

# Senate Bill 732

Sponsored by COMMITTEE ON HUMAN SERVICES

## SUMMARY

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

Removes naturopathic physicians from list of medical professionals who conduct certain medical assessments for reported child abuse.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to naturopathic physicians; creating new provisions; amending ORS 418.747, 419B.020,  
3 419B.023 and 419B.035; and declaring an emergency.

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

5 **SECTION 1.** ORS 418.747 is amended to read:

6 418.747. (1) The district attorney in each county shall be responsible for developing county  
7 multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel,  
8 Department of Human Services child protective service workers, school officials, local health de-  
9 partment personnel, county mental health department personnel who have experience with children  
10 and family mental health issues, child abuse intervention center workers, if available, and juvenile  
11 department representatives, as well as others specially trained in child abuse, child sexual abuse and  
12 rape of children investigation.

13 (2) The teams shall develop a written protocol for immediate investigation of and notification  
14 procedures for child abuse cases and for interviewing child abuse victims. Each team also shall de-  
15 velop written agreements signed by member agencies that are represented on the team that specify:

16 (a) The role of each agency;

17 (b) Procedures to be followed to assess risks to the child;

18 (c) Guidelines for timely communication between member agencies;

19 (d) Guidelines for completion of responsibilities by member agencies;

20 (e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as  
21 defined in ORS 329A.250, immediate notification of parents or guardians of children attending the  
22 child care facility is required regarding any abuse allegation and pending investigation; and

23 (f) Criteria and procedures to be followed when removal of the child is necessary for the child's  
24 safety.

25 (3) Each team member and the personnel conducting child abuse investigations and interviews  
26 of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual  
27 abuse and rape of children and legally sound and age appropriate interview and investigatory tech-  
28 niques.

29 (4) All investigations of child abuse and interviews of child abuse victims shall be carried out  
30 by appropriate personnel using the protocols and procedures called for in this section. If trained  
31 personnel are not available in a timely fashion and, in the judgment of a law enforcement officer

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

1 or child protective services worker, there is reasonable cause to believe a delay in investigation or  
2 interview of the child abuse victim could place the child in jeopardy of physical harm, the investi-  
3 gation may proceed without full participation of all personnel. This authority applies only for as  
4 long as reasonable danger to the child exists. A law enforcement officer or child protective services  
5 worker shall make a reasonable effort to find and provide a trained investigator or interviewer.

6 (5) To ensure the protection and safe placement of a child, the Department of Human Services  
7 may request that team members obtain criminal history information on any person who is part of  
8 the household where the department may place or has placed a child who is in the department's  
9 custody. All information obtained by the team members and the department in the exercise of their  
10 duties is confidential and may be disclosed only when necessary to ensure the safe placement of a  
11 child.

12 (6) Each team shall classify, assess and review cases under investigation.

13 (7)(a) Each team shall develop and implement procedures for evaluating and reporting compli-  
14 ance of member agencies with the protocols and procedures required under this section. Each team  
15 shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies  
16 of the protocols and procedures required under this section and the results of the evaluation as re-  
17 quested.

18 (b) The administrator may:

19 (A) Consider the evaluation results when making eligibility determinations under ORS 418.746  
20 (3);

21 (B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the  
22 protocols and procedures being used by the team based on the evaluation results; or

23 (C) Ask a team to evaluate the team's compliance with the protocols and procedures in a par-  
24 ticular case.

25 (c) The information and records compiled under this subsection are exempt from ORS 192.311  
26 to 192.478.

27 (8) Each team shall develop policies that provide for an independent review of investigation  
28 procedures of sensitive cases after completion of court actions on particular cases. The policies shall  
29 include independent citizen input. Parents of child abuse victims shall be notified of the review  
30 procedure.

31 (9) Each team shall designate at least one physician, physician assistant[, *naturopathic*  
32 *physician*] or nurse practitioner who has been trained to conduct child abuse medical assessments,  
33 as defined in ORS 418.782, and who is, or who may designate another physician, physician  
34 assistant[, *naturopathic physician*] or nurse practitioner who is, regularly available to conduct the  
35 medical assessment described in ORS 419B.023.

36 (10) If photographs are taken pursuant to ORS 419B.028, and if the team meets to discuss the  
37 case, the photographs shall be made available to each member of the team at the first meeting re-  
38 garding the child's case following the taking of the photographs.

39 (11) No later than September 1, 2008, each team shall submit to the Department of Justice a  
40 written summary identifying the designated medical professional described in subsection (9) of this  
41 section. After that date, this information shall be included in each regular report to the Department  
42 of Justice.

43 (12) If, after reasonable effort, the team is not able to identify a designated medical professional  
44 described in subsection (9) of this section, the team shall develop a written plan outlining the nec-  
45 essary steps, recruitment and training needed to make such a medical professional available to the

1 children of the county. The team shall also develop a written strategy to ensure that each child in  
2 the county who is a suspected victim of child abuse will receive a medical assessment in compliance  
3 with ORS 419B.023. This strategy, and the estimated fiscal impact of any necessary recruitment and  
4 training, shall be submitted to the Department of Justice no later than September 1, 2008. This in-  
5 formation shall be included in each regular report to the Department of Justice for each reporting  
6 period in which a team is not able to identify a designated medical professional described in sub-  
7 section (9) of this section.

