

# **CHILD ABUSE REPORTING—A LAWYER’S DUTY TO REPORT AND WHY IT MAKES A DIFFERENCE**

## **PRESENTATION TO 2013 RELU SUMMER CONFERENCE August 9, 2010**

### **The Statutory Obligation**

- Oregon Child Abuse Reporting Law was originally enacted in 1971. It has been updated and modified several times since originally enacted. That law is contained in ORS 419B.005 to 419B.050. **(See attached.)**
- Oregon law requires certain “public and private officials” to report child abuse. The policy behind this is set forth in ORS 419B.007. The law cites prevention of further abuse and safeguarding the welfare of abused children, as well as preservation of family life when consistent with the protection of the child, as well as being in the public interest, as the impetus behind the reporting requirement. Note that voluntary reporting is encouraged.
- Attorneys have been required to obtain training on child abuse reporting since 1999—see ORS 9.114.
- ORS 419B.005 enumerates who is considered a public or private official charged with the reporting obligation. Attorneys are included in a long and growing list of public and private officials who are charged with the requirement to report.
- ORS 419B.005 sets forth the definition of what constitutes “abuse” for purposes of the reporting requirement. This includes not only physical and sexual assaults, but also mental injuries, negligent treatment and maltreatment, threatened harm, sexual exploitation of a child, buying or selling a child and exposure to controlled substances to name a few. The point is that abusive behavior that is covered is not always as obvious as a child being beaten—there is an extensive list of behaviors that are covered. It is ultimately not the reporter’s job to be an expert in identification of abuse, nor to conduct an investigation of suspected abuse. There may be times, however, where making additional inquiry is advisable after the initial observation. The key is to recognize that where there is any question it is always best to err on the side of protecting the child and report.

### **What is the Duty?**

- ORS 419B.010(1) requires a report to be made when any of the prescribed officials has “reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child...”
- “Reasonable cause” and “comes in contact”—two terms to ponder. “Reasonable cause” is generally equated with a reasonable belief or reasonable suspicion as the terms appear in various statutory and case law. “Comes in contact” is a more

vague term and is not defined in statute. Suggest use of plain, ordinary meaning to the words. While it is generally accepted that this is not relegated to only in person contact, and can include e-mail, telephone, or even written contact, it probably does not extend to mere knowledge acquired indirectly in the reporter's official capacity. See Oregon AG Opinion No OP-5543 (1984).

- This is a 24-7 obligation—statute implies a pro-active role. If you are a mandatory reporter, you are never “off-duty”. Failure to report is a Class A violation. ORS 419B.010(3).
- Exceptions are noted in ORS 419B.010(1) and (2). Attorneys are specifically identified in two of these exceptions, and the third is general to all reporters.
  1. The first exception exempts privileged communications pursuant to specified statutory provisions, between listed officials, [ psychiatrists, psychologists, members of the clergy, attorneys and guardian ad litem appointed under ORS 419B.234(6 )]and their clients or identified persons. There are those who would suggest a broad and expansive reading of this exception, however, there is nothing in the plain language of the statute to suggest such, and when read in the context of the enunciated policy, a more narrow reading of the exception is suggested.
  2. The second exception relates to only attorneys, and speaks specifically to information communicated to the attorney during the representation of a client that would be **detrimental** to that client. (Emphasis added). It is clear that this goes beyond actual communications between the attorney and client which are covered under privilege. But, the exception is limited to information that would be detrimental.
  3. The third exception is covered in ORS 419B.010(2), applies to all mandatory reporters, and specifies that it is not necessary for an official to make a report when the information regarding abuse is obtained through another abuse report or by way of a proceeding arising out of a report, and the official reasonably believes the information is already known to required agencies.

**NOTE:** See Oregon Rules of Professional Conduct 1.6, which contains both limitations on disclosure of information relating to the representation of a client, as well as exceptions to those limitations. Additionally, ORS 40.252, places further limitations on privileged communications. Finally, ORS 40.225(4), contains specific limitations on the attorney client privilege. The point here, is that determining when and whether reporting requirements apply or don't apply to communications and information from, or in regards to a client is not always a matter of clarity. If questions arise, or an attorney is uncertain, consultation with the Bar is advised.

### **What does it mean to “report”?**

- ORS 419B.015(1)(a), sets out the process for making a report. Note that the statute only requires that an oral report be made to either the Department of Human Services, its designee or to a law enforcement agency with the county

where the reporter is located. [Note: A law enforcement agency is defined in ORS 419B.005(3)(a)-(e)]. The language of the statute makes it clear that an in person or telephone report is preferred. This provision also references the information which the report “shall contain, if known”. In this regard, some of the information is easier to obtain, such as the nature and extent of the abuse observed or of which the reporter has knowledge. Other information, may well not be as obvious nor easily obtainable, such as names and addresses of the child and parents, or evidence of previous abuse. As a mandatory reporter, the more specific information provided to the agency, the better able the agency will be to investigate and prevent additional or further abuse. However, it is key to remember that the reporter, unless a member of one of these agencies, is not required to investigate the reported abuse. Circumstances may not be conducive to attaining very detailed information—the reporter should make a judgment based on the circumstances presented, and make a report accordingly. Some scenarios will be visited later in the presentation.

- The Department of Human Services, Child Welfare, has put out a publication titled: What You Can Do About Child Abuse, which covers many of the details of the actual reporting process—the who, what and where of mandatory reporting. Copies will hopefully be provided, but the publication can also be accessed online at: <https://apps.state.or.us/Forms/Served/de9061.pdf>.

### **Miscellaneous Statutory Provisions Affecting the Mandatory Reporter**

- Two statutory provisions deal with the “good faith” aspects of reporting. ORS 419B.025, makes it clear that a reporter making a report in “good faith” and who has “reasonable grounds” for making the report, will have both civil and criminal immunity with regards to that report, and extending this to “any judicial proceeding resulting from such report.” On the other hand, ORS 419B.016 addresses the issue of making a false report. The key here is that this offense is applicable only to reports arising out of a domestic relations proceeding.
- The issue of confidentiality of a child abuse report is raised often by those reporters who are concerned by reprisals or retaliation if information about them is released. ORS 419B.035 makes provision for maintaining the confidentiality of reports made pursuant to the obligation to report, with exceptions. Some of the exceptions require release, while others are permissive. Note that this statutory provision is quite extensive, and further review is advised if questions. Additionally, it should be noted that a the mandatory reporter may end up testifying in a proceeding resulting from their report and subsequent investigation, such as a criminal case or juvenile dependency proceeding.

### **So Why Does Reporting Make a Difference?**

- Children, historically, have been viewed as the property of their parents. Even in this light, however, there were times when those in the community, sometimes

individuals, sometimes members of a social service organization, sometimes a governmental agency such as law enforcement, realized that parental behavior was unacceptable, and that intervention was needed. A good overview of child protection in the U.S. can be found in an article by John E.B. Myers entitled, A Short History of Child Protection. It can be found at: [www.sagepub.com/upm-data/35363\\_Chapter1.pdf](http://www.sagepub.com/upm-data/35363_Chapter1.pdf) . What this article illustrates, is the steady evolution within our communities and the country of the idea that it is all our responsibility to prevent child abuse and protect our children. This is often referred to as the community caretaking responsibility.

- The issue is more than just warm and fuzzy feelings about doing a good thing, however. While there has long been a realization that the community as a whole has an obligation to protect the children in their community, there was a realization about 4 decades ago that a more formal process was needed, and thus, child abuse reporting laws were born. It was also recognized that certain members of a community either had more frequent contact with children, were in a better position to assess the welfare of children and identify those children who are at a higher risk of abuse or neglect, or hold a unique position within the community—thus, mandatory reporters were created. By most accounts, the vast majority of child abuse reports come from mandatory reporters—around 75%.
- The list of mandatory reporters has grown over time—often in response to a set of circumstances. (Most recently this session, certain faculty and staff within higher education—a direct response to the Jerry Sandusky situation.) Of the over 74,000 reports of child abuse received by state agencies and law enforcement in 2011, over 55,000 of those were made by mandated reporters. Granted, many of these reports would have been made by those same reporters without the mandate, but the mandate insures, to some degree, an increased level of vigilance in bringing suspected abuse to the attention of the appropriate agencies and hopefully, preventing further abuse. Quite frankly, they are a critical link in the state’s system of child protection.
- Child abuse and neglect has serious consequences—not only for the victim but for the community as a whole. The violence or negligence of the parent or caretaker serves as a model for the child victim as they grow up. Without intervention or treatment, the child victim of today, may become the abuser of tomorrow. The community resources it takes to prevent and treat those children who have been abused and neglected is substantial yet necessary. The more that can be done to prevent further or future abuse, the more resources that can be harnessed for other community needs.
- Attorneys take an oath to uphold the Constitution and laws of the United States and the State of Oregon . We are in a unique position to see and understand and to use our positions for the good of the community. The mandate to report, is but one of the statutory duties we have, that arises out of this unique position.

