personnel is too high.**

(2) The purpose of ORS 418.780 to 418.796 is to establish and maintain:

- (a) Sufficient county multidisciplinary child abuse teams to conduct timely investigations of allegations of child abuse and provide comprehensive services to victims of child abuse through coordinated child abuse multidisciplinary intervention plans.**

(b) Sufficient regional assessment centers and community assessment [services] **centers** in Oregon to ensure that every child reasonably suspected to have been subjected to child abuse receives a skilled, complete and therapeutic child abuse medical assessment.

SECTION 5. ORS 418.746 is amended to read:

418.746. (1) The Child Abuse Multidisciplinary Intervention Account is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account. All moneys deposited in the account are continuously appropriated to the Department of Justice for the purposes of ORS 418.751 and this section.

(2) The [department] **Child Abuse Multidisciplinary Intervention Program**, with the advice of the Advisory Council on Child Abuse Assessment, created by ORS 418.784, shall [disburse] **allocate** moneys from the Child Abuse Multidisciplinary Intervention Account to eligible county multidisciplinary child abuse teams formed under ORS 418.747 [and public and private agencies], **or entities designated by the teams**, serving the counties from which the moneys were collected. The [department] **program** may award only one grant per county. [The Attorney General or the Attorney General's designee is the administrator of the Child Abuse Multidisciplinary Intervention Account.] The moneys shall be allocated by the same formula as, or a formula similar to, the formula used by the Attorney General for equitable distribution of the fund for victim's assistance programs under ORS 147.227 (1). Moneys allocated under this subsection may not be used as replacement revenues for currently available funds previously allocated by the county for child abuse intervention.

(3) The [department] **Child Abuse Multidisciplinary Intervention Program** shall determine eligibility of the applicants and:

(a) Allocate funds if the [program] **applicant** is deemed eligible;

(b) Conditionally allocate funds, with appropriate conditions, when necessary to establish eligibility; or

(c) Deny funding.

(4) In making the eligibility determination, the [department] **Child Abuse Multidisciplinary Intervention Program** shall consider the following nonexclusive list of factors:

(a) Whether the [program] **services offered by an applicant** substantially [furthers] **further** the goals and purposes of ORS 418.747, 418.790 and 418.792;

(b) Whether the county multidisciplinary child abuse team **or the entity designated by the team** has properly allocated other available funds;

(c) Any evaluations of previously funded [programs] **services** as required by subsection (7) of this section;

(d) The extent to which the county's coordinated child abuse multidisciplinary intervention plan provides for comprehensive services to the victims of child abuse;

(e) Whether the funds are being used as replacement revenues as prohibited by subsection (2) of this section; [and]

(f) Whether there is a [child abuse intervention, assessment] **community assessment center** or advocacy center in existence or planned in the county; and [whether the funds are given priority to support such center-based programs if needed]

(g) **The extent to which funding a community assessment center is given priority in the intervention plan as required under subsection (5) of this section.**

(5)(a) At least once a biennium, the county multidisciplinary child abuse team shall submit to the [department] **Child Abuse Multidisciplinary Intervention Program** a coordinated child abuse multidisciplinary intervention plan. The **intervention** plan must:

(A) Describe all sources of funding, other than moneys that may be [distributed] **allocated** from the Child Abuse Multidisciplinary Intervention Account, including in-kind contributions that are available for the intervention plan;

[(B) Describe how the plan provides for comprehensive services to the victims of child abuse, including assessment, advocacy and treatment; and]

(B) Describe the critical needs of victims of child abuse in the county, including but not limited to assessment, advocacy and treatment, and how the intervention plan addresses those needs in a comprehensive manner;

(C) Include the county's written protocol and agreements required by ORS 418.747 (2)[.] **and section 20 of this 2005 Act; and**

(D) Describe how the intervention plan gives priority to funding a community assessment center and how the funding supports the center.

(b) When submitting the intervention plan, the county multidisciplinary child abuse team shall also submit:

(A) Those applications for funding received from *[public and private agencies]* **entities** under subsection (6) of this section that the team determines best meet the needs of the county's intervention plan and a recommendation that the applications for funding be granted; and

(B) If the team is seeking funding from the Child Abuse Multidisciplinary Intervention *[Account]* **Program**, an application setting forth *[such]* **the** information *[as is]* required by rule of the *[department]* **program**.

(6) *[A public or private agency]* **An entity** wishing to apply for funding from the Child Abuse Multidisciplinary Intervention *[Account]* **Program** shall submit an application to the county multidisciplinary child abuse team for the county in which the *[public or private agency]* **entity** proposes to provide services. The application shall:

(a) Describe the *[programs and]* services to be funded with moneys from the Child Abuse Multidisciplinary Intervention *[Account]* **Program** according to the **coordinated child abuse multidisciplinary** intervention plan and the anticipated outcomes in terms of benefits to children and families; and

(b) Describe how the *[programs and]* services further the goals and purposes of ORS 418.747, 418.790 and 418.792.

