

JUVENILE CODE: DEPENDENCY

HUMAN SERVICES; JUVENILE CODE; CORRECTIONS

REPORTING OF CHILD ABUSE

- 1 419B.005 Definitions
- 2 419B.007 Policy
- 3 419B.010 Duty of officials to report child abuse; exceptions; penalty
- 4 419B.015 Report form and content; notice
- 5 419B.016 Offense of false report of child abuse
- 6 419B.017 Time limits for notification between law enforcement agencies and Department of Human
- 7 Services; rules
- 8 419B.020 Duty of department or law enforcement agency receiving report; investigation; notice to
- 9 parents; physical examination; child's consent; notice at conclusion of investigation
- 10 419B.021 Degree requirements for persons conducting investigation or making determination regarding
- 11 child
- 12 419B.022 Short title
- 13 419B.023 Duties of person conducting investigation under ORS 419B.020
- 14 419B.024 Critical Incident Response Team for child fatality; rules
- 15 419B.025 Immunity of person making report in good faith
- 16 419B.028 Photographing child during investigation; photographs as records
- 17 419B.030 Central registry of reports
- 18 419B.035 Confidentiality of records; when available to others
- 19 419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse
- 20 419B.045 Investigation conducted on public school premises; notification; role of school personnel
- 21 419B.050 Authority of health care provider to disclose information; immunity from liability
- 22 419B.055 Action by Attorney General for protective order on behalf of department employee; written
- 23 request; eligible employees

24

25 REPORTING OF CHILD ABUSE

26 **419B.005 Definitions.** As used in ORS 419B.005 to 419B.050, unless the context requires  
27 otherwise:

1 (1)(a) “Abuse” means:

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

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

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

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

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

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

19 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described  
20 in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a  
21 minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described  
22 in ORS 167.008.

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

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

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

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

1 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a  
2 child to a substantial risk of harm to the child’s health or safety.

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

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

6 (3) “Higher education institution” means:

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

8 (b) A public university listed in ORS 352.002;

9 (c) The Oregon Health and Science University; and

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

11 (4) “Law enforcement agency” means:

12 (a) A city or municipal police department.

13 (b) A county sheriff’s office.

14 (c) The Oregon State Police.

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

16 (e) A county juvenile department.

17 (5) “Public or private official” means:

18 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic  
19 physician, including any intern or resident.

20 (b) Dentist.

21 (c) School employee, including an employee of a higher education institution.

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

24 (e) Employee of the Department of Human Services, Oregon Health Authority, Early  
25 Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth  
26 Authority, a local health department, a community mental health program, a community  
27 developmental disabilities program, a county juvenile department, a licensed child-caring agency  
28 or an alcohol and drug treatment program.

29 (f) Peace officer.

30 (g) Psychologist.

31 (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 329A.250 to
- 11 329A.450.
- 12 (s) Member of the Legislative Assembly.
- 13 (t) Physical, speech or occupational therapist.
- 14 (u) Audiologist.
- 15 (v) Speech-language pathologist.
- 16 (w) Employee of the Teacher Standards and Practices Commission directly involved in
- 17 investigations or discipline by the commission.
- 18 (x) Pharmacist.
- 19 (y) An operator of a preschool recorded program under ORS 329A.255.
- 20 (z) An operator of a school-age recorded program under ORS 329A.257.
- 21 (aa) Employee of a private agency or organization facilitating the provision of respite
- 22 services, as defined in ORS 418.205, for parents pursuant to a properly executed power of
- 23 attorney under ORS 109.056.
- 24 (bb) Employee of a public or private organization providing child-related services or
- 25 activities:
- 26 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or
- 27 day camps, survival camps or groups, centers or camps that are operated under the guidance,
- 28 supervision or auspices of religious, public or private educational systems or community service
- 29 organizations; and

1 (B) Excluding community-based, nonprofit organizations whose primary purpose is to  
2 provide confidential, direct services to victims of domestic violence, sexual assault, stalking or  
3 human trafficking.