### **What Would You Do—Some Scenarios to Discuss**

1. Daniel is the child of your client, the mother, in a divorce case. He is a 7 year old boy with enuresis, who also exhibits a lot of anger, and has a lot of behavioral issues at school and according to your client, engages in a lot of sexual talk. She suspects her “scumbag” ex may be doing something inappropriate, though she indicates when asked, that she never saw him do anything during the marriage. Your client has also recently entered into a relationship with a man who is on parole, and who is referred to by opposing counsel as “the felon”. What do you do? How do you proceed? What considerations enter into your decision-making?
2. Your 13 year old daughter confides in you that she is worried about her best friend Jamie. Jamie is also 13. She has told your daughter that she doesn’t like her mother’s new boyfriend, and says he is a “pervert”. She also tells her that he got into trouble for “doing it” with a high school girl. Is there reasonable cause to make a report? Is there any follow-up you need to do with Jamie after you receive this information from your daughter?
3. You are shopping at the grocery store, and turn the corner to go down an aisle. You witness a woman coming up the aisle with a toddler in the shopping basket. The toddler is crying and obviously not happy. Suddenly, the woman hauls off and hits the toddler across the face hard, telling him he better stop or he’ll get another one. The child cries even louder, at which point she turns the basket around and heads the other direction. What do you do? Do you try to intervene? If so how? If not, why not? Contact store personnel? Contact authorities?

### **A Final Heads-Up**

- Beginning January 1, 2015, attorneys will also become mandatory reporters with respect to elder abuse. HB 2205 was enacted this session and signed by the Governor June 1, 2013. It contains an emergency clause, but the portions of the bill referencing elder abuse and the Bar’s obligations, do not go into effect until the January 1, 2015 date. Elder abuse refers to enumerated acts perpetrated against any person 65 years of age or older.

## REPORTING OF CHILD ABUSE

**419B.005 Definitions.** As used in ORS 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 described in ORS chapter 163.

(D) Sexual abuse, as described 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 or to patronize a prostitute, 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 or upon premises where methamphetamines are being manufactured.

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

(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) “Law enforcement agency” means:

(a) A city or municipal police department.

(b) A county sheriff’s office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.383.

(e) A county juvenile department.

(4) “Public or private official” means:

- (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.
- (b) Dentist.
- (c) School employee.
- (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- (e) Employee of the Department of Human Services, Oregon Health Authority, 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 program, a community 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) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- (s) Member of the Legislative Assembly.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 657A.255.
- (z) An operator of a school-age recorded program under ORS 657A.257.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1; 2005 c.562 §26; 2005 c.708 §4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011 c.506 §38; 2011 c.703 §34]

**419B.007 Policy.** The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection

of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

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

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

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7]

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

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

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of



this section according to rules adopted by the department under ORS 419B.017.

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

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

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

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

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

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

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

(2) Making a false report of child abuse is a Class A violation. [2011 c.606 §2]

**Note:** 419B.016 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

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

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

(b) How the notification is to be made.

(2) The department shall appoint an advisory committee to advise the department in

adopting rules required by this section. The department shall include as members of the advisory committee representatives of law enforcement agencies and multidisciplinary teams formed pursuant to ORS 418.747 and other interested parties.

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

(4) The department may recommend practices and procedures to local law enforcement agencies to meet the requirements of rules adopted under this section. [2005 c.250 §3]

**Note:** 419B.017 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

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

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

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

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

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

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

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If

the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

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

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

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

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

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035. [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33; 2007 c.501 §4; 2007 c.781 §1]

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

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

(b) A person who makes the following determinations:

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

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

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

(a) A person who was employed or otherwise engaged by the Department of Human Services for the purpose of conducting investigations or making determinations before January 1, 2012, provided the person's employment or engagement for these purposes has been continuous and uninterrupted.

(b) A law enforcement official as that term is defined in ORS 147.005. [2011 c.431 §1]

**Note:** Section 2, chapter 431, Oregon Laws 2011, provides:

**Sec. 2.** Section 1 of this 2011 Act [419B.021] applies to child abuse investigations and protective custody determinations made on or after the effective date of this 2011 Act [January 1, 2012]. [2011 c.431 §2]

**Note:** 419B.021 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.022 Short title.** ORS 419B.023 and 419B.024 shall be known and may be cited as “Karly’s Law.” [2007 c.674 §1]

**Note:** 419B.022 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

(A) Burns or scalds;

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

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

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

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

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

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

(H) Unconsciousness or difficulty maintaining consciousness;

(I) Multiple injuries of different types;

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

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

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

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

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

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

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

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

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

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

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician.

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

(c) The person conducting the medical assessment may consult with and obtain records from the child's regular pediatrician or family physician under ORS 419B.050.

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

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

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

**Note:** 419B.023 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

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

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

**Note:** 419B.024 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.025 Immunity of person making report in good faith.** Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

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

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

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

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

(3) For purposes of ORS 419B.035, photographs taken under authority of this section shall be considered records. [1993 c.546 §18; 2007 c.674 §5]

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

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

**419B.035 Confidentiality of records; when available to others.** (1)

Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

- (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;
- (b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;
- (c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;
- (d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;
- (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;
- (f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;
- (g) The Office of Children's Advocate;
- (h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;
- (i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505; and
- (j) The Child Care Division of the Employment Department for purposes of ORS 657A.030 (8)(g).

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

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

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior

written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

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

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

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

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

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

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

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

(8) As used in this section, "law enforcement agency" has the meaning given that



term in ORS 181.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation. [1993 c.546 §§20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003 c.412 §1; 2003 c.591 §8; 2005 c.317 §1; 2005 c.659 §2; 2009 c.348 §3; 2009 c.393 §1]

**Note:** The amendments to 419B.035 by section 4, chapter 348, Oregon Laws 2009, become operative January 1, 2014. See section 6, chapter 348, Oregon Laws 2009. The text that is operative on and after January 1, 2014, is set forth for the user's convenience.

**419B.035.** (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

- (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;
  - (b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;
  - (c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;
  - (d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;
  - (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;
  - (f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;
  - (g) The Office of Children's Advocate;
  - (h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below; and
  - (i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505.
- (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.
- (b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

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

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

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

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

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

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

(B) A person may disclose records made available to the person under subsection

(1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

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

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

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

**419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse.** (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to regulated social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child’s abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other. [1993 c.546 §21; 2009 c.442 §37]

**419B.045 Investigation conducted on public school premises; notification; role of school personnel.** If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by the administrator may, at the investigator’s discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the investigation shall be advised of the child’s disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child’s school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial. [1993 c.546 §22; 2003 c.14 §225]

**419B.050 Authority of health care provider to disclose information; immunity from liability.** (1) Upon notice by a law enforcement agency, 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 must permit the law enforcement agency, 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) As used in this section, “health care provider” has the meaning given that term in ORS 192.556. [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150; 2005 c.562 §27]



# What you can do about child abuse



*Prevention is the best hope for reducing child abuse and neglect and improving the lives of children and families. Strengthening families and preventing child abuse requires a shared commitment of individuals and organizations in every community.*

This document can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request this publication in another format or language, contact the Publications and Design Section at 503-378-3486, 711 for TTY, or email [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us).



# What you can do about child abuse

Oregon Department of Human Services



*All citizens have a responsibility to prevent child abuse and protect children. An individual can help children in a variety of ways, from simply being a friend to protecting them from abuse.*



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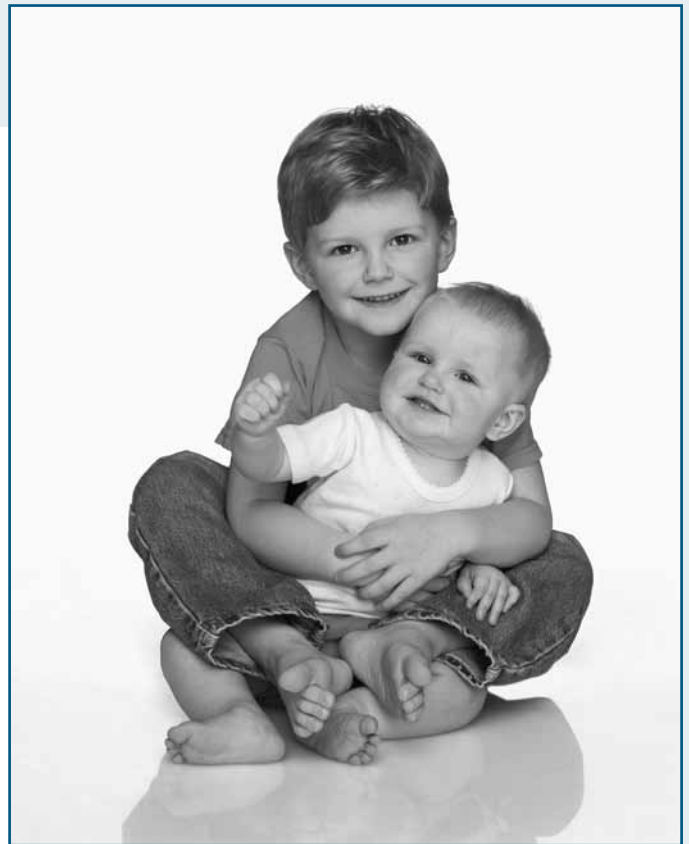
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# Introduction

## Why do I need this information?

**M**andatory reporters — people who are required by law to report child abuse — are a crucial link in the child protection system. Nearly three quarters of all child abuse reports come from mandatory reporters. In many cases those community members are the only people outside the immediate family who see abused or neglected babies or small children.