(7)(a) *[An agency]* **A designated entity** providing *[programs and]* services according to a coordinated child abuse multidisciplinary intervention plan funded with moneys from the Child Abuse Multidisciplinary Intervention *[Account]* **Program** shall submit an annual report to the county multidisciplinary child abuse team *[and to the department]*. A multidisciplinary child abuse team *[receiving moneys from the Child Abuse Multidisciplinary Intervention Account]* shall submit an annual report to the *[department]* **Child Abuse Multidisciplinary Intervention Program**.

(b) The *[reports]* **annual report filed by the county multidisciplinary child abuse team** must:

(A) Document how the moneys were utilized and describe to what extent the *[programs and]* services were able to meet anticipated outcomes in terms of benefits to children and families.

(B) Include local and state issues and recommendations relating to the prevention of child fatalities identified in the fatality review process under section 20 of this 2005 Act.

(c) A county multidisciplinary child abuse team receiving a report from *[an agency]* **a designated entity** shall review the report and take into account success of the *[program]* **entity** at meeting service outcomes before making future recommendations regarding allocation of moneys.

(d) The *[department]* **Child Abuse Multidisciplinary Intervention Program** shall review reports received under this section before making future eligibility and allocation decisions and when evaluating *[programs and]* services funded under this section.

(8) Two or more county multidisciplinary child abuse teams may join together to develop joint child abuse multidisciplinary intervention plans. The joint **intervention** plans shall be submitted as provided in subsection (5) of this section.

(9) The *[department]* **Child Abuse Multidisciplinary Intervention Program** may adopt rules *[necessary]* to carry out the provisions of ORS 418.751 and this section including, but not limited to, the following:

- (a) Notices and time limits for applications;
- (b) Method of review and the role of advisory bodies; and
- (c) Reallocation of moneys not applied for or disbursed.

SECTION 6. ORS 418.747 is amended to read:

418.747. (1) The district attorney in each county shall be responsible for developing [*interagency and*] **county multidisciplinary child abuse** teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, county health department personnel, **county mental health department personnel who have experience with children and family mental health issues**, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies **that are represented on the team** that specify:

- (a) The role of each agency;
- (b) Procedures to be followed to assess risks to the child;
- (c) Guidelines for timely communication between member agencies;
- (d) Guidelines for completion of responsibilities by member agencies;
- (e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as defined in ORS 657A.250, immediate notification of parents or guardians of children attending the child care facility is required regarding any abuse allegation and pending investigation; and
- (f) Criteria and procedures to be followed when removal of the child is necessary for the child's safety.

(3) Each team member and [*those*] **the personnel** conducting child abuse investigations and interviews of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual abuse and rape of children and legally sound and age appropriate interview and investigatory techniques.

(4) All investigations of child abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures called for in this section. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or [*department child welfare*] **child protective services** worker, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of physical harm, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. **A law enforcement officer or child protective services worker shall make** a reasonable effort to find and provide a trained investigator or interviewer [*shall be made*].

(5) [*Protection of the child is of primary importance.*] To ensure the **protection and** safe placement of a child, the Department of Human Services may request that [*local multidisciplinary*] team members obtain criminal history information on any person who is part of the household where the department may place or has placed a child who is in the department's custody. All information obtained by the [*local*] team members and the department in the exercise of their duties is confidential and may [*only*] be disclosed [*as*] **only when** necessary to ensure the safe placement of a child.

(6) Each team shall classify, assess and review cases under investigation.

(7)(a) Each team shall develop and implement procedures for evaluating and reporting compliance of member agencies with the protocols and procedures required under this section. Each team shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies of the protocols and procedures required under this section and the results of the evaluation as requested.

(b) **The administrator may:**

(A) **Consider the evaluation results when making eligibility determinations under ORS 418.746 (3);**

(B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the protocols and procedures being used by the team based on the evaluation results; or

(C) Ask a team to evaluate the team's compliance with the protocols and procedures in a particular case.

(c) The information and records compiled under this subsection are exempt from ORS 192.410 to 192.505.

[(7)] (8) Each [multidisciplinary] team shall develop policies that provide for an independent review of investigation procedures of sensitive cases after completion of court actions on particular cases. The policies shall include independent citizen input. Parents of child abuse victims shall be notified of the review procedure.