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

6 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

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

8 [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3;  
9 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191  
10 §1; 2005 c.562 §26; 2005 c.708 §4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570  
11 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011  
12 c.506 §38; 2011 c.703 §34; 2012 c.37 §60; 2012 c.92 §1; 2013 c.129 §26; 2013 c.180 §40; 2013  
13 c.623 §17; 2013 c.624 §82; 2013 c.720 §11; 2015 c.98 §7; 2015 c.179 §1; 2015 c.736 §65]

14  
15 **419B.007 Policy.** The Legislative Assembly finds that for the purpose of facilitating the use  
16 of protective social services to prevent further abuse, safeguard and enhance the welfare of  
17 abused children, and preserve family life when consistent with the protection of the child by  
18 stabilizing the family and improving parental capacity, it is necessary and in the public interest to  
19 require mandatory reports and investigations of abuse of children and to encourage voluntary  
20 reports. [1993 c.546 §13]

21 **419B.010 Duty of officials to report child abuse; exceptions; penalty.** (1) Any public or  
22 private official having reasonable cause to believe that any child with whom the official comes in  
23 contact has suffered abuse or that any person with whom the official comes in contact has abused  
24 a child shall immediately report or cause a report to be made in the manner required in ORS  
25 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report  
26 imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney  
27 or guardian ad litem appointed under ORS 419B.231 is not required to report such information  
28 communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or  
29 419B.234 (6). An attorney is not required to make a report under this section by reason of  
30 information communicated to the attorney in the course of representing a client if disclosure of  
31 the information would be detrimental to the client.

1 (2) Notwithstanding subsection (1) of this section, a report need not be made under this  
2 section if the public or private official acquires information relating to abuse by reason of a  
3 report made under this section, or by reason of a proceeding arising out of a report made under  
4 this section, and the public or private official reasonably believes that the information is already  
5 known by a law enforcement agency or the Department of Human Services.

6 (3) The duty to report under this section is personal to the public or private official alone,  
7 regardless of whether the official is employed by, a volunteer of or a representative or agent for  
8 any type of entity or organization that employs persons or uses persons as volunteers who are  
9 public or private officials in its operations.

10 (4) The duty to report under this section exists regardless of whether the entity or  
11 organization that employs the public or private official or uses the official as a volunteer has its  
12 own procedures or policies for reporting abuse internally within the entity or organization.

13 (5) A person who violates subsection (1) of this section commits a Class A violation.  
14 Prosecution under this subsection shall be commenced at any time within 18 months after  
15 commission of the offense.

16 [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7; 2012 c.92  
17 §11]

18 **419B.015 Report form and content; notice.** (1)(a) A person making a report of child  
19 abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an  
20 oral report by telephone or otherwise to the local office of the Department of Human Services, to  
21 the designee of the department or to a law enforcement agency within the county where the  
22 person making the report is located at the time of the contact. The report shall contain, if known,  
23 the names and addresses of the child and the parents of the child or other persons responsible for  
24 care of the child, the child's age, the nature and extent of the abuse, including any evidence of  
25 previous abuse, the explanation given for the abuse and any other information that the person  
26 making the report believes might be helpful in establishing the cause of the abuse and the  
27 identity of the perpetrator.

28 (b) When a report of child abuse is received by the department, the department shall notify a  
29 law enforcement agency within the county where the report was made. When a report of child  
30 abuse is received by a designee of the department, the designee shall notify, according to the  
31 contract, either the department or a law enforcement agency within the county where the report

1 was made. When a report of child abuse is received by a law enforcement agency, the agency  
2 shall notify the local office of the department within the county where the report was made.

3 (2) When a report of child abuse is received under subsection (1)(a) of this section, the entity  
4 receiving the report shall make the notification required by subsection (1)(b) of this section  
5 according to rules adopted by the department under ORS 419B.017.

6 (3)(a) When a report alleging that a child or ward in substitute care may have been subjected  
7 to abuse is received by the department, the department shall notify the attorney for the child or  
8 ward, the child's or ward's court appointed special advocate, the parents of the child or ward and  
9 any attorney representing a parent of the child or ward that a report has been received.

10 (b) The name and address of and other identifying information about the person who made  
11 the report may not be disclosed under this subsection. Any person or entity to whom notification  
12 is made under this subsection may not release any information not authorized by this subsection.

13 (c) The department shall make the notification required by this subsection within three  
14 business days of receiving the report of abuse.

