

A-Engrossed
Senate Bill 749

Ordered by the Senate March 29
Including Senate Amendments dated March 29

Sponsored by COMMITTEE ON EDUCATION AND WORKFORCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires boards of school districts, education service districts and public charter schools to adopt policies on prevention, identification and investigation of child abuse by employees and other persons.]

Requires school boards to adopt policies on prevention, identification, initial evaluation and assessment of child abuse.

Requires **school** employees to report suspected child abuse by another employee to supervisor or other designated person. *[Requires districts and schools to investigate reports and complaints of child abuse.]*

Requires *[districts and schools]* **education providers** to provide training on child abuse *[policies]* **prevention and identification** to employees and to make training available to parents or legal guardians and students.

Defines terms.

Requires Department of Human Services or law enforcement agency to notify person who reported child abuse when department or agency investigation of report is concluded and to notify person about outcome of investigation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children; creating new provisions; amending ORS 338.025, 338.115 and 419B.020; and de-
3 claring an emergency.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2005 Act:**

6 (1) "Abuse" has the meaning given that term in ORS 419B.005.

7 (2) "Education provider" means:

8 (a) A school district.

9 (b) An education service district.

10 (c) The Oregon State School for the Blind.

11 (d) The Oregon State School for the Deaf.

12 (e) An educational program under the Youth Corrections Education Program.

13 (f) A public charter school as defined in ORS 338.005.

14 (g) Any state-operated program that provides educational services to kindergarten
15 through grade 12 students.

16 (h) A private school.

17 (3) "Private school" means a school that provides educational services as defined in ORS
18 345.505 to kindergarten through grade 12 students.

19 (4) "School board" means the governing board or governing body of an education pro-
20 vider.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) "School employee" means an employee of an education provider.

2 **SECTION 2.** Each school board shall adopt policies on the prevention, identification, ini-
3 tial evaluation and assessment of child abuse. The policies shall:

4 (1) Specify that child abuse by school employees is not tolerated;

5 (2) Specify that all school employees are subject to the policies;

6 (3) Require that all school employees report suspected child abuse to a law enforcement
7 agency, the Department of Human Services or a designee of the department as required by
8 ORS 419B.010 and 419B.015 and report suspected child abuse to the employees' supervisors
9 or other persons designated by the policy as required by section 3 of this 2005 Act;

10 (4) Designate a person to receive reports of suspected child abuse by school employees
11 and specify the procedures to be followed by that person upon receipt of a report;

12 (5) Require the posting in each school building of the name and contact information for
13 the person designated for the school building to receive reports of suspected child abuse by
14 school employees and the procedures the person will follow upon receipt of a report;

15 (6) Specify that the initiation of a report in good faith about suspected child abuse may
16 not adversely affect any terms or conditions of employment or the work environment of the
17 complainant;

18 (7) Specify that the school board or any school employee will not discipline a student for
19 the initiation of a report in good faith about suspected child abuse by a school employee;

20 (8) Require notification by the education provider to the person who initiated the report
21 about actions taken by the education provider based on the report; and

22 (9) Require all school employees to attend child abuse prevention training as required by
23 section 4 of this 2005 Act.

24 **SECTION 3.** (1) Any school employee having reasonable cause to believe that any child
25 with whom the employee comes in contact has suffered abuse by another school employee,
26 or that another school employee with whom the employee comes in contact has abused a
27 child, shall immediately report the information to a supervisor or other person designated
28 by the school board.

29 (2) A person who receives a report under subsection (1) of this section, shall follow the
30 procedures required by the policy adopted by the school board under section 2 of this 2005
31 Act.

32 **SECTION 4.** (1) An education provider shall require school employees to complete train-
33 ing each school year designed to provide education on the prevention and identification of
34 child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050. The
35 training shall also include an explanation of the policies adopted under section 2 of this 2005
36 Act.

37 (2) Education providers shall make the training required under subsection (1) of this
38 section available to parents and legal guardians of students who attend a school operated by
39 the education provider. The training shall be provided separately from the training provided
40 to school employees under subsection (1) of this section.

41 (3) Education providers shall also make training that is designed to prevent child abuse
42 available to children who attend a school operated by the education provider.

43 **SECTION 5.** ORS 338.115 is amended to read:

44 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
45 public schools [*shall*] **do** not apply to public charter schools. However, the following laws shall apply

1 to public charter schools:

2 (a) Federal law;

3 (b) ORS 192.410 to 192.505 (public records law);

4 (c) ORS 192.610 to 192.690 (public meetings law);

5 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

6 (e) ORS 181.539, 326.603, 326.607 and 342.232 (criminal records checks);

7 (f) ORS 337.150 (textbooks);

8 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

9 (h) ORS 659.850 and 659.855 (discrimination);

10 (i) ORS 30.260 to 30.300 (tort claims);

11 (j) Health and safety statutes and rules;

12 (k) Any statute or rule that is listed in the charter;

13 (L) The statewide assessment system developed by the Department of Education for mathemat-
14 ics, science and English under ORS 329.485 (1);

15 (m) ORS 329.045 (academic content standards and instruction);

16 (n) Any statute or rule that establishes requirements for instructional time provided by a school
17 during each day or during a year;

18 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

19 **(p) Sections 1 to 4 of this 2005 Act (prevention of child abuse);** and

20 [(p)] **(q)** This chapter.