[(8) Each team shall establish a local multidisciplinary fatality review process. The purposes of the review process are to:]

[(a) Coordinate various agencies and specialists to review a fatality caused by child abuse or neglect;]

[(b) Identify local and state issues related to preventable deaths; and]

[(c) Promote implementation of recommendations on the local level.]

[(9) In establishing the review process and carrying out reviews, the members of the local multidisciplinary team shall be assisted by the local medical examiner or county health officer as well as others specially trained in areas relevant to the purpose of the local team.]

[(10) The categories of fatalities reviewed by the multidisciplinary team include:]

[(a) Child fatalities in which child abuse or neglect may have occurred at any time prior to death or have been a factor in the fatality;]

[(b) Any category established by the local multidisciplinary team;]

[(c) All child fatalities where the child is less than 18 years of age and there is an autopsy performed by the medical examiner; and]

[(d) Any specific cases recommended for local review by the statewide interdisciplinary team established under ORS 418.748.]

[(11) The local multidisciplinary team shall develop a written protocol for review of child fatalities. The protocol shall be designed to facilitate communication and information between persons who perform autopsies and those professionals and agencies concerned with the prevention, investigation and treatment of child abuse and neglect.]

[(12) Within the guidelines, and in a format, established by the statewide interdisciplinary team established under ORS 418.748, the local team shall provide the statewide team with information regarding child fatalities under subsection (10) of this section.]

[(13) The local multidisciplinary team shall have access to and subpoena power to obtain all medical records, hospital records and Records maintained by any state, county or local agency, including, but not limited to, police investigations data, coroner or medical examiner investigative data and social services records, as necessary to complete the review of a specific fatality under subsection (8)(a) of this section. All meetings of the local team relating to the fatality review process required by subsections (8) to (13) of this section shall be exempt from the provisions of ORS 192.610 to 192.690. All information and records acquired by the local team in the exercise of its duties are confidential and may only be disclosed as necessary to carry out the purposes of the local fatality review process.]

SECTION 7. ORS 418.748 is amended to read:

418.748. (1) The Department of Human Services shall form a statewide interdisciplinary team to meet twice a year to review child fatality cases where child abuse or suicide is suspected, identify trends, make recommendations and take actions involving statewide issues.

(2) The statewide interdisciplinary team may recommend specific cases to a [local multidisciplinary] **child fatality review** team for its review under [ORS 418.747] **section 20 of this 2005 Act.**

(3) The statewide interdisciplinary team shall provide recommendations to [local multidisciplinary] **child fatality review** teams in the development of protocols. The recommendations shall ad-

dress investigation, training, case selection and fatality review of child deaths, including but not limited to child abuse and youth suicide cases.

SECTION 8. ORS 418.751 is amended to read:

418.751. (1) The Department of Human Services, as provided in ORS 418.749, and the Department of Justice shall ensure that training and education are provided for persons, other than law enforcement officers, who are required to investigate allegations of child abuse. The Department of Human Services and the Department of Justice shall consult with the State Commission on Children and Families in assessing the grant funding that might be distributed to enhance and support training and continuing education for the **county** multidisciplinary **child abuse** teams.

(2) The Department of Human Services and the Department of Justice shall work with the Board on Public Safety Standards and Training to ensure that the training that is offered to persons under subsection (1) of this section and ORS 418.749 is coordinated with the training given to law enforcement officers.

SECTION 9. ORS 418.753 is amended to read:

418.753. The State Technical Assistance Team for child fatalities is established in the Department of Human Services. The purpose of the State Technical Assistance Team is to provide staff support for the statewide **interdisciplinary** team [*on child abuse or suicide*], as described in ORS 418.748, and, upon request, to provide technical assistance to [*local multidisciplinary teams, as described in ORS 418.747*] **the child fatality review teams established under section 20 of this 2005 Act.** The duties of the State Technical Assistance Team shall include but are not limited to:

(1) Designing, implementing and maintaining an information management system for child fatalities;

(2) Providing training assistance and support for identified individuals on [*local*] **county** multidisciplinary **child abuse** teams in accurate data collection and input;

(3) Compiling and analyzing data on child fatalities;

(4) Using data concerning child deaths to identify strategies for the prevention of child fatalities and serving as a resource center to promote the use of the strategies at the [*local*] **county** level; and

(5) Upon request of a [*local*] **county** multidisciplinary **child abuse** team, providing technical assistance and consultation services on a variety of issues related to child fatalities including interagency agreements, team building, case review and prevention strategies.

SECTION 10. ORS 418.782 is amended to read:

418.782. As used in ORS 418.780 to 418.796:

(1) "Child abuse" means "abuse" as defined by ORS 419B.005 [(1)(a)(A) to (F)].