15 (d) Notwithstanding the obligation imposed by this subsection, the department is not required  
16 under this subsection to notify the parent or parent's attorney that a report of abuse has been  
17 received if the notification may interfere with an investigation or assessment or jeopardize the  
18 child's or ward's safety.

19 [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

20 **419B.016 Offense of false report of child abuse.** (1) A person commits the offense of  
21 making a false report of child abuse if, with the intent to influence a custody, parenting time,  
22 visitation or child support decision, the person:

23 (a) Makes a false report of child abuse to the Department of Human Services or a law  
24 enforcement agency, knowing that the report is false; or

25 (b) With the intent that a public or private official make a report of child abuse to the  
26 Department of Human Services or a law enforcement agency, makes a false report of child abuse  
27 to the public or private official, knowing that the report is false.

28 (2) Making a false report of child abuse is a Class A violation.

29 [2011 c.606 §2]

1           **419B.017 Time limits for notification between law enforcement agencies and**  
2 **Department of Human Services; rules.** (1) The Department of Human Services shall adopt  
3 rules establishing:

4           (a) The time within which the notification required by ORS 419B.015 (1)(a) must be made.  
5 At a minimum, the rules shall:

6           (A) Establish which reports of child abuse require notification within 24 hours after receipt;

7           (B) Provide that all other reports of child abuse require notification within 10 days after  
8 receipt; and

9           (C) Establish criteria that enable the department, the designee of the department or a law  
10 enforcement agency to quickly and easily identify reports that require notification within 24  
11 hours after receipt.

12           (b) How the notification is to be made.

13           (2) The department shall appoint an advisory committee to advise the department in adopting  
14 rules required by this section. The department shall include as members of the advisory  
15 committee representatives of law enforcement agencies and multidisciplinary teams formed  
16 pursuant to ORS 418.747 and other interested parties.

17           (3) In adopting rules required by this section, the department shall balance the need for  
18 providing other entities with the information contained in a report received under ORS 419B.015  
19 with the resources required to make the notification.

20           (4) The department may recommend practices and procedures to local law enforcement  
21 agencies to meet the requirements of rules adopted under this section.

22 [2005 c.250 §3]

23           **419B.020 Duty of department or law enforcement agency receiving report;**  
24 **investigation; notice to parents; physical examination; child's consent; notice at conclusion**  
25 **of investigation.** (1) If the Department of Human Services or a law enforcement agency receives  
26 a report of child abuse, the department or the agency shall immediately:

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

29           (b) Notify the Office of Child Care if the alleged child abuse occurred in a child care facility  
30 as defined in ORS 329A.250.

1 (2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child  
2 care facility:

3 (a) The department and the law enforcement agency shall jointly determine the roles and  
4 responsibilities of the department and the agency in their respective investigations; and

5 (b) The department and the agency shall each report the outcomes of their investigations to  
6 the Office of Child Care.

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

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

15 (5)(a) If a child is taken into protective custody by the department or a law enforcement  
16 official, the department or law enforcement official shall, if possible, make reasonable efforts to  
17 advise the parents or guardian immediately, regardless of the time of day, that the child has been  
18 taken into custody, the reasons the child has been taken into custody and general information  
19 about the child's placement, and the telephone number of the local office of the department and  
20 any after-hours telephone numbers.

21 (b) Notice may be given by any means reasonably certain of notifying the parents or  
22 guardian, including but not limited to written, telephonic or in-person oral notification. If the  
23 initial notification is not in writing, the information required by paragraph (a) of this subsection  
24 also shall be provided to the parents or guardian in writing as soon as possible.

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

27 (d) If a child is taken into custody while under the care and supervision of a person or  
28 organization other than the parent, the department, if possible, shall immediately notify the  
29 person or organization that the child has been taken into protective custody.

30 (6) If a law enforcement officer or the department, when taking a child into protective  
31 custody, has reasonable cause to believe that the child has been affected by sexual abuse and

1 rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse  
2 exists and is likely to disappear, the court may authorize a physical examination for the purposes  
3 of preserving evidence if the court finds that it is in the best interest of the child to have such an  
4 examination. Nothing in this section affects the authority of the department to consent to  
5 physical examinations of the child at other times.

6 (7) A minor child of 12 years of age or older may refuse to consent to the examination  
7 described in subsection (6) of this section. The examination shall be conducted by or under the  
8 supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under  
9 ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS chapter 678 and, whenever  
10 practicable, trained in conducting such examinations.