*Every child deserves to be healthy and safe.*

All citizens have a responsibility to prevent child abuse and protect children.

An individual can help children in a variety of ways, from simply being a friend to protecting them from abuse. Communities can help provide the resources children and families need, such as safe day care or treatment services for child abuse victims. Mandatory reporters of child abuse, along with the Department of Human Services (DHS) and law enforcement officials, have a legal obligation for child protection.

We hope this booklet will help you understand child abuse, what to report, and when and how to report it, as well as give you an idea of what happens after you make a report of child abuse

Here are some explanations of terms you will encounter as you read this material.

- DHS (CPS) and law enforcement — DHS and law enforcement agencies have a shared legal responsibility for taking child abuse reports and responding to them. Much of the information presented here about the child protective services (CPS) process also applies to law enforcement.

## 2 — What you can do about child abuse

*Why do I need this information? — continued*

- **Caregivers** — CPS or law enforcement intervenes when a caregiver abuses or neglects a child. Because a caregiver is generally a parent, the word “parent” has been used throughout this manual to mean any caregiver, although a caregiver could also be someone like a baby sitter or guardian.
- **Accidents** — CPS and law enforcement always consider that an accident or illness may have caused a child’s injury when assessing abuse allegations. It is a fact of life that children have accidents and get injured.
- **Categories of abuse** — You do not need to define an injury as physical abuse, neglect, etc., when you make a report. This manual separates abuse into different categories to help you understand how the law defines abuse. What we need from you when you call us is simply specific, accurate information about a given child’s condition.
- **Pronouns** — The pronouns “he” and “she” are used interchangeably throughout this manual to describe children. Both genders are subject to all forms of abuse. The ratio in Oregon is approximately 52 percent female victims to 48 percent male victims.
- **Abuse and neglect** — Child welfare professionals often talk about both abuse and neglect because while abuse is usually an action taken against a child, neglect is the lack of action — usually the lack of care. Oregon law includes neglect as a category of abuse. Throughout this manual, “child abuse” includes physical abuse, sexual abuse and negligent treatment of children.

### What is the most important thing to remember?

You should report any reasonable suspicion of abuse; you do not have to prove it. If you suspect a child has been abused, phone your local DHS office to discuss your concerns with a staff person who is CPS-trained.

# Making a report

## What is reporting?

**A**s a mandatory reporter, if you suspect a child with whom you have had contact is being abused, or that a person has abused a child, you must tell either the Department of Human Services or the appropriate local law enforcement agency (city or state police, sheriff or county juvenile department).



*If you suspect a child with whom you have had contact is being abused, or that a person has abused a child, you must report it.*

## Who are mandatory reporters?

For a current and complete list of public or private officials who are mandatory reporters please refer to Oregon Revised Statute 419B.005 (3). Some of these mandatory reporters include:

- Physicians, including any intern or resident;
- Dentists;
- School employees;
- Licensed practical or registered nurses;
- Employees of the Department of Human Services; Oregon 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;
- Peace officers;
- Psychologists;
- Members of the clergy;
- Licensed clinical social workers;

## 4 — What you can do about child abuse

### *Making a report — continued*

- Optometrists;
- Chiropractors;
- Certified providers of foster care or their employees;
- Attorneys;
- Naturopathic physicians;
- Licensed professional counselors;
- Licensed marriage and family therapists;
- Firefighters and emergency medical technicians;
- Court appointed special advocates, as defined in ORS 419A.004;
- Child care providers registered or certified under ORS 657A.030 and 657A.250 to 657A.450;
- Members of the Legislature.

## When does confidentiality override the need to report?

If you are a mandatory reporter, your obligation to make a report applies regardless of whether or not your knowledge of the abuse was gained in your official capacity.

Those people who have been granted the right of privileged communication by ORS 40.225 to 40.295 are not required to report information about abuse if the information is gained in a situation where the professional/client relationship is protected. If you have any questions, contact DHS or your licensing board.

## How do I make a report?

Generally, reports are made by phone because the law requires an oral report. Sometimes we may ask for additional written material, such as medical reports, when the information is needed to assess the condition or safety of the child.

Most DHS offices are open from 8 a.m. to 5 p.m. Most areas have hotlines or other ways to take calls after hours. If you need to report abuse after hours, contact your local law enforcement agency or child abuse hotline (phone numbers are listed in the back of this pamphlet).



When a report is made to DHS, we share it with appropriate law enforcement agencies and vice versa. You only need to report to one agency.

## What information should I have?

DHS cannot respond unless there is a specific allegation of abuse.

- “Mary seems withdrawn and quiet,” is not an allegation of abuse.
- If Mary comes to school with bruises on her face and tells you, “I don’t want to go home because my mom hit me,” you should report it.

Always pay close attention when a child tells you about being abused.

If possible, report the names and addresses of the child and parent; the child’s age; the type and extent of abuse, as well as any previous evidence of abuse; the explanation given for the abuse; and any other information that will help establish the cause of abuse or identify the abuser.

You do not need to know the name of the abuser before you make a report. The more information we can get from you, the easier the assessment will be for the child and family.

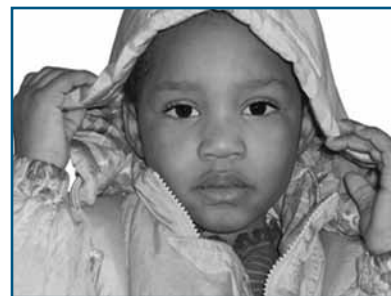
Also, the more quickly you get the information to us, the more likely we can respond effectively. Bruises and other physical marks can fade quickly, and it is important for us to have as complete a picture as possible.

## What information can I get from DHS after I make a report?

When you make a report, you can be told whether there is enough information for an assessment to be done. The person taking your report may not know before consulting with his or her supervisor.

Because the law requires that we keep information about child abuse reports confidential, you might not be told details of the abuse or the assessment.

However, we will try to give you information to the extent allowed by the law, including information that you need to continue helping the child. Unless the department determines that disclosure is not permitted under ORS 419B.035, the department is



*Pay close attention when a child tells you about being abused.*

required to notify the reporter (if the reporter provided the department with contact information) whether contact was made, whether the department determined that child abuse or neglect occurred, and whether services will be provided.

## What kinds of abuse am I likely to see?

The easiest abuse to recognize is something that leaves physical marks like bruises or burns. Some forms of neglect are somewhat visible such as malnutrition or young children left alone.

You may have a child tell you she is being abused. Realistically, it is difficult for someone who is not directly involved with a child and his family to see most forms of sexual abuse or mental injury. However, we often get reports on these situations from relatives and friends.

## If I see a suspicious mark on a child, should I investigate it?

The amount of questioning you should do depends on what is appropriate for your job. For example:

- As a doctor or nurse, it is good medical practice to ask about your patient's injuries.
- As a teacher, you might routinely comment on children's injuries (for example, showing sympathy for Richard's leg that was broken when he went skateboarding). It would then be appropriate to comment on injuries you think might be from abuse and listen to the child's response.

It is not appropriate for you to conduct an assessment of the situation. However, if possible, it is very helpful if you have been able to talk honestly and listen openly with the child. If the explanation does not seem to fit the injury, make a report.

## Do I have to prove abuse occurred?

No. Your report is a request for an assessment to be made. The law clearly states you must report any reasonable cause to believe a child has been abused. Then, either a CPS-trained worker or a law enforcement officer will conduct an assessment. Even if the assessment leads to the conclusion that the abuse report was unfounded, it still was appropriate for you to have made the report.

## What if I'm not sure it's abuse?

If you have questions about whether or not to report, please call your local DHS office to consult with CPS-trained staff. They can tell you if it is a situation that should be formally reported.