(2) "Child abuse medical assessment" means an assessment by or under the direction of a **licensed physician or other licensed health care professional** trained in the evaluation, diagnosis and treatment of child abuse [*and licensed to practice medicine in Oregon*]. "Child abuse medical assessment" includes the taking of a thorough medical history, a complete physical examination and an interview for the purpose of making a medical diagnosis, determining whether or not the child has been abused and identifying the appropriate treatment or referral for follow-up for the child.

(3) "Community assessment [*service*] **center**" means a neutral, child-sensitive community-based [*center*] **facility** or service provider to which a child from the community may be referred to receive a thorough child abuse medical assessment for the purpose of determining whether the child has been abused or neglected.

(4) "Regional assessment center" means a [*center*] **facility operated by a community assessment center** that provides [*services provided by a community assessment service and also provides*] **child abuse medical assessments, assistance with difficult or complex child abuse medical assessments,** education, training, consultation, technical assistance and referral services[, *as defined by the Advisory Council on Child Abuse Assessment by rule, for community assessment services in the region*] **for community assessment centers or county multidisciplinary child abuse teams in a region or regions designated by the administrator of the Child Abuse Multidisciplinary Intervention Program.**

SECTION 11. ORS 418.786 is amended to read:

418.786. To accomplish the purpose described in ORS 418.780, with the assistance of the Advisory Council on Child Abuse Assessment, the administrator of the Child Abuse Multidisciplinary Intervention [Account] **Program** shall develop and administer a grant program to establish and maintain regional **assessment centers** and community assessment centers under ORS 418.780 to 418.796.

SECTION 12. ORS 418.788 is amended to read:

418.788. (1) Subject to the availability of funds under the provisions of ORS 418.796, the administrator of the Child Abuse Multidisciplinary Intervention [Account] **Program** shall make grants for the establishment and maintenance of [community or] regional assessment centers **or community assessment centers**.

(2) A public or private [entity] **agency** may apply to the administrator [of the Child Abuse Multidisciplinary Intervention Account] for a grant to establish and maintain a [community or] regional assessment center **or community assessment center** under ORS 418.780 to 418.796. The administrator [of the Child Abuse Multidisciplinary Intervention Account] may consolidate applications from more than one public or private [entity] **agency** or may return the application with the recommendation that the application be consolidated.

(3) The administrator [of the Child Abuse Multidisciplinary Intervention Account] shall by rule establish criteria for awarding grants to establish and maintain [community or] regional assessment centers **or community assessment centers** under ORS 418.780 to 418.796, including but not limited to:

(a) Expenses eligible for reimbursement from funds under ORS 418.796;

(b) The extent to which the applicant's proposed assessment center will best accomplish the purposes of ORS 418.780 to 418.796; [and]

(c) The extent to which an applicant meets criteria for receiving a grant to establish and maintain [community or] a regional assessment [centers.] **center or community assessment center; and**

(d) For a regional assessment center, the extent to which the applicant's proposed assessment center meets the documented needs of the communities, community assessment centers and county multidisciplinary child abuse teams in the region or regions to be served by the center.

(4) The administrator [of the Child Abuse Multidisciplinary Intervention Account] is not required to fund any grant in the total amount requested in the application.

SECTION 13. ORS 418.790 is amended to read:

418.790. Each application for funds to establish or maintain a regional assessment center shall include:

(1) A description of how the services of the proposed regional assessment center are to be delivered, including but not limited to:

(a) A coordinated investigation of child abuse allegations;

(b) A child abuse medical assessment in the region or regions served by the center, including assessments requested by county multidisciplinary child abuse teams;

(c) A neutral, nonintrusive [videotaped] **video-recorded** interview pursuant to interviewing guidelines adopted by the Advisory Council on Child Abuse Assessment;

(d) Mental health treatment or referral for mental health treatment, if indicated as necessary by the assessments; and

(e) A complete written report of the assessment results.

(2) A description of any interagency agreements, as required by ORS 418.747, with the Department of Human Services, local law enforcement agencies, other regional assessment centers or other agencies involved in child abuse cases.

(3) A description of procedures to be followed in the proposed regional assessment center, including but not limited to:

(a) The contents, availability and distribution of written reports for each assessment;

(b) The availability of regional assessment center staff to testify in cases involving alleged abuse of children evaluated by the assessment center *[or service]*;

(c) Coordination with child witness programs and other child advocacy groups;

(d) The level of support available to the regional assessment center through in-kind contributions from the community; and

(e) A plan for providing training, education, consultation, technical assistance and referral services to community assessment **centers** or intervention services in the region.