11 (8) When the department completes an investigation under this section, if the person who  
12 made the report of child abuse provided contact information to the department, the department  
13 shall notify the person about whether contact with the child was made, whether the department  
14 determined that child abuse occurred and whether services will be provided. The department is  
15 not required to disclose information under this subsection if the department determines that  
16 disclosure is not permitted under ORS 419B.035.

17 [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33; 2007 c.501  
18 §4; 2007 c.781 §1; 2013 c.624 §83; 2014 c.45 §41]

19 **419B.021 Degree requirements for persons conducting investigation or making**  
20 **determination regarding child.** (1) Except as provided in subsection (2) of this section, the  
21 following persons must possess a bachelor's, master's or doctoral degree from an accredited  
22 institution of higher education:

23 (a) A person who conducts an investigation under ORS 419B.020; and

24 (b) A person who makes the following determinations:

25 (A) That a child must be taken into protective custody under ORS 419B.150; and

26 (B) That the child should not be released to the child's parent or other responsible person  
27 under ORS 419B.165 (2).

28 (2) Subsection (1) of this section does not apply to:

29 (a) A person who was employed or otherwise engaged by the Department of Human Services  
30 for the purpose of conducting investigations or making determinations before January 1, 2012,

1 provided the person’s employment or engagement for these purposes has been continuous and  
2 uninterrupted.

3 (b) A law enforcement official as that term is defined in ORS 147.005.

4 [2011 c.431 §1]

5 **419B.022 Short title.** ORS 419B.023 and 419B.024 shall be known and may be cited as  
6 “Karly’s Law.”

7 [2007 c.674 §1]

8 **419B.023 Duties of person conducting investigation under ORS 419B.020.** (1) As used in  
9 this section:

10 (a) “Designated medical professional” means the person described in ORS 418.747 (9) or the  
11 person’s designee.

12 (b) “Suspicious physical injury” includes, but is not limited to:

13 (A) Burns or scalds;

14 (B) Extensive bruising or abrasions on any part of the body;

15 (C) Bruising, swelling or abrasions on the head, neck or face;

16 (D) Fractures of any bone in a child under the age of three;

17 (E) Multiple fractures in a child of any age;

18 (F) Dislocations, soft tissue swelling or moderate to severe cuts;

19 (G) Loss of the ability to walk or move normally according to the child’s developmental  
20 ability;

21 (H) Unconsciousness or difficulty maintaining consciousness;

22 (I) Multiple injuries of different types;

23 (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function  
24 of any bodily organ; or

25 (K) Any other injury that threatens the physical well-being of the child.

26 (2) If a person conducting an investigation under ORS 419B.020 observes a child who has  
27 suffered suspicious physical injury and the person is certain or has a reasonable suspicion that  
28 the injury is or may be the result of abuse, the person shall, in accordance with the protocols and  
29 procedures of the county multidisciplinary child abuse team described in ORS 418.747:

30 (a) Immediately photograph or cause to have photographed the suspicious physical injuries in  
31 accordance with ORS 419B.028; and

1 (b) Ensure that a designated medical professional conducts a medical assessment within 48  
2 hours, or sooner if dictated by the child's medical needs.

3 (3) The requirement of subsection (2) of this section shall apply:

4 (a) Each time suspicious physical injury is observed by Department of Human Services or  
5 law enforcement personnel:

6 (A) During the investigation of a new allegation of abuse; or

7 (B) If the injury was not previously observed by a person conducting an investigation under  
8 ORS 419B.020; and

9 (b) Regardless of whether the child has previously been photographed or assessed during an  
10 investigation of an allegation of abuse.

11 (4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a  
12 designated medical professional. If after reasonable efforts a designated medical professional is  
13 not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an  
14 available physician, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse  
15 practitioner licensed under ORS 678.375 to 678.390.

16 (b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a  
17 designated medical professional, the health care provider shall make photographs, clinical notes,  
18 diagnostic and testing results and any other relevant materials available to the designated medical  
19 professional for consultation within 72 hours following evaluation of the child.

20 (c) The person conducting the medical assessment may consult with and obtain records from  
21 the child's health care provider under ORS 419B.050.