Sometimes different people have different information about a child. You might be the second or third person to call about a particular child, giving us the critical piece of information we need to be able to help.



*This is a very difficult time for children and they need your understanding, support and patience.*

## If I have a feeling that a child is being abused, but there are no marks on him and he hasn't said anything to me, should I report my suspicion?

Either DHS or a law enforcement officer will need a specific allegation of abuse before we can conduct an investigation. If you have a concern about a child, and you have a relationship with him that allows it, you could ask him about your concern in a non-threatening, non-leading way.

General questions like, "Is there anything wrong?" or "You look upset; is there something you want to talk about?" may help encourage him to talk to you.

## What should I say to a child who tells me she is being abused?

Let the child know she is not responsible for the abuse. Don't look shocked and don't talk about blaming anyone. Tell her you will get in touch with people who can help her, and let her know they will need to talk with her.

Take any story of abuse seriously, and report it.

Don't force her to tell more than she is ready to reveal. All you need to do is report a suspicion of abuse, not prove that it happened.

This is a very difficult time for children and they need your understanding, support and patience.

## How will a child react after a report is made?

Even if abuse has occurred, it may be hard for the child to admit that he has been abused and it will be even harder for him to keep telling his story to the social workers, police officers, lawyers and others who may be involved in an abuse case.

How his family reacts will greatly affect how he reacts. Sometimes the non-abusing parent will immediately believe his story and support him. Sometimes parents or siblings do not believe him and pressure him to change his story.

Children are usually not removed from their homes when abuse is found. However, if a removal is necessary, DHS will try to maintain ties the child has to family, friends, schools, etc.

All children react to stress differently. Some may act out or become withdrawn. The important thing to realize is that the period after an abuse report is made is very difficult for children and they need special attention and care from you.



*All children react to stress differently. Some may act out or become withdrawn.*

# Importance of reporting abuse

## What if I don't report?

Failure to report is a violation of the law and carries a maximum penalty of \$1,000.

Mandatory reporters also have been successfully sued for damages in civil court for failing to report.

## After I report, will my name be made public?

The only time a reporter's name can be released is by a court order. However, you might have to testify at juvenile court or criminal court proceedings about the child's condition.

*What if I don't report suspected abuse?*

## Can I be sued by the parent for making a report?

Anyone who makes a good-faith report based on reasonable grounds is immune from liability.

## What if the abuse happened a long time ago?

You should still report it. The abuser may have access to other children and his earlier history could be important. There is no statute of limitations on the reporting of child abuse.



### Should I make a report to my supervisor?

As a mandatory reporter, you must report to DHS or a law enforcement agency. Telling your supervisor does not fulfill your legal obligation.

Your employer may have internal policies asking you to inform your supervisor or other staff members. That is fine as long as you also make a formal report to DHS or law enforcement. It is important that we talk to the person closest to the original source of information so we can get all relevant details.

### How many cases of abuse are reported?

In federal fiscal year 2007, there were 63,504 reports of suspected child abuse or neglect made to DHS in Oregon. Child abuse or neglect was found in 7,227 of these reports.

### How important is my report?

Nearly seventy-five percent (74.4%) of the child abuse reports made in 2007 were made by mandatory reporters. In some cases, especially for small children, you may be the only person outside their family who sees them. The information you have is vital.

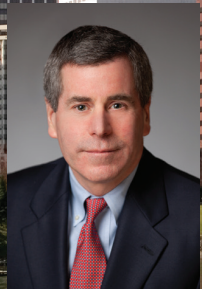
### Who decides what child abuse is?

Child abuse is defined in Oregon law. Eight different categories are listed:

- Physical abuse;
- Mental injury;
- Sexual abuse;
- Neglect;
- Threatened harm;
- Buying or selling a child;
- Permitting a person younger than 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured;



# The Tonkon Torp Real Estate, Land Use and Natural Resources Lawyers



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David Petersen



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- Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

A more complete description of many indicators begins on page 28.

## Isn't it better to let families work out their own problems?

There are two good reasons to report abuse:

- First, it is required by law. Some parents simply are unable or unwilling to protect their own children. The State of Oregon has declared that the health and safety of children are so important that mandatory reports and investigations are necessary.
- Second, if caregivers are abusive, they can be given professional help to learn how to be better parents. Almost every parent wants what is best for his or her children. Some people have not developed the skills necessary to provide the care children need.

## Can other people report abuse?

Yes. Anyone can make a report of suspected abuse. They will be asked for the same information we need from mandatory reporters.

Voluntary reporters also have legal immunity as long as the reports are made in good faith.

Individuals sometimes want to report anonymously because they don't want family members to know they were involved. The only time a reporter's name can be released is by a court order.



Almost every parent wants what is best for his or her children. Some people have not developed the skills necessary to provide the care children need.



# Stresses of reporting abuse

## Why don't people report suspected abuse?

There are many reasons why people do not report.

- Many reporters have received little or no training about the symptoms of abused children. They are uncomfortable making such a serious accusation without more background in the field of child abuse and neglect.
- Some people are afraid of retaliation or being sued.
- Treatment professionals may see the reporting process as a sign their treatment has failed, or as a violation of confidentiality.
- Reporters may be reluctant to go through “bureaucratic red tape,” or they may feel it will do nothing to help the family.
- Over-identification with the family may lead to non-reporting because the mandatory reporter feels sorry for them.
- A previous report may not have been handled as the reporter thought appropriate; therefore the reporter decides not to make any more reports.

Although all of these feelings are valid, they focus on something other than the protection of a child in danger. A late report or a report that is not made may place a child's life in jeopardy. In Oregon, 12 children were killed by abuse or neglect in FFY 2007. Five of these deaths resulted from neglect. Six were caused by physical abuse. One was caused by both physical abuse and neglect.



*Reporting possible child abuse can be very stressful.*

## Is reporting abuse stressful for the reporter?

Yes, reporting possible child abuse can be very stressful.

- You may be concerned about a child for some time before you have enough information to be reasonably sure abuse has occurred.
- You may worry about adversely affecting your relationship with the child and/or family.
- You may get frustrated by having to spend time talking to the people assessing the report, or you may feel they are not acting quickly enough.
- You may be angry at the person who abused the child.
- You will almost certainly feel sorrow for the child.
- You may not be satisfied with the result of the investigation, thinking not enough was done or too much was done.
- You may feel guilty about intruding on a family.
- You may be generally depressed without knowing why.

## How can I help myself during this time?

It is important to recognize this is a very emotional process. You may wish to talk to your colleagues, a trusted friend or a counselor about your reactions.

There may be people with whom you work who have reported abuse. It may be particularly helpful to talk to them.



*You may wish to talk to your colleagues, a trusted friend or a counselor about your reactions.*

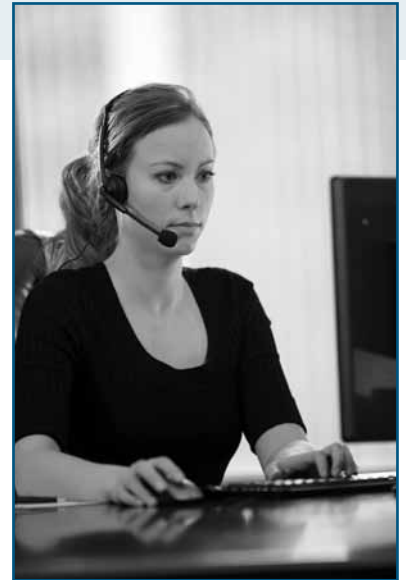


# The CPS Process

## What is child protective services?

Child Protective Services (CPS) is the part of DHS that responds to child abuse reports. CPS-trained caseworkers across the state listen to reports of abuse, assess the situations and prepare safety plans to assist children and families.

CPS staff work closely with law enforcement agencies and other members of multidisciplinary teams in each county to assess child abuse reports.



*Every report is handled by a CPS-trained worker*

## What happens after I make a report?

CPS follows a process that includes six possible decision points for every child abuse report.

For each report CPS receives, the process begins with screening. If the information indicates possible abuse, a caseworker assesses the family situation by getting more in-depth information, and determines whether abuse occurred and whether a child is safe.

If a child has been abused or neglected, CPS and law enforcement staff decide, with family help if possible, whether the child can safely be left at home. Conditions, behaviors and circumstances of the family are assessed to determine if safety threats exist in the family, to identify the child's vulnerabilities, and to determine if the caregiver can or will protect the child. A protective action may be taken immediately to ensure the child's safety while the assessment continues. Later, the agency and family, if necessary, may develop an ongoing safety plan for the child or children.

A case is closed when protective services staff determine they are no longer needed to keep the child safe.