21 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
22 that apply to school district boards, school districts and other public schools may apply to a public
23 charter school.

24 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
25 “public school” shall include public charter school as those terms are used in that statute or rule.

26 (4) A public charter school [shall] **may** not violate the Establishment Clause of the First
27 Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or
28 be religion based.

29 (5) A public charter school shall maintain an active enrollment of at least 25 students.

30 (6) A public charter school may sue or be sued as a separate legal entity.

31 (7) The sponsor, members of the governing board of the sponsor acting in their official capacity
32 and employees of a sponsor acting in their official capacity are immune from civil liability with re-
33 spect to all activities related to a public charter school within the scope of their duties or employ-
34 ment.

35 (8) A public charter school may enter into contracts and may lease facilities and services from
36 a school district, education service district, state institution of higher education, other governmental
37 unit or any person or legal entity.

38 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
39 ability.

40 (10) A public charter school may receive and accept gifts, grants and donations from any source
41 for expenditure to carry out the lawful functions of the school.

42 (11) The school district in which the public charter school is located shall offer a high school
43 diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public
44 charter school student who meets the district’s and state’s standards for a high school diploma,
45 certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district

1 offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the
2 district, then the school district shall offer the endorsement to any public charter school student
3 who meets the district's and state's standards for the endorsement.

4 (12) A high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mas-
5 tery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school
6 shall grant to the holder the same rights and privileges as a high school diploma, certificate, Cer-
7 tificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of
8 Advanced Mastery issued by a nonchartered public school.

9 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
10 sponsor as specified in the charter.

11 (14) A public charter school may receive services from an education service district in the same
12 manner as a nonchartered public school in the school district in which the public charter school is
13 located.

14 **SECTION 6.** ORS 338.025 is amended to read:

15 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
16 of this chapter. The rules shall follow the intent of this chapter.

17 (2) Upon application by a public charter school, the State Board of Education may grant a
18 waiver of any provision of this chapter if the waiver promotes the development of programs by
19 providers, enhances the equitable access by underserved families to the public education of their
20 choice, extends the equitable access to public support by all students or permits high quality pro-
21 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
22 chapter or any provision under ORS 338.115 (1)(a) to [(o)] (p).

23 **SECTION 7.** ORS 419B.020 is amended to read:

24 419B.020. (1) Upon receipt of an oral report of child abuse, the Department of Human Services
25 or the law enforcement agency shall immediately:

26 (a) Cause an investigation to be made to determine the nature and cause of the abuse of the
27 child; and

28 (b) Notify the Child Care Division if the alleged child abuse occurred in a child care facility as
29 defined in ORS 657A.250.

30 (2) If the law enforcement agency conducting the investigation finds reasonable cause to believe
31 that abuse has occurred, the law enforcement agency shall notify by oral report followed by written
32 report the local office of the department. The department shall provide protective social services
33 of its own or of other available social agencies if necessary to prevent further abuses to the child
34 or to safeguard the child's welfare.

35 (3) If a child is taken into protective custody by the department, the department shall promptly
36 make reasonable efforts to ascertain the name and address of the child's parents or guardian.

37 (4)(a) If a child is taken into protective custody by the department or a law enforcement official,
38 the department or law enforcement official shall, if possible, make reasonable efforts to advise the
39 parents or guardian immediately, regardless of the time of day, that the child has been taken into
40 custody, the reasons the child has been taken into custody and general information about the child's
41 placement, and the telephone number of the local office of the department and any after-hours tele-
42 phone numbers.

43 (b) Notice may be given by any means reasonably certain of notifying the parents or guardian,
44 including but not limited to written, telephonic or in-person oral notification. If the initial notifica-
45 tion is not in writing, the information required by paragraph (a) of this subsection also shall be

1 provided to the parents or guardian in writing as soon as possible.

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

4 (d) If a child is taken into custody while under the care and supervision of a person or organ-
5 ization other than the parent, the department, if possible, shall immediately notify the person or
6 organization that the child has been taken into protective custody.

7 (5) If a law enforcement officer or the department, when taking a child into protective custody,
8 has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child
9 as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to
10 disappear, the court may authorize a physical examination for the purposes of preserving evidence
11 if the court finds that it is in the best interest of the child to have such an examination. Nothing
12 in this section affects the authority of the department to consent to physical examinations of the
13 child at other times.

14 (6) A minor child of 12 years of age or older may refuse to consent to the examination described
15 in subsection (5) of this section. The examination shall be conducted by or under the supervision
16 of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter
17 678 and, whenever practicable, trained in conducting such examinations.

18 **(7) The department or the law enforcement agency shall notify the person who made the**
19 **report of child abuse to the department or the law enforcement agency when the investi-**
20 **gation is concluded and notify the person about the outcome of the investigation.**

21 **SECTION 8. This 2005 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
23 **on its passage.**