22 (5) Nothing in this section prevents a person conducting a child abuse investigation from  
23 seeking immediate medical treatment from a hospital emergency room or other medical provider  
24 for a child who is physically injured or otherwise in need of immediate medical care.

25 (6) If the child described in subsection (2) of this section is less than five years of age, the  
26 designated medical professional may, within 14 days, refer the child for a screening for early  
27 intervention services or early childhood special education, as those terms are defined in ORS  
28 343.035. The referral may not indicate the child is subject to a child abuse investigation unless  
29 written consent is obtained from the child's parent authorizing such disclosure. If the child is  
30 already receiving those services, or is enrolled in the Head Start program, a person involved in  
31 the delivery of those services to the child shall be invited to participate in the county

1 multidisciplinary child abuse team’s review of the case and shall be provided with paid time to  
2 do so by the person’s employer.

3 (7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the  
4 ability of a minor to refuse to consent to the medical assessment described in this section.  
5 [2007 c.674 §3; 2009 c.296 §1; 2014 c.45 §42]

6 **419B.024 Critical Incident Response Team for child fatality; rules.** (1) The Department  
7 of Human Services shall assign a Critical Incident Response Team within 24 hours after the  
8 department determines that a child fatality was likely the result of child abuse or neglect if:

9 (a) The child was in the custody of the department at the time of death; or

10 (b) The child was the subject of a child protective services assessment by the department  
11 within the 12 months preceding the fatality.

12 (2) During the course of its review of the case, the Critical Incident Response Team may  
13 include or consult with the district attorney from the county in which the incident resulting in the  
14 fatality occurred.

15 (3) The department shall adopt rules necessary to carry out the provisions of this section. The  
16 rules adopted by the department shall substantially conform with the department’s child welfare  
17 protocol regarding Notification and Review of Critical Incidents. [2007 c.674 §4]

18 **419B.025 Immunity of person making report in good faith.** Anyone participating in good  
19 faith in the making of a report of child abuse and who has reasonable grounds for the making  
20 thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred  
21 or imposed with respect to the making or content of such report. Any such participant shall have  
22 the same immunity with respect to participating in any judicial proceeding resulting from such  
23 report.

24 [1993 c.546 §17]

25 **419B.028 Photographing child during investigation; photographs as records.** (1) In  
26 carrying out its duties under ORS 419B.020, any law enforcement agency or the Department of  
27 Human Services may photograph or cause to have photographed any child subject of the  
28 investigation for purposes of preserving evidence of the child’s condition at the time of the  
29 investigation. Photographs of the anal or genital region may be taken only by medical personnel.

1 (2) When a child is photographed pursuant to ORS 419B.023, the person taking the  
2 photographs or causing to have the photographs taken shall, within 48 hours or by the end of the  
3 next regular business day, whichever occurs later:

4 (a) Provide hard copies or prints of the photographs and, if available, copies of the  
5 photographs in an electronic format to the designated medical professional described in ORS  
6 418.747 (9); and

7 (b) Place hard copies or prints of the photographs and, if available, copies of the photographs  
8 in an electronic format in any relevant files pertaining to the child maintained by the law  
9 enforcement agency or the department.

10 (3) For purposes of ORS 419B.035, photographs taken under authority of this section shall be  
11 considered records.

12 [1993 c.546 §18; 2007 c.674 §5]

13  
14 **419B.030 Central registry of reports.** (1) A central state registry shall be established and  
15 maintained by the Department of Human Services. The local offices of the department shall  
16 report to the state registry in writing when an investigation has shown reasonable cause to  
17 believe that a child's condition was the result of abuse even if the cause remains unknown. Each  
18 registry shall contain current information from reports cataloged both as to the name of the child  
19 and the name of the family.