### What is screening?

Every report is handled by a CPS-trained worker, who makes the initial determination of whether a report meets the guidelines that require DHS to conduct an assessment of the family.

Every report will fall into one of five categories:

- Information only;
- Referral to other services;
- Not a situation of child abuse or neglect;
- Family support services needed;
- Possible child abuse or neglect.

Reports that find possible abuse are further analyzed to determine whether an immediate response is needed.

### What is an assessment?

In many cases after screening, a CPS-trained worker will conduct an assessment to determine whether a child has been harmed or is at a threat of severe harm.

The assessment includes talking to the child and caregivers and may include talking to family members and other people involved with the child (such as teachers or medical professionals).

After an assessment is completed, the information is reviewed to determine if the referral is:

- Founded;
- Unfounded; or
- The assessor is unable to determine whether abuse occurred.

A founded designation means there is reasonable cause to believe that abuse or neglect occurred.

## How is a decision made about the child's safety?

If child abuse occurred, our first responsibility is to protect the child from immediate harm. A process for determining the safety of the child takes into account the type of abuse, the vulnerability of the child, family history, protective capacity of the family and the potential for re-abuse.

The child should stay at home with his family if his safety can be assured. In most cases, the family is willing and able to protect the child from further abuse. One alternative to removing a child from the home is if the alleged abuser voluntarily agrees to move out. Another alternative might be providing intensive family counseling or other needed services on an emergency basis.

If the safety of a child cannot be assured in the home, an out-of-home protective action or out-of-home ongoing safety plan is developed. When this is necessary, DHS will first consider whether a relative can provide safety.

## What is a case plan?

A caseworker will discuss concerns and potential solutions with the family, and work with them to develop a case plan acceptable to both DHS and the family. This may be done in a family meeting.

The intent of a case plan is to identify the parents' protective capacities, and to identify what protective capacities can be enhanced so the parents can manage the future safety and well-being of their child.

Families may be referred to programs provided by DHS or to services provided by other organizations in the community.

For example, parent trainers can help parents establish fair, consistent rules for family behavior. Other options might be homemaker services, respite day care or mental health services.

The family may be asked to voluntarily receive services, or services may be ordered by the court.

### When is a child protective services case closed?

A CPS case may be closed for several reasons:

- A family may gain the skills they need to provide for the child's safety.
- The family may be referred to another agency or to another DHS child welfare program for longer-term services.
- DHS assessments may determine that the child is safe.

### Does DHS do a face-to-face interview with every child who is the subject of a report?

When a report of child abuse or neglect is received, a CPS-trained caseworker may be assigned to contact the child and his family. A child who is the subject of the report will be interviewed, or observed if too young to be interviewed. Siblings are interviewed or observed as well. If parents cannot be notified before the interview with their children, they are notified as soon as possible when their children have been interviewed.

### May I be a part of the assessment interview with the child?

Oregon law gives CPS-trained workers or law enforcement officers the discretion to decide how to structure the assessment. A CPS-trained caseworker or law enforcement officer might ask a person who is trusted by the child, such as a teacher, to join them in the interview.

### If a child is being abused, will you remove him from his home?

In Oregon in 2007, an average of 9,788 children were in some kind of foster care each day (almost 30 percent of family foster care is relative care). Even while in foster care, the goal for the child is to reunite her with her family whenever possible. Family visits and other services are offered to help family members learn the skills they need to ensure the safety and well-being of children.



## Does DHS offer parents any alternatives to removing their children?

In most cases, DHS believes the best way to protect a child is by strengthening his parents' ability to take care of him. We offer a number of services to families, and help families to use the resources of relatives, friends and the local community.

When a child needs to be temporarily removed from home, we try to find a way to reunite the family while assuring the child's safety.

## When can DHS decide to remove a child?

DHS has the authority to remove a child from home if he is in immediate danger of abuse. This can be done several ways:

- A court order may authorize DHS or law enforcement to place the child in protective custody.
- A law enforcement officer may take a child into protective custody.
- A CPS-trained caseworker may remove a child from home if the child is in immediate danger.

## If a child is taken into protective custody from school, who notifies the parents?

Whether it is DHS or a law enforcement agency that takes a child into custody, that agency must make a reasonable effort to notify the child's parents and the organization from which the child was removed (such as a school or day care).

According to the Oregon Attorney General (OP-5957 from 1986), if a child is removed from school, the school staff may only tell the parents:

"Personnel from [DHS or a law enforcement agency] removed the child from school. You will be contacted by personnel from that office. I am prohibited by Oregon law from providing any further information."



### After a child is removed, who reviews the decision?

When a child is taken into protective custody, the situation is reviewed by the juvenile court within 24 judicial hours. The court then decides, based on the child's safety, whether he should be returned to his parents or kept in custody.

Later, the court also will review and approve the case plan for the family.

### Who else reviews DHS actions?

- Citizen Review Boards (CRBs) are set up in each county to review all cases in which children are removed from their homes and remain in DHS custody for six months or more. Board members are appointed by Oregon's Chief Justice of the Supreme Court. CRBs make recommendations to the local circuit court about the case, including:
  - Whether substitute care should be continued;
  - Compliance with the case plan; or
  - Whether reasonable efforts have been made to reunite the child with his or her parents.
- As with all state agencies, the Oregon Legislature reviews the activities of DHS and approves its budget every two years.
- An advisory committee is established by law. Its members are appointed by a DHS director to act in an advisory capacity on key child welfare issues.

### Does DHS prosecute abusive parents?

No. Only a district attorney can prosecute a crime. District attorneys receive reports of possible criminal behavior from law enforcement officers, and decide whether or not to pursue prosecution.

### Who is allowed access to the case file?

Most of the information in child abuse case files is confidential and is exempt from the public records law. It can be released under some conditions to certain people and organizations that have a need to know. Some parts of the case file (for example, psychological evaluations) cannot be released except by court order or with the agreement of the provider.

Information released must be kept confidential by the person or agency who receives it. It may be released to:

- A law enforcement agency or child abuse registry in another state that is doing an investigation of abuse;
- A physician examining or treating the child;
- Attorneys for the child or child's parent in a juvenile court proceeding;
- Citizen Review Boards that review the status of children in the jurisdiction of the juvenile court;
- A Court Appointed Special Advocate (CASA) who is working with the child in juvenile court;
- The Child Care Division of the Employment Department if the family is applying for license to be a day care provider;
- Seniors and People with Disabilities Division if the family is involved with this program or wants to be a foster care provider under this program;
- A tribe, if a family member is a recognized member of the tribe;
- A DHS director may release information to other hearings officers, courts, or organizations if:
  - It is in the best interest of the child;
  - It is necessary to investigate, prevent or treat child abuse;
  - It will help protect children from abuse.

## Cultural sensitivity — does DHS take cultural child rearing practices into consideration?

Yes. DHS takes several steps to help staff and clients communicate across cultures.

- Cultural awareness is a part of DHS staff training. This includes information on specific cultural practices that may be mistakenly labeled abuse. It also teaches staff to be aware of their own cultural biases and to recognize the strength each of us draws from our cultural heritage.

## 22 — What you can do about child abuse

### *The CPS Process — continued*

- Each office has access to interpreters for non-English speaking clients, and some staff speak Spanish, Russian, Vietnamese, etc.

## What kind of training do caseworkers get?

CPS caseworkers must complete a comprehensive program that covers all aspects of child abuse, including:

- Symptoms of abuse;
- How to screen incoming reports of abuse;
- How to assess the future safety of a child;
- How to conduct an assessment of the family;
- How to interview victims, witnesses and alleged abusers;
- When to ask for law enforcement assistance;
- How to decide if abuse actually has occurred;
- How to decide on appropriate services and write a service plan;
- When to close a case; and
- Many other needed skills.



*CPS caseworkers complete a comprehensive training program that covers all aspects of child abuse.*

In addition, all CPS supervisors and caseworkers are offered in-service training to continually upgrade their knowledge and skills.

Law enforcement officers must be certified by the Board on Public Safety Standards and Training. The certification program includes training on child abuse issues.

## What are multidisciplinary teams (MDTs)?

District attorneys are required to convene multidisciplinary teams to review child abuse cases. There are teams working in every county in Oregon. By legal mandate, they develop protocols to ensure the coordination of child abuse investigations.

Child abuse is not just a DHS issue. The best way to protect children and strengthen families is through coordination of community services, including law enforcement, medical professionals, school officials, the district attorney, etc. That philosophy became part of Oregon's law with the passage of SB 967 in the 1989 legislative session.

These teams do a number of things:

- Coordinate information among social service agencies and law enforcement agencies working with the same families;
- Review selected cases and look at the services that have been offered, and develop additional services the community needs;
- Establish procedures for reviewing complex cases and joint decision making;
- Develop agreements among the various agencies that provide services in cases of child abuse and neglect;
- Hospital-based teams can review and coordinate medical aspects of cases.