(4) Evidence indicating that the applicant has state-of-the-art equipment and adequately trained staff to perform child abuse medical assessments and interviews, including but not limited to:

(a) A physician who is trained in the evaluation, diagnosis and treatment of child abuse and who is licensed to practice medicine in Oregon by the Board of Medical Examiners for the State of Oregon; and

(b) An interviewer who has an advanced academic degree in human services or who has comparable **specialized** training and experience.

(5) A description of where the regional assessment center is to be physically located, including but not limited to a hospital, medical clinic or other appropriate public or private *[entity]* **agency**. The proposed center may not be located in an office of the Department of Human Services or in the office of any law enforcement agency.

[(6) If the applicant is to receive funding as a regional assessment center:]

[(a)] **(6)** A description of the region to be served*[:]*.

[(b) A description of where the center is to be geographically located so as to be reasonably accessible to community assessment services in the region; and]

(7) A description of the geographic location of the proposed regional assessment center. The proposed center shall be located so that it is reasonably accessible by the community assessment centers in the region.

[(c)] **(8)** Evidence that the applicant has a sufficiently trained staff to provide education, training, consultation, technical assistance and referral services for community assessment *[services]* **centers** in the region.

SECTION 14. ORS 418.792 is amended to read:

418.792. Each application for funds to provide a community assessment *[services]* **center** shall include:

(1) Evidence indicating that the applicant has at least one medical practitioner trained in the evaluation, diagnosis and treatment of child abuse and neglect.

(2) A commitment by the medical practitioner:

(a) To attend annual continuing education courses regarding evaluation and diagnosis of child abuse and neglect; and

(b) To refer complex cases, as defined by the Advisory Council on Child Abuse Assessment by rule, to a regional assessment center.

(3) Evidence indicating the proposed community assessment *[service]* **center** has access to special equipment used in the evaluation of child abuse.

(4) A description of where the community assessment *[service]* **center** is to be located, including but not limited to a hospital, medical clinic or other appropriate public or private *[entity]* **agency**. However, the proposed *[service]* **center** shall not be located in an office of the Department of Human Services or in the office of any law enforcement agency.

(5) The level of support available to the proposed community assessment *[service]* **center** through in-kind contributions from the community.

(6) A description of procedures to be followed by the proposed community assessment *[service]* **center**, including the availability of personnel from the community assessment *[service]* **center** to testify in cases involving alleged abuse of children evaluated by the *[service]* **center**.

SECTION 15. ORS 418.793 is amended to read:

418.793. Once each year, a *[community or]* regional assessment center **or community assessment center** established under ORS 418.780 to 418.796 shall submit a report to the *[Department of*

Justice] **Child Abuse Multidisciplinary Intervention Program** describing how the **assessment center** has met the purposes of ORS 418.780 to 418.796. The [*department*] **program** may prescribe by rule a form for the report.

SECTION 16. ORS 418.794 is amended to read:

418.794. [*Videotapes*] **Video recordings** produced pursuant to ORS 418.780 to 418.796 shall remain in the custody of the **regional assessment center or the community assessment center** and shall remain confidential and not subject to public disclosure except under a lawfully issued subpoena and protective order.

SECTION 17. ORS 418.796 is amended to read:

418.796. The Advisory Council on Child Abuse Assessment may solicit and accept contributions of funds and assistance from the United States, its agencies or from other sources, public or private, and agree to conditions [*thereon*] not inconsistent with the purposes of ORS 418.780 to 418.796. All [*such*] funds **received** are to aid in financing the functions of the advisory council and the purposes of ORS 418.780 to 418.796 and shall be deposited in the General Fund of the State Treasury to the credit of a separate account and [*shall be disbursed by the administrator of the Child Abuse Multidisciplinary Intervention Account created under ORS 418.746*] **are continuously appropriated to the Child Abuse Multidisciplinary Intervention Program established by section 2 of this 2005 Act** for the purposes of ORS 418.780 to 418.796 [*in the same manner as funds otherwise appropriated*].

SECTION 18. Sections 19 and 20 of this 2005 Act are added to and made a part of ORS 418.780 to 418.796.

SECTION 19. (1) All information and records acquired by a county multidisciplinary child abuse team established under ORS 418.747 or a child fatality review team established under section 20 of this 2005 Act in the exercise of its duties are confidential and may be disclosed only when necessary to carry out the purposes of the child abuse investigation or the child fatality review process.

(2) A member agency of a county multidisciplinary child abuse team or a member of the team may use or disclose protected health information without obtaining an authorization from an individual or a personal representative of the individual if use or disclosure is necessary for public health purposes, including the prevention, investigation and treatment of child abuse.