20 (2) When the department provides specific case information from the central state registry,  
21 the department shall include a notice that the information does not necessarily reflect any  
22 subsequent proceedings that are not within the jurisdiction of the department. [1993 c.546 §19]

23 **419B.035 Confidentiality of records; when available to others.** (1) Notwithstanding the  
24 provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.810 relating to  
25 confidentiality and accessibility for public inspection of public records and public documents,  
26 reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are  
27 confidential and may not be disclosed except as provided in this section. The Department of  
28 Human Services shall make the records available to:

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

1 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse  
2 practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician  
3 assistant or nurse practitioner, regarding any child brought to the physician, physician assistant  
4 or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for  
5 examination, care or treatment;

6 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court  
7 proceeding;

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

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

14 (f) The Office of Child Care for certifying, registering or otherwise regulating child care  
15 facilities;

16 (g) The Office of Children's Advocate;

17 (h) The Teacher Standards and Practices Commission for investigations conducted under  
18 ORS 342.176 involving any child or any student in grade 12 or below;

19 (i) Any person, upon request to the Department of Human Services, if the reports or records  
20 requested regard an incident in which a child, as the result of abuse, died or suffered serious  
21 physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph  
22 must be disclosed in accordance with ORS 192.410 to 192.505; and

23 (j) The Office of Child Care for purposes of ORS 329A.030 (8)(g).

24 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the  
25 Department of Human Services may exempt from disclosure the names, addresses and other  
26 identifying information about other children, witnesses, victims or other persons named in the  
27 report or record if the department determines, in written findings, that the safety or well-being of  
28 a person named in the report or record may be jeopardized by disclosure of the names, addresses  
29 or other identifying information, and if that concern outweighs the public's interest in the  
30 disclosure of that information.

1 (b) If the Department of Human Services does not have a report or record of abuse regarding  
2 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
3 161.015, the department may disclose that information.

4 (3) The Department of Human Services may make reports and records compiled under the  
5 provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings  
6 officer, court, agency, organization or other entity when the department determines that such  
7 disclosure is necessary to administer its child welfare services and is in the best interests of the  
8 affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and  
9 neglect, to protect children from abuse and neglect or for research when the Director of Human  
10 Services gives prior written approval. The Department of Human Services shall adopt rules  
11 setting forth the procedures by which it will make the disclosures authorized under this  
12 subsection or subsection (1) or (2) of this section. The name, address and other identifying  
13 information about the person who made the report may not be disclosed pursuant to this  
14 subsection and subsection (1) of this section.

15 (4) A law enforcement agency may make reports and records compiled under the provisions  
16 of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys,  
17 city attorneys with criminal prosecutorial functions and the Attorney General when the law  
18 enforcement agency determines that disclosure is necessary for the investigation or enforcement  
19 of laws relating to child abuse and neglect.

20 (5) A law enforcement agency, upon completing an investigation and closing the file in a  
21 specific case relating to child abuse or neglect, shall make reports and records in the case  
22 available upon request to any law enforcement agency or community corrections agency in this  
23 state, to the Department of Corrections or to the State Board of Parole and Post-Prison  
24 Supervision for the purpose of managing and supervising offenders in custody or on probation,  
25 parole, post-prison supervision or other form of conditional or supervised release. A law  
26 enforcement agency may make reports and records compiled under the provisions of ORS  
27 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or  
28 parole agencies in an open case when the law enforcement agency determines that the disclosure  
29 will not interfere with an ongoing investigation in the case. The name, address and other  
30 identifying information about the person who made the report may not be disclosed under this  
31 subsection or subsection (6)(b) of this section.

1 (6)(a) Any record made available to a law enforcement agency or community corrections  
2 agency in this state, to the Department of Corrections or the State Board of Parole and Post-  
3 Prison Supervision or to a physician, physician assistant or nurse practitioner in this state, as  
4 authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency,  
5 department, board, physician, physician assistant or nurse practitioner. Any record or report  
6 disclosed by the Department of Human Services to other persons or entities pursuant to  
7 subsections (1) and (3) of this section shall be kept confidential.

8 (b) Notwithstanding paragraph (a) of this subsection:

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

15 (B) A person may disclose records made available to the person under subsection (1)(i) of  
16 this section if the records are disclosed for the purpose of advancing the public interest.

17 (7) An officer or employee of the Department of Human Services or of a law enforcement  
18 agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of  
19 this section may not release any information not authorized by subsections (1) to (6) of this  
20 section.

21 (8) As used in this section, “law enforcement agency” has the meaning given that term in  
22 ORS 181A.010.

23 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A  
24 violation.

