

Enrolled
House Bill 2335

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Representative Jerry Krummel)

CHAPTER

AN ACT

Relating to investigations of child abuse; creating new provisions; and amending ORS 409.185.

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

SECTION 1. 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 **child** abuse and neglect [*when*] **for which** a criminal investigation [*occurs*] **is conducted**, 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 multidisciplinary 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 multidisciplinary team.

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

(h) In all cases of child abuse for which an investigation is conducted, the department shall provide a child's parent, guardian or caregiver with a clear written explanation of the investigation process, the court hearing process and the rights of the parent, guardian or caregiver in the abuse investigation and in the court proceedings related to the abuse investigation.

(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 2. (1) If, in a case of alleged child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E) by a parent, guardian or caregiver living in the child's home, the Department of Human Services asks the parent, guardian or caregiver to move from the family home during the investigation and the parent, guardian or caregiver consents to leave the family home, the department shall notify the district attorney responsible for the county multidisciplinary child abuse team for the county in which the child resides about the case. The notification shall be in writing and be given no later than three business days after the departure of the parent, guardian or caregiver from the family home.

(2) A parent, guardian or caregiver who consents to leave the family home as described in subsection (1) of this section or the spouse of the parent, guardian or caregiver may ask the district attorney responsible for the team for a review of the case by the team.

(3) No later than 90 days after receiving a request under subsection (2) of this section, the team shall:

(a) Review the case and consider at least the following:

(A) Whether the investigation should continue;

(B) The welfare of the child and the adults living in the family home; and

(C) The proposed timeline for completing the investigation; and

(b) Provide to the person who requested the review a summary of the proposed timeline for completing the investigation.

(4)(a) This section may not be construed to create a new private right of action against a district attorney or any member of a county multidisciplinary child abuse team.

(b) A district attorney and members of a county multidisciplinary child abuse team reviewing a case under subsection (2) of this section are immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to reviewing a case, failing to review a case referred to the team under subsection (2) of this section or providing to the person who requested the review a summary of the proposed timeline for completing the investigation.

(c) The act of reviewing a case or failing to review a case referred to the team under subsection (2) of this section or providing or failing to provide a summary to the person who requested the review may not be used by a defendant in any subsequent criminal prosecution or juvenile proceeding.

SECTION 3. Section 2 of this 2005 Act and the amendments to ORS 409.185 by section 1 of this 2005 Act apply to investigations of child abuse commenced on or after the effective date of this 2005 Act.

Passed by House June 6, 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:

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Approved:

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

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Governor

Filed in Office of Secretary of State:

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

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Secretary of State