(3) A child fatality review team shall have access to and subpoena power to obtain all medical records, hospital records and records maintained by any state, county or local agency, including, but not limited to, police investigative data, coroner or medical examiner investigative data and social services records, as necessary to complete a child abuse investigation or a review of a specific fatality under section 20 of this 2005 Act.

(4) As used in this section, “personal representative” and “protected health information” have the meanings given those terms in ORS 192.519.

SECTION 20. (1) Each county multidisciplinary child abuse team shall establish a child fatality review team to conduct child fatality reviews. The purpose of the review process is to help prevent severe and fatal child abuse and neglect by:

- (a) Identifying local and state issues related to preventable child fatalities; and
- (b) Promoting implementation of recommendations at the county level.

(2) In establishing the review process and carrying out reviews, the child fatality review team shall be assisted by the county medical examiner or county health officer as well as other professionals who are specially trained in areas relevant to the purpose of the team.

(3) The categories of fatalities reviewed by the child fatality review team include:

- (a) Child fatalities in which child abuse or neglect may have occurred at any time prior to death or may have been a factor in the fatality;
- (b) Any category established by the county multidisciplinary child abuse team;
- (c) All child fatalities where the child is less than 18 years of age and there is an autopsy performed by the medical examiner; and

(d) Any specific cases recommended for local review by the statewide interdisciplinary team established under ORS 418.748.

(4) A child fatality review team shall develop a written protocol for review of child fatalities. The protocol shall be designed to facilitate communication and the exchange of information between persons who perform autopsies and those professionals and agencies concerned with the prevention, investigation and treatment of child abuse and neglect.

(5) Within the guidelines, and in a format, established by the statewide interdisciplinary team established under ORS 418.748, the child fatality review team shall provide the statewide interdisciplinary team with information regarding the categories of child fatalities described under subsection (3) of this section.

SECTION 21. ORS 192.537 is amended to read:

192.537. (1) Subject to the provisions of ORS 192.531 to 192.549, 659A.303 and 746.135, an individual's genetic information and DNA sample are private and must be protected, and an individual has a right to the protection of that privacy. Any person authorized by law or by an individual or an individual's representative to obtain, retain or use an individual's genetic information or any DNA sample must maintain the confidentiality of the information or sample and protect the information or sample from unauthorized disclosure or misuse.

(2)(a) A person may use an individual's DNA sample or genetic information for anonymous research only if the individual:

(A) Has granted informed consent for the specific anonymous research project;

(B) Has granted consent for genetic research generally; or

(C) Was notified the sample or genetic information may be used for anonymous research and the individual did not, at the time of notification, request that the sample not be used for anonymous research.

(b) The Department of Human Services shall adopt rules to implement paragraph (a) of this subsection after considering similar federal regulations.

(3) A person may not retain another individual's genetic information or DNA sample without first obtaining authorization from the individual or the individual's representative, unless:

(a) Retention is authorized by ORS 181.085 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest or a child fatality review by a **county** multidisciplinary child abuse team;

(b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions;

(c) Retention is permitted by rules of the Department of Human Services for identification of, or testing to benefit blood relatives of, deceased individuals;

(d) Retention is permitted by rules of the Department of Human Services for newborn screening procedures; or

(e) Retention is for anonymous research conducted after notification or with consent pursuant to subsection (2) of this section.

(4) The DNA sample of an individual from which genetic information has been obtained shall be destroyed promptly upon the specific request of that individual or the individual's representative, unless:

(a) Retention is authorized by ORS 181.085 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest or a child fatality review by a **county** multidisciplinary child abuse team;

(b) Retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions; or

(c) Retention is for anonymous research conducted after notification or with consent pursuant to subsection (2) of this section.

(5) A DNA sample from an individual that is the subject of a research project, other than an anonymous research project, shall be destroyed promptly upon completion of the project or withdrawal of the individual from the project, whichever occurs first, unless the individual or the individual's representative directs otherwise by informed consent.

(6) A DNA sample from an individual for insurance or employment purposes shall be destroyed promptly after the purpose for which the sample was obtained has been accomplished unless retention is authorized by specific court order pursuant to rules adopted by the Chief Justice of the Supreme Court for civil, criminal and juvenile proceedings.

(7) An individual or an individual's representative, promptly upon request, may inspect, request correction of and obtain genetic information from the records of the individual.

(8) Subject to the provisions of ORS 192.531 to 192.549, and to policies adopted by the person in possession of a DNA sample, an individual or the individual's representative may request that the individual's DNA sample be made available for additional genetic testing for medical diagnostic purposes. If the individual is deceased and has not designated a representative to act on behalf of the individual after death, a request under this subsection may be made by the closest surviving blood relative of the decedent or, if there is more than one surviving blood relative of the same degree of relationship to the decedent, by the majority of the surviving closest blood relatives of the decedent.