25 [1993 c.546 §§20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003  
26 c.412 §1; 2003 c.591 §8; 2005 c.317 §1; 2005 c.659 §2; 2009 c.348 §§3,4; 2009 c.393 §1; 2012  
27 c.3 §2; 2013 c.624 §84; 2014 c.45 §43]

28 **419B.040 Certain privileges not grounds for excluding evidence in court proceedings on**  
29 **child abuse.** (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255,  
30 including the psychotherapist-patient privilege, the physician-patient privilege, the privileges  
31 extended to nurses, to staff members of schools and to regulated social workers and the spousal

1 privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause  
2 thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to  
3 419B.050.

4 (2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to  
5 419B.050, either spouse shall be a competent and compellable witness against the other.

6 [1993 c.546 §21; 2009 c.442 §37; 2015 c.629 §49]

7 **419B.045 Investigation conducted on public school premises; notification; role of school**  
8 **personnel.** If an investigation of a report of child abuse is conducted on public school premises,  
9 the school administrator shall first be notified that the investigation is to take place, unless the  
10 school administrator is a subject of the investigation. The school administrator or a school staff  
11 member designated by the administrator may, at the investigator's discretion, be present to  
12 facilitate the investigation. The Department of Human Services or the law enforcement agency  
13 making the investigation shall be advised of the child's disabling conditions, if any, prior to any  
14 interview with the affected child. A school administrator or staff member is not authorized to  
15 reveal anything that transpires during an investigation in which the administrator or staff member  
16 participates nor shall the information become part of the child's school records. The school  
17 administrator or staff member may testify at any subsequent trial resulting from the investigation  
18 and may be interviewed by the respective litigants prior to any such trial.

19 [1993 c.546 §22; 2003 c.14 §225]

20 **419B.050 Authority of health care provider to disclose information; immunity from**  
21 **liability.** (1) Upon notice by a law enforcement agency, the Department of Human Services, a  
22 member agency of a county multidisciplinary child abuse team or a member of a county  
23 multidisciplinary child abuse team that a child abuse investigation is being conducted under ORS  
24 419B.020, a health care provider must permit the law enforcement agency, the department, the  
25 member agency of the county multidisciplinary child abuse team or the member of the county  
26 multidisciplinary child abuse team to inspect and copy medical records, including, but not  
27 limited to, prenatal and birth records, of the child involved in the investigation without the  
28 consent of the child, or the parent or guardian of the child. A health care provider who in good  
29 faith disclosed medical records under this section is not civilly or criminally liable for the  
30 disclosure.

1 (2) As used in this section, “health care provider” has the meaning given that term in ORS  
2 192.556.

3 [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150; 2005 c.562 §27]

4 **419B.055 Action by Attorney General for protective order on behalf of department**  
5 **employee; written request; eligible employees.** (1) The Attorney General may bring an action  
6 in a circuit court for a citation or a stalking protective order under ORS 30.866 or 163.730 to  
7 163.750 on behalf of an employee of the Department of Human Services who, because of being  
8 involved in the conduct described in subsection (3) of this section, is the subject of repeated and  
9 unwanted contact by another person that causes alarm or coercion to the employee. The Attorney  
10 General’s responsibility under this subsection is limited to circumstances in which an employee  
11 of the department submits a written request to the Attorney General that:

12 (a) Has been approved in writing by the Director of Human Services or the director’s  
13 designee;

14 (b) Sets forth sufficient facts and evidence, the truth of which has been affirmed by the  
15 employee; and

16 (c) Based solely upon the opinion of the Attorney General, is an action that is likely to  
17 succeed.

18 (2) The action brought under this section may not include a request for:

19 (a) Special and general damages, including damages for emotional distress;

20 (b) Economic or noneconomic damages;

21 (c) Punitive damages; or

22 (d) Attorney fees and costs.

23 (3) Departmental employees on whose behalf the citation or stalking protective order may be  
24 obtained under subsection (1) of this section include employees who:

25 (a) Conduct a child abuse investigation under ORS 419B.020;

26 (b) Make a determination that a child must be taken into protective custody under ORS  
27 419B.150;

28 (c) Make a determination that a child should not be released to the child’s parent or other  
29 responsible person under ORS 419B.165 (2); and

30 (d) Are involved in developing a case plan or making a placement decision for a child in the  
31 legal custody of the department. [2015 c.653 §1]

1

2