

A-Engrossed
Senate Bill 947

Ordered by the Senate May 4
Including Senate Amendments dated May 4

Sponsored by COMMITTEE ON JUDICIARY

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 Department of Human Services to make records concerning reports of child abuse available to any person if child dies or suffers serious physical injury. **Allows department to exempt specified information from disclosure. Allows department, if it does not have report or record, to disclose that information.**

A BILL FOR AN ACT

1
2 Relating to child abuse; amending ORS 419B.035.

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

4 **SECTION 1.** ORS 419B.035 is amended to read:

5 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and
6 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records
7 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
8 419B.050 are confidential and are not accessible for public inspection. However, the Department of
9 Human Services shall make records available to:

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

12 (b) Any physician, at the request of the physician, regarding any child brought to the physician
13 or coming before the physician for examination, care or treatment;

14 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
15 ceeding;

16 (d) Citizen review boards established by the Judicial Department for the purpose of periodically
17 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile
18 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
19 participants in case reviews;

20 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
21 that a child has been subjected to child abuse or neglect;

22 (f) The Child Care Division for certifying, registering or otherwise regulating child care facili-
23 ties; *[and]*

24 (g) The Office of Children's Advocate; **and**

25 **(h) Any person, upon request to the Department of Human Services, if the reports or**
26 **records requested regard an incident in which a child, as the result of abuse, died or suffered**
27 **serious physical injury as defined in ORS 161.015. Reports or records disclosed under this**

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 **paragraph must be disclosed in accordance with ORS 192.410 to 192.505.**

2 **(2)(a) When disclosing reports and records pursuant to subsection (1)(h) of this section,**
 3 **the Department of Human Services may exempt from disclosure the names, addresses and**
 4 **other identifying information about other children, witnesses, victims or other persons**
 5 **named in the report or record if the department determines, in written findings, that the**
 6 **safety or well-being of a person named in the report or record may be jeopardized by disclo-**
 7 **sure of the names, addresses or other identifying information, and if that concern outweighs**
 8 **the public's interest in the disclosure of that information.**

9 **(b) If the Department of Human Services does not have a report or record of abuse re-**
 10 **garding a child who, as the result of abuse, died or suffered serious physical injury as defined**
 11 **in ORS 161.015, the department may disclose that information.**

12 [(2)] **(3)** The Department of Human Services may make reports and records available to any
 13 person, administrative hearings officer, court, agency, organization or other entity when the de-
 14 partment determines that such disclosure is necessary to administer its child welfare services and
 15 is in the best interests of the affected child, or that such disclosure is necessary to investigate,
 16 prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research
 17 when the Director of Human Services gives prior written approval. The Department of Human Ser-
 18 vices shall adopt rules setting forth the procedures by which it will make the disclosures authorized
 19 under this subsection [*and*] **or** subsection (1) **or** (2) of this section. The name, address and other
 20 identifying information about the person who made the report may not be disclosed pursuant to this
 21 subsection and subsection (1) of this section.

22 [(3)] **(4)** A law enforcement agency may make reports and records available to other law
 23 enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the
 24 Attorney General when the law enforcement agency determines that disclosure is necessary for the
 25 investigation or enforcement of laws relating to child abuse and neglect.

26 [(4)] **(5)** A law enforcement agency, upon completing an investigation and closing the file in a
 27 specific case relating to child abuse or neglect, shall make reports and records in the case available
 28 upon request to any law enforcement agency or community corrections agency in this state, to the
 29 Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the
 30 purpose of managing and supervising offenders in custody or on probation, parole, post-prison
 31 supervision or other form of conditional or supervised release. A law enforcement agency may make
 32 reports and records available to law enforcement, community corrections, corrections or parole
 33 agencies in an open case when the law enforcement agency determines that the disclosure will not
 34 interfere with an ongoing investigation in the case. The name, address and other identifying infor-
 35 mation about the person who made the report may not be disclosed under this subsection or sub-
 36 section [(5)(b)] **(6)(b)** of this section.

37 [(5)(a)] **(6)(a)** Any record made available to a law enforcement agency or community corrections
 38 agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison
 39 Supervision or to a physician in this state, as authorized by subsections (1) to [(4)] (5) of this section,
 40 shall be kept confidential by the agency, department, board or physician. Any record or report dis-
 41 closed by the Department of Human Services to other persons or entities pursuant to subsections
 42 (1) and [(2)] (3) of this section shall be kept confidential.

43 (b) Notwithstanding paragraph (a) of this subsection[,]:

44 **(A)** A law enforcement agency, a community corrections agency, the Department of Corrections
 45 and the State Board of Parole and Post-Prison Supervision may disclose records made available to

1 them under subsection [(4)] (5) of this section to each other and to law enforcement, community
2 corrections, corrections and parole agencies of other states for the purpose of managing and super-
3 vising offenders in custody or on probation, parole, post-prison supervision or other form of condi-
4 tional or supervised release.

5 **(B) A person may disclose records made available to the person under subsection (1)(h)**
6 **of this section if the records are disclosed for the purpose of advancing the public interest.**

7 [(6)] (7) An officer or employee of the Department of Human Services or of a law enforcement
8 agency or any person or entity to whom disclosure is made pursuant to subsections (1) to [(4)] (5)
9 of this section may not release any information not authorized by subsections (1) to [(5)] (6) of this
10 section.

11 [(7)] (8) As used in this section, “law enforcement agency” has the meaning given that term in
12 ORS 181.010.

13 [(8)] (9) A person who violates subsection [(5)(a) or (6)] (6)(a) or (7) of this section commits a
14 Class A violation.

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