(9) The Department of Human Services shall coordinate the implementation of this section.

(10) Subsections (3) to (8) of this section apply only to a DNA sample or genetic information that is coded, identified or identifiable.

(11) This section does not apply to any law, contract or other arrangement that determines a person's rights to compensation relating to substances or information derived from an individual's DNA sample.

SECTION 22. ORS 192.539 is amended to read:

192.539. (1) Regardless of the manner of receipt or the source of genetic information, including information received from an individual or a blood relative of the individual, a person may not disclose or be compelled, by subpoena or any other means, to disclose the identity of an individual upon whom a genetic test has been performed or the identity of a blood relative of the individual, or to disclose genetic information about the individual or a blood relative of the individual in a manner that permits identification of the individual, unless:

(a) Disclosure is authorized by ORS 181.085 or comparable provisions of federal criminal law relating to identification of persons, or is necessary for the purpose of a criminal or death investigation, a criminal or juvenile proceeding, an inquest, or a child fatality review by a **county** multi-disciplinary child abuse team;

(b) Disclosure is required by specific court order entered pursuant to rules adopted by the Chief Justice of the Supreme Court for civil actions;

(c) Disclosure is authorized by statute for the purpose of establishing paternity;

(d) Disclosure is specifically authorized by the tested individual or the tested individual's representative by signing a consent form prescribed by rules of the Department of Human Services;

(e) Disclosure is for the purpose of furnishing genetic information relating to a decedent for medical diagnosis of blood relatives of the decedent; or

(f) Disclosure is for the purpose of identifying bodies.

(2) The prohibitions of this section apply to any redisclosure by any person after another person has disclosed genetic information or the identity of an individual upon whom a genetic test has been performed, or has disclosed genetic information or the identity of a blood relative of the individual.

(3) A release or publication is not a disclosure if:

(a) It involves a good faith belief by the person who caused the release or publication that the person was not in violation of this section;

(b) It is not due to willful neglect;

(c) It is corrected in the manner described in ORS 192.541 (4);

(d) The correction with respect to genetic information is completed before the information is read or heard by a third party; and

(e) The correction with respect to DNA samples is completed before the sample is retained or genetically tested by a third party.

SECTION 23. ORS 192.690 is amended to read:

192.690. (1) ORS 192.610 to 192.690 shall not apply to the deliberations of the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board, state agencies conducting hearings on contested cases in accordance with the provisions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment Appeals Board of similar hearings on contested cases, meetings of state or local lawyers assistance committees operating under the provisions of ORS 9.568, meetings of the personal and practice management assistance committees operating under the provisions of ORS 9.568, the **county** multidisciplinary **child abuse** teams required to review child abuse [*and neglect fatalities*] **cases** in accordance with the provisions of ORS 418.747, **the child fatality review teams required to review child fatalities in accordance with the provisions of section 20 of this 2005 Act**, the peer review committees in accordance with the provisions of ORS 441.055, mediation conducted under ORS 36.250 to 36.270, any judicial proceeding, meetings of the Oregon Health and Science University Board of Directors or its designated committee regarding candidates for the position of president of the university or regarding sensitive business, financial or commercial matters of the university not customarily provided to competitors related to financings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or substantial change in use of, significant real or personal property, or related to health system strategies, or to Oregon Health and Science University faculty or staff committee meetings.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 to 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to ORS 469.530.

SECTION 24. ORS 409.185 is amended to read:

409.185. (1) The Director of Human Services shall oversee the development of standards and procedures for assessment, investigation and enforcement of child protective services.

(2)(a) The Department of Human Services shall take action to implement the provision of child protective services as outlined in ORS 417.705 to 417.797 and 419A.170 and based on the recommendations in the 1992 "Oregon Child Protective Services Performance Study" published by the University of Southern Maine.

(b) In all substantiated cases of child abuse and neglect, the role of the department is to complete a comprehensive family assessment of risk of abuse or neglect, or both, assess service needs and provide immediate protective services as necessary.

(c) The department shall provide remedial services needed to ensure the safety of the child.

(d) In all cases of abuse and neglect when a criminal investigation occurs, the role of law enforcement agencies is to provide a legally sound, child sensitive investigation of whether abuse or neglect or both have occurred and to gather other evidence and perform other responsibilities in accordance with interagency agreements.

(e) The department and law enforcement agencies shall conduct the investigation and assessment concurrently, based upon the protocols and procedures of the **county** multidisciplinary **child abuse** team in each jurisdiction.

(f) When the department and law enforcement agencies conduct a joint investigation and assessment, the activities of the department and agencies are to be clearly differentiated by the protocols of the **county** multidisciplinary **child abuse** team.