Multidisciplinary teams also conduct child fatality reviews. The purpose of the review is to:

- Identify all preventable child deaths in Oregon;
- Identify specific factors that contributed to the deaths;
- Promote implementation of recommendations both at the systems level and individual level that might prevent future deaths of this nature.



Anyone can report suspected child abuse. A late report or a report that is not made may place a child's life in danger.



# Frequency of child abuse

## How common is child abuse?

In Oregon, 10,716 victims of child abuse and neglect were identified by DHS in FFY 2007. This is an 11 percent decrease from the previous year. There were 63,500 reports made of suspected child abuse and neglect, up 4.5 percent from the previous year. The number of reports shows a 126.7 percent increase since 1997 (a 10-year period).

Family members account for 94.6 percent of all alleged abusers. Almost 45 percent of alleged abusers are the child's mother, and more than 29 percent are the father.

Children of every age are abused and neglected in Oregon, but the group that is most in danger is from birth to 2 years old. They constitute 29.7 percent of all abused and neglected children.

Abusive families often have at least one of the following stresses:

- Substance abuse by parent;
- Unemployment;
- Parental involvement with law enforcement;
- Domestic violence.

## What about deaths from abuse?

Child deaths continue to be a tragic result of abuse and neglect. Data for FFY 2007 indicates that 12 children were killed by abuse and neglect in Oregon. Five of these deaths resulted from neglect. Six were caused by abuse. One death was caused by both abuse and neglect.



*Children of every age are abused and neglected in Oregon, but the group that is most in danger is from birth to 2 years old.*

# Physical abuse

## What is physical abuse?

Oregon law defines physical abuse as any injury to a child that is not accidental.

Most parents do not intend to hurt their children, but abuse is defined by the effect on the child, not the motivation of the parents.

In Oregon in FFY 2007, 985 children were found to have been physically abused.



*Trauma to the eyes is often the result of head injuries.*

## What about bruises?

Bruises on bony surfaces such as knees, shins, foreheads or elbows are more likely to be accidental than those occurring on the cheeks, buttocks or stomach.

Most falls produce one bruise on a single surface, while abusive bruises frequently cover many areas of the body.

Any bruising seen on babies who are not yet mobile is suspicious.

## What about head and facial injuries?

Injury to the skull and brain is the primary cause of child abuse deaths. Most serious internal head injuries during the first year of life are the result of physical abuse.

Trauma to the eyes is often the result of head injuries. This could be from a direct blow to the eyes or be the result of other actions, such as shaking a child, leading to retinal hemorrhage. Injury to both eyes is a possible indicator of abuse because accidental injuries usually occur on one side of the face.

The mouth is a common target for abuse. Injuries to this area include bruises, burns, split lips, broken teeth and even fractures of the jaw.

## What about broken bones and injured joints?

You should be suspicious of abuse when:

- Unsuspected fractures are “accidentally” discovered in the course of an examination.
- The injury is not explained by the history given.
- Spiral fractures, which indicate twisting, are found.
- Multiple fractures exist, especially when symmetrical.
- Multiple fractures exist in various stages of healing.
- Skeletal injuries are accompanied by injuries (for example, burns) to other parts of the body.

## What about poisoning?

Some parents may punish children by forcing them to swallow toxic amounts of chemicals or food.

Some problems — any of which may be fatal — are:

- Water — Drinking huge quantities of water causes seizures, convulsions, confusion, lethargy and coma.
- Hot peppers — Cause damage to the mucous membranes of the mouth and stomach and injure the nervous system. Hot peppers can also become clogged in the child’s throat, leading to breathing problems.
- Ground pepper — Becomes clogged in the throat or lungs, causing breathing problems.
- Laxatives — Cause severe dehydration, fever and bloody stools.
- Household products — Various substances are abused, including toilet bowl cleaner, lighter fluid, detergents and oil.



### What about burns and scalds?

Although accidental burns may happen in any household, too many or improperly handled accidents can be signs of neglect.

It is not uncommon for a child to brush against a cigarette that is being held in someone else's hand. These burns are usually found on the child's face, arms or trunk, depending on the height of the child and the height of the person holding the cigarette.

"Doughnut" burns on the child's buttocks are an indication that the child's buttocks may have been pressed against the bottom of the bath tub of hot liquid so that part of the buttocks were not burned.

"Stocking" burns are those that result from a foot or hand dunked into scalding liquid. The skin is usually burned evenly.

"Scattered" burns can be caused by pouring or throwing hot liquid. These burns show varying levels of injury.

### What about internal injuries?

Only a small percentage of child abuse cases report injuries to internal organs. However, internal injuries are hard to identify in child abuse cases and may be one of the underlying causes of death or may make a child more susceptible to pneumonia or other infection that may cause death.

Although there are no absolute guidelines for symptoms of internal injuries, here are some common indicators:

- Pain in stomach, chest or any internal area;
- Bruises on the chest or stomach;
- Distended, swollen abdomen;
- Tense abdominal muscles;
- Labored breathing;
- Severe chest pain while breathing;
- Nausea or vomiting (especially blood).

## What is Intentional Traumatic Brain Injury?

Intentional Traumatic Brain Injury, also known as Shaken Baby Syndrome, describes a head injury caused by shaking the child severely and repeatedly. Many parents do not understand that shaking can cause severe brain injury, blindness and even death.

The most common injuries are:

- Blood clots around the brain;
- Hemorrhages of the retina;
- Fractures in the growing portion of the bone;
- Injury to the brain;
- Bruises on the extremities or bruising and injury of the chest, where the child was held while being shaken.

## Is spanking child abuse?

Although not recommended, spanking is not abuse. However, a spanking that leaves marks or bruises on a child might be abuse. Bruises anywhere on a baby are serious; minor bruising on a teenager is a concern, but may be less serious.



Most parents do not intend to hurt their children, but abuse is defined by the effect on the child, not the motivation of the parents.

# Sexual abuse and sexual exploitation

## What is child sexual abuse?

Child sexual abuse occurs when a person uses or attempts to use a child for sexual gratification. This includes incest, rape, sodomy, sexual penetration, fondling, voyeurism, etc.

In Oregon in FFY 2007, 1112 children were found to have been sexually abused. Almost 74 percent of sex abuse occurred within the family.



*A father who is abusing his daughter may warn her if she tells anyone, the family will be broken up and everyone will blame her.*

## What is fondling?

Fondling includes touching sexual parts of the body, such as breasts, genitals or buttocks. This may include an adult having a child touch the sexual parts of his body.

## What is sexual contact?

Sexual contact includes rape, sodomy, incest, sexual penetration, etc.

## What is sexual harassment?

Sexual harassment includes intimidating or pressuring a child for sexual activities.

## What are exposure and voyeurism?

These include someone exposing himself to a child, or exposing the genitals of a child, for the adult's sexual gratification.

## Why do children keep quiet about being sexually abused?

Persons who sexually abuse children rely on many methods to force children to keep quiet. The abuser may be subtle, telling the child he or she is doing it for her own good or promising her favors or gifts. Or he may be more

blatant, such as a father warning his daughter if she tells anyone, the family will be broken up and everyone will blame her.

The abuser may convince the child she is an equal partner, that he has special affection for her and will be blamed if disclosure is made.

Many abusers use threats, telling the child his pets will be hurt, that his siblings will be targeted, or even the child himself will be killed if he tells.

Children need adults to provide their basic needs: food, a place to live, clothing, access to family and loved ones. Abusers deliberately exploit that dependency to make children submit to them.



*Research and experience have shown that children very rarely lie about the details of a sexual act that they have not experienced.*

## How often do children lie about being abused?

Research and experience have shown that children very rarely lie about the details of a sexual act that they have not experienced. It is much more common for adults to misunderstand or misconstrue a situation.

As a result, the child often blames herself for what is happening to her and feels guilty and depressed. She may create imaginary companions. Some children become aggressive and angry. Others turn to drugs and alcohol.

## What is sexual abuse of teens?

Oregon law does not make all sexual activity of a teen under the age of 18 illegal. The law includes defenses in some circumstances if the actor is less than three years older than the victim. Law enforcement and district attorneys will need to analyze each situation on a case-by-case basis.

For teens, evidence of sexual activity may be a potential indicator of sexual abuse. Consenting sexual relationships imply that both partners have the ability and capacity to make an informed choice without fear of harm or pressure. However, many teens do not have a clear understanding of the difference between consensual and abusive relationships.

Factors to consider in determining whether a relationship may be abusive include:

- If force is used;
- If there is impaired mental or emotional capacity;
- If drugs or alcohol affect the ability to make a reasonable choice;
- If there is manipulation, intimidation, implied threats or other forms of coercion;
- If there is a distinct power differential or a significant age difference.