(g) Nothing in this subsection is intended to be inconsistent with ORS 418.747, 418.748 and 418.749 and ORS chapter 419B.

(3) Upon receipt of a recommendation of the Children's Advocate under ORS 417.815 (2)(e), the department shall implement the recommendation or give the Children's Advocate written notice of an intent not to implement the recommendation.

SECTION 25. ORS 418.784 is amended to read:

418.784. (1) There is created the Advisory Council on Child Abuse Assessment, consisting of at least nine members appointed by the Attorney General[, *who*]. **The Attorney General** shall serve as an ex officio member of the council. The council shall direct the administrator of the Child Abuse Multidisciplinary Intervention [*Account on administering*] **Program on the administration of funds** to establish and maintain regional assessment centers or community assessment [*services*] **centers** under ORS 418.780 to 418.796.

(2) Of the members appointed to the council:

(a) One member shall be an employee of the Department of Human Services with duties related to child protective services;

(b) One member shall be a physician licensed to practice medicine in Oregon who specializes in children and families;

(c) One member shall be a person having experience dealing with child abuse;

(d) One member shall be a district attorney or the designee of a district attorney;

(e) One member shall be an employee of a law enforcement agency, in addition to the member who is a district attorney or the designee of a district attorney;

(f) One member shall be from an operating regional assessment center; and

(g) At least three members shall be citizens with appropriate interest in advocating for the medical interest of abused children.

(3) Members of the council who are not state employees:

(a) Are not entitled to compensation; and

(b) Are entitled to reimbursement for actual and necessary travel expenses incurred by them in the performance of their official duties as members of the council if there are sufficient funds available in the Child Abuse Multidisciplinary Intervention Account established in ORS 418.746.

(4) Members of the council who are state employees carrying out their state employment functions are entitled to compensation and reimbursement by their employing agencies for actual and necessary travel and other expenses incurred by them in the performance of their official duties as members of the council.

(5) The council shall elect one of its members to serve as chairperson, for such terms and with such duties and powers as the council determines.

(6) The council shall meet at least four times per year at a place, day and hour determined by the council.

(7) A majority of the members of the council constitutes a quorum for the transaction of business.

SECTION 26. ORS 419B.005 is amended to read:

419B.005. As used in ORS [*418.747, 418.748, 418.749 and*] 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

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

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

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

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

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

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or

described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

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

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

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

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

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

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse or registered nurse.

(e) Employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Licensed clinical social worker.

(j) Optometrist.

(k) Chiropractor.

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

(m) Attorney.

(n) Naturopathic physician.

(o) Licensed professional counselor.

(p) Licensed marriage and family therapist.

(q) Firefighter or emergency medical technician.

(r) A court appointed special advocate, as defined in ORS 419A.004.

(s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(t) Member of the Legislative Assembly.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

SECTION 27. ORS 419B.050 is amended to read:

419B.050. (1) Upon notice by *[either]* a law enforcement agency, *[or]* the Department of Human Services, **a member agency of a county multidisciplinary child abuse team or a member of a county multidisciplinary child abuse team** that a child abuse investigation is being conducted under ORS 419B.020, a health care provider *[may]* **must** permit the law enforcement agency, *[or]* the department, **the member agency of the county multidisciplinary child abuse team or the member of the county multidisciplinary child abuse team** to inspect and copy medical records,

including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2)(a) As used in this section, “health care provider” **has the meaning given that term in ORS 192.519.** *[means a person licensed by one of the following agencies, or any employee of a person licensed by one of the following agencies:]*

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

[(B) State Board of Chiropractic Examiners;]

[(C) State Board of Clinical Social Workers;]

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

[(E) Oregon Board of Dentistry;]

[(F) State Board of Denture Technology;]

[(G) Board of Examiners of Licensed Dietitians;]

[(H) State Board of Massage Therapists;]

[(I) State Mortuary and Cemetery Board;]

[(J) Board of Naturopathic Examiners;]

[(K) Oregon State Board of Nursing;]

[(L) Board of Examiners of Nursing Home Administrators;]

[(M) Oregon Board of Optometry;]

[(N) State Board of Pharmacy;]

[(O) Board of Medical Examiners;]

[(P) Occupational Therapy Licensing Board;]

[(Q) Physical Therapist Licensing Board;]

[(R) State Board of Psychologist Examiners; or]

[(S) Board of Radiologic Technology.]

[(b) For the purposes of this section, “health care provider” includes a health care facility as defined in ORS 442.015 and emergency medical technicians certified by the Department of Human Services.]

SECTION 28. **This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect July 1, 2005.**

Passed by House May 17, 2005

Repassed by House June 29, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State