### What is sexual exploitation?

Sexual exploitation is using children in a sexually explicit way for personal gain; e.g., to make money, to obtain food stamps or drugs, or to gain status. It also includes using children in prostitution and using children to create pornography.



*Many teens do not have a clear understanding of the difference between consensual and abusive relationships.*

# Neglect

## What is neglect?

Neglect is failing to provide adequate food, clothing, shelter, supervision or medical care. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not sustain or meet the basic needs of a child. This results in an accumulation of harm that can have long term effects on the child's overall physical, mental or emotional development.

Neglect is the most common form of abuse and may have long-term effects. In FFY 2007, 4,511 children were victims of neglect.

Neglect is one of the most common contributors to child fatalities.

## What are the standards for supervision and protection?

Parents must provide adequate supervision, care, guidance and protection to keep children from physical or mental harm. Parents must also provide appropriate treatment for children's problems.

Children will have minor injuries during childhood. When accidental injuries are frequent, they may be the result of neglect.

Neglect includes exposing a child to illegal activities such as:

- Encouraging a child to participate in drug sales, theft, etc.;
- Exposing a child to parental drug abuse, theft, etc.;
- Encouraging a child to use drugs or alcohol.

## What are the standards for child care?

Safe child care includes:

- A designated person who can take care of a child's individual needs;
- A plan to reach the parent in an emergency.



*Failure to Thrive is a syndrome characterized by chronic malnutrition of an infant or young child.*

A child should not be left in a position of authority or be left alone in situations beyond his ability to handle.

Each child must be looked at individually to make sure he or she is physically and emotionally able to handle the given responsibility. The law does not specify the age at which a child can be left alone. However, a child younger than age 10 cannot be left unattended for such a period of time as may likely endanger the child's health or welfare (ORS 163.545).

## What are the standards for food and clothing?

Children need food that allows them to grow and develop normally. Clothing and shoes should be appropriate to the environment.

## What are the standards for shelter?

Children need protection from weather and safety hazards. This includes adequate heat, drinking water, sanitary facilities and space for sleeping.

## What is medical neglect?

Children need adequate medical, dental and mental health care services. When a medical situation may result in serious impairment, pain or death of the child, this may be medical neglect and CPS can intervene.

Religious beliefs about spiritual care are generally honored, except when the child's life is in danger. If a parent refuses medical attention in a serious or life-threatening situation, CPS may intervene.

## What is Failure to Thrive?

Failure to Thrive is a syndrome characterized by chronic malnutrition of an infant or young child. Growth is delayed and mental retardation, learning difficulties and delay in language skills are some of the long-term consequences.

Characteristics include:

- A weak, pale and listless appearance;
- Loss of body fat;



- Staring vacantly instead of smiling and maintaining eye contact;
- Sleeping in a curled up, fetal position with fists tightly closed;
- Rocking back and forth in bed as he lies on his back or banging his head repeatedly against his crib;
- Obvious delays in developmental and motor function.

## What do the terms “drug exposed child” and “drug affected child” mean?

Alcohol and drug use during pregnancy is never a good idea. Many women do not realize the dangers drug use or addiction can present to children during pregnancy. Some affects may not be apparent at birth but can show up later. These dangers can result in a lifetime of problems for children. Any alcohol or drug use by a pregnant woman means a child has been “drug exposed” during the pregnancy.

When drug use creates physical, mental or behavioral problems, whether apparent at the birth of a child or as the child grows, the child may be considered “drug affected.” Drug effects are confirmed through medical evaluation. They can include a range of issues from major physical problems to mental or behavioral problems that emerge as late as the child’s entry into school. Many drugs cause low weight and small body size at birth, withdrawal symptoms and increased risk of Sudden Infant Death Syndrome (SIDS).

Methamphetamine is the most prevalent drug related to child abuse and neglect, although alcohol causes the most damage when used during pregnancy. Other commonly abused drugs include cocaine, marijuana, heroin and other narcotics and prescription drugs. Misuse of prescription drugs or use of illegal drugs is neglect when the use directly impacts the child.





# Abandonment and mental injury

## What is abandonment?

**A**bandonment is parental behavior showing intent to permanently give up all rights and claims to a child.



## What is mental injury?

Mental injury and psychological maltreatment are the result of cruel or unconscionable acts or statements threatened, made, or permitted to be made by the caregiver(s), which have a direct effect on the child or it can be the caregiver's failure to provide nurturance, protection or appropriate guidance. The caregiver's behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional or social well-being and functioning. In Oregon in FFY 2007, 226 children were found to be subjected to mental injury.

Some examples of mental injury include:

- Holding a child's head in the toilet as punishment;
- Stripping a child and chaining him to a tree for punishment;
- Exposing or forcing a child to repeatedly watch domestic violence against his parent or siblings;
- Shutting a child out of the family by not buying her adequate clothing or personal items. An example would be furnishing other children's rooms with nice things and keeping her bedroom empty.

# Threat of harm

## What is threat of harm?

**T**hreat of harm is subjecting a child to a substantial risk of harm to his or her health or welfare. Substantial harm is defined as immobilizing impairment, life-threatening damage, or significant or acute injury to a child's physical, sexual, psychological or mental development or functioning.

There were 6,480 founded incidents of threat of harm in Oregon in FFY 2007.

Some examples of threat of harm are:

- A child living with or cared for by a person who has a past conviction for child abuse or neglect, and whose current behavior, condition and circumstances present a substantial threat to the safety of a child;
- A newborn whose primary caregiver's current mental or behavioral condition indicates a lack of skills necessary to provide adequate care even though the child has not suffered harm;
- A child living with a person who is involved in child pornography;
- A child whose parent or caregiver has caused death or severe harm to another child through physical abuse, and whose behaviors, conditions or circumstances have not improved.



*If you know a child is witnessing repeated or serious domestic violence and you are unsure of the impact on the child, call and consult with a CPS screener.*

## When should domestic violence be reported as child abuse or neglect?

Domestic violence is a pattern of assault or coercive behaviors including physical, sexual and emotional abuse, as well as economic coercion that adults use against their intimate partners to gain power and control in that relationship. Domestic violence is present in all cultures, socioeconomic classes, and communities of faith. Domestic violence generally increases in intensity, severity and frequency.

The presence of domestic violence is a risk factor for children. However, not all situations of domestic violence require a report to DHS or law enforcement. DHS has the authority to intervene with families based on whether a child is being physically abused, sexually abused, neglected, suffering mental injury, or is being subjected to an activity or condition likely to result in substantial harm.

A report to DHS or law enforcement is necessary when there is reasonable cause to believe:

1. There is current domestic violence or the alleged abuser has a history of domestic violence; and
2. One of the following:
  - There is a reason to believe the child will intervene or is intervening in a violent situation, placing him at a risk of substantial harm.
  - The child is likely to be harmed during the violence (being held during the violence, physically restrained from leaving, etc.).
  - The alleged abuser is not allowing the adult caregiver and child access to basic needs, impacting their health or safety.
  - The alleged abuser has killed or inflicted substantial harm, or is making a believable threat to do so to anyone in the family, including extended family members and pets.
  - The child's ability to function on a daily basis is substantially impaired by being in a constant state of fear.



*The presence of domestic violence is a risk factor for children.*

If you know a child is witnessing repeated or serious domestic violence and you are unsure of the impact on the child, call and consult with a CPS screener.

# Child selling

An additional category of abuse — child selling — was added to statute by the 1997 Oregon Legislature. This includes buying, selling or trading for legal or physical custody of a child. It does not apply to legitimate adoptions or domestic relations planning.



# Oregon child abuse reporting law

## Reporting of child abuse

**419B.005 Definitions.** As used in ORS 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 or upon premises where methamphetamines are being manufactured.

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

(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. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1; 2005 c.562 §26; 2005 c.708 §4]

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

**419B.010 Duty of officials to report child abuse; exceptions; penalty.** (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the

official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

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

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7]

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

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee



shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

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

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

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

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

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

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

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

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

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

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

(b) How the notification is to be made.

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

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

(4) The department may recommend practices and procedures to local law enforcement agencies to meet the requirements of rules adopted under this section. [2005 c.250 §3]

**Note:** 419B.017 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035. [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33; 2007 c.501 §4; 2007 c.781 §1]

**419B.022 Short title.** ORS 419B.023 and 419B.024 shall be known and may be cited as “Karly’s Law.” [2007 c.674 §1]

**Note:** 419B.022 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.023 Duties of person conducting investigation under ORS 419B.020.**

(1) As used in this section:

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

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

(A) Burns or scalds;

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

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

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

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

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

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

(H) Unconsciousness or difficulty maintaining consciousness;

(I) Multiple injuries of different types;

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

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

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

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

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

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

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

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

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

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

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician.

(b) If the child is evaluated by a physician, physician assistant or nurse practitioner other than a designated medical professional, the evaluating physician, physician assistant or nurse practitioner shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's regular pediatrician or family physician under ORS 419B.050.

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

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section. [2007 c.674 §3]

**Note:** 419B.023 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Section 7, chapter 674, Oregon Laws 2007, provides:

**Sec. 7.** No later than October 1, 2008, the Department of Justice shall submit to the appropriate interim legislative committee a report documenting the progress in the implementation of section 3 of this 2007 Act [419B.023] and the amendments to ORS 418.747, 418.785 and 419B.028 by sections 5, 6 and 8 of this 2007 Act. The report shall also include, but is not limited to, any fiscal constraints encountered in the implementation of section 3 of this 2007 Act and the amendments to ORS 418.747, 418.485 and 419B.028 by sections 5, 6 and 8 of this 2007 Act. [2007 c.674 §7]

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

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

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

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

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

**Note:** 419B.024 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**419B.025 Immunity of person making report in good faith.** Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

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



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

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

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

(3) For purposes of ORS 419B.035, photographs taken under authority of this section shall be considered records. [1993 c.546 §18; 2007 c.674 §5]

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

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

**419B.035 Confidentiality of records; when available to others.** (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

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



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

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

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

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

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;

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

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

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

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

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is

necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

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

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

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

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

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law

enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

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

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

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

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation. [1993 c.546 §20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003 c.412 §1; 2003 c.591 §8; 2005 c.317 §1; 2005 c.659 §2]

**419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse.** (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to registered clinical social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child’s abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other. [1993 c.546 §21]

**419B.045 Investigation conducted on public school premises; notification; role of school personnel.** If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by

the administrator may, at the investigator's discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the investigation shall be advised of the child's disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child's school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial. [1993 c.546 §22; 2003 c.14 §225]

**419B.050 Authority of health care provider to disclose information; immunity from liability.** (1) Upon notice by a law enforcement agency, 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 must permit the law enforcement agency, 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) As used in this section, "health care provider" has the meaning given that term in ORS 192.519. [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150; 2005 c.562 §27]

# Child abuse reporting phone numbers

County	Daytime phone numbers	Office hours	After hours phone numbers
<b>Baker</b>	541-523-6423 local 800-646-5430 toll free (Main office numbers)	Monday through Friday 8 am to 12 pm and 1 to 5 pm	911 or local law enforcement agency: Baker County Sheriff, 541-523-6415 Baker City Police, 541-523-3644
<b>Benton</b>	541-757-5019 local 866-303-4643 toll free (Dedicated child abuse hotlines).	Monday through Friday, 8 am to 5 pm	911 or local law enforcement agency: Benton County Sheriff, 541-766- 6858; Corvallis Police , 541-766-6925; Philomath Police, 541-929-6911
<b>Clackamas</b>	971-673-7112 local (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	971-673-7112 local (Dedicated child abuse hotline). Calls are forwarded to Multnomah County hotline
<b>Clatsop</b>	877-302-0077 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Columbia</b>	877-302-0077 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Coos</b>	541-756-5500 local 800-500-2730 toll free; (Main office numbers)	Monday through Friday, 8 am to 5 pm	541-756-5500 local 800-500-2730 toll free (Main office numbers) Calls are forwarded to Belloni Ranch
<b>Crook</b>	541-693-2700 local (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Curry</b>	541-247-5437 local (Main office number)	Monday through Friday, 8 am to 5 pm	911
<b>Deschutes</b>	541-693-2700 local (Dedicated child abuse hotline)	Monday through Friday, 8 am to 5 pm	911

County	Daytime phone numbers	Office hours	After hours phone numbers
<b>Douglas</b>	541-440-3373 local 800-305-2903 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Douglas County Sheriff 541-440-4450 Myrtle Creek Police 541-863-5221 Oakland Police 541-459-2661 Reedsport Police 541-271-2100 Roseburg Police 541-673-6633 Sutherlin Police 541-459-2211 Winston Police 541-679-8704
<b>Gilliam</b>	541-384-4252 local Condon office 800-388-7787 toll free The Dalles office (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or Tri-County Dispatch at 541-384-2080
<b>Grant</b>	877-877-5081 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Harney</b>	877-877-5081 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Hood River</b>	541-386-2962 local 800-368-6209 toll free (Main office numbers)	Monday through Friday, 8 am to 5 pm	911 or Hood River Sheriff 541-386-2711
<b>Jackson</b>	866-840-2741 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Jackson County Sheriff 541-774-6800 Ashland Police 541-488-2211 Butte Falls Police 541-865-3200 Central Point Police 541-664-5578 Eagle Point Police 541-826-9171 Gold Hill Police 541-855-1484 Jacksonville Police 541-899-7100 Medford Police 541-774-2200 Phoenix Police 541-535-1113 Rogue River Police 541-582-4931 Shady Cove Police 541-878-3200 Talent Police 541-535-1253
<b>Jefferson</b>	541-693-2700 local (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Josephine</b>	866-840-2741 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Josephine Sheriff 541-474-5129 Grants Pass 541-474-6370

County	Daytime phone numbers	Office hours	After hours phone numbers
<b>Klamath</b>	541-883-5570 local (Main office number)	Monday through Friday 8 am to 5 pm	911
<b>Lake</b>	541-947-2273 local 888-811-4201 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911
<b>Lane</b>	541-686-7555 local 866-300-2782 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911
<b>Lincoln</b>	541-757-5019 local 866-303-4643 toll free (Dedicated child abuse hotlines)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Lincoln County Sheriff 541-563-3600 Lincoln City Police 541-994-3636 Newport Police 541-574-3348 Toledo Police 541-336-5555
<b>Linn</b>	541-757-5019 local 866-303-4643 toll free (Dedicated child abuse hotlines)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Linn County Sheriff 541- 967-3950 Albany Police 541-917-7680 Lebanon Police 541-451-1751 Sweet Home Police 541-367-5181
<b>Malheur</b>	877-877-5081 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Marion</b>	503-378-6704 local (Dedicated child abuse hotline) 800-854-3508 toll free (Main office number)	Monday through Friday 8 am to 5 pm	911
<b>Morrow</b>	541-481-9482 local 800-547-3897 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911
<b>Multnomah</b>	503-731-3100 local 800-509-5439 toll free (Dedicated child abuse hotlines)	7 days a week 24 hours daily	503-731-3100 local 800-509-5439 toll free (Dedicated child abuse hotlines) Calls forwarded to Children's Receiving Center Friday & Saturday nights
<b>Polk</b>	503-378-6704 local Marion office (Dedicated child abuse hotline) 800-854-3508 toll free Marion office (Main office number)	Monday through Friday 8 am to 5 pm	911



County	Daytime phone numbers	Office hours	After hours phone numbers
<b>Sherman</b>	541-384-4252 local Condon office 800-388-7787 toll free The Dalles office (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or Tri-County Dispatch 541-384-2080
<b>Tillamook</b>	877-302-0077 toll free (Dedicated child abuse hotline)	Monday through Friday 8 am to 5 pm	911
<b>Umatilla</b>	541-481-9482 local 800-547-3897 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or City/County Dispatch 541-966-3650 option 7
<b>Union</b>	541-963-8571 local 888-278-4411 toll-free (Main office number)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Union County Sheriff 541-963-1017
<b>Wallowa</b>	541-426-4558 local 866-538-5804 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or Wallowa County Sheriff 541-426-3131
<b>Wasco</b>	541-298-5136 local 800-388-7787 toll free (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or Wasco County Sheriff at 541-296-5454
<b>Washington</b>	503-681-6917 local (Dedicated child abuse hotline) 800-275-8952 dial 1, toll free (Main office number)	Monday through Friday 8 am to 5 pm	503-681-6917 local (Dedicated child abuse hotline) 800-275-8952 dial 1, toll free (Main office number) Calls are forwarded to Multnomah County hotline
<b>Wheeler</b>	541-384-4252 local Condon office 800-388-7787 toll free The Dalles office (Main office numbers)	Monday through Friday 8 am to 5 pm	911 or Tri-County Dispatch 541-384-2080
<b>Yamhill</b>	503-472-4634 local 800-822-3903 toll free (Main office number)	Monday through Friday 8 am to 5 pm	911 or local law enforcement agency: Yamhill Communications (dispatch for McMinnville, Sheriff's Office, Amity, Yamhill, Carlton, Willamina, Dayton, and Sheridan) 503-434-6500 Newberg-Dundee Police 503-538-8321



Oregon Department of Human Services  
500 Summer Street NE  
Salem, Oregon 97301