8 **SECTION 2.** ORS 419B.020 is amended to read:

9 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-  
10 port of child abuse, the department or the agency shall immediately:

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

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

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

17 (a) The department and the law enforcement agency shall jointly determine the roles and re-  
18 sponsibilities of the department and the agency in their respective investigations; and

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

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

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

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

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

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

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

43 (6) If a law enforcement officer or the department, when taking a child into protective custody,  
44 has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child  
45 as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to

1 disappear, the court may authorize a physical examination for the purposes of preserving evidence  
 2 if the court finds that it is in the best interest of the child to have such an examination. Nothing  
 3 in this section affects the authority of the department to consent to physical examinations of the  
 4 child at other times.

5 (7) A minor child of 12 years of age or older may refuse to consent to the examination described  
 6 in subsection (6) of this section. The examination shall be conducted by or under the supervision  
 7 of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to  
 8 677.525[ *a naturopathic physician licensed under ORS chapter 685*] or a nurse practitioner licensed  
 9 under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

10 (8) When the department completes an investigation under this section, if the person who made  
 11 the report of child abuse provided contact information to the department, the department shall no-  
 12 tify the person about whether contact with the child was made, whether the department determined  
 13 that child abuse occurred and whether services will be provided. The department is not required to  
 14 disclose information under this subsection if the department determines that disclosure is not per-  
 15 mitted under ORS 419B.035.

16 **SECTION 3.** ORS 419B.023 is amended to read:

17 419B.023. (1) As used in this section:

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

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

- 21 (A) Burns or scalds;
- 22 (B) Extensive bruising or abrasions on any part of the body;
- 23 (C) Bruising, swelling or abrasions on the head, neck or face;
- 24 (D) Fractures of any bone in a child under the age of three;
- 25 (E) Multiple fractures in a child of any age;
- 26 (F) Dislocations, soft tissue swelling or moderate to severe cuts;
- 27 (G) Loss of the ability to walk or move normally according to the child’s developmental ability;
- 28 (H) Unconsciousness or difficulty maintaining consciousness;
- 29 (I) Multiple injuries of different types;
- 30 (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function  
 31 of any bodily organ; or
- 32 (K) Any other injury that threatens the physical well-being of the child.

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

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

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

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

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

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

45 (B) If the injury was not previously observed by a person conducting an investigation under ORS

1 419B.020; and

2 (b) Regardless of whether the child has previously been photographed or assessed during an in-  
3 vestigation of an allegation of abuse.

4 (4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a des-  
5 ignated medical professional. If after reasonable efforts a designated medical professional is not  
6 available to conduct a medical assessment within 48 hours, the child shall be evaluated by an  
7 available physician, a physician assistant licensed under ORS 677.505 to 677.525[, *naturopathic phy-*  
8 *sician licensed under ORS chapter 685*] or a nurse practitioner licensed under ORS 678.375 to  
9 678.390.

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

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

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

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

28 (7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability  
29 of a minor to refuse to consent to the medical assessment described in this section.

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

31 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and  
32 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records  
33 and public documents, reports and records compiled under the provisions of ORS 419B.010 to  
34 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-  
35 ment of Human Services shall make the records available to:

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

38 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525[, *naturopathic phy-*  
39 *sician licensed under ORS chapter 685*] or nurse practitioner licensed under ORS 678.375 to 678.390,  
40 at the request of the physician, physician assistant[, *naturopathic physician*] or nurse practitioner,  
41 regarding any child brought to the physician, physician assistant[, *naturopathic physician*] or nurse  
42 practitioner or coming before the physician, physician assistant[, *naturopathic physician*] or nurse  
43 practitioner for examination, care or treatment;

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

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

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

7 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-  
8 ties;

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

10 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS  
11 342.176 involving any child or any student in grade 12 or below;

12 (i) Any person, upon request to the Department of Human Services, if the reports or records  
13 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-  
14 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be  
15 disclosed in accordance with ORS 192.311 to 192.478;

16 (j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and (i); and

17 (k) With respect to a report of abuse occurring at a school or in an educational setting that  
18 involves a child with a disability, Disability Rights Oregon.

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

25 (b) If the Department of Human Services does not have a report or record of abuse regarding  
26 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS  
27 161.015, the department may disclose that information.

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

38 (4) A law enforcement agency may make reports and records compiled under the provisions of  
39 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-  
40 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement  
41 agency determines that disclosure is necessary for the investigation or enforcement of laws relating  
42 to child abuse and neglect or necessary to determine a claim for crime victim compensation under  
43 ORS 147.005 to 147.367.

44 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific  
45 case relating to child abuse or neglect, shall make reports and records in the case available upon

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

10 (6)(a) Any record made available to a law enforcement agency or community corrections agency  
11 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-  
12 vision or to a physician, physician assistant[, *naturopathic physician*] or nurse practitioner in this  
13 state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency,  
14 department, board, physician, physician assistant[, *naturopathic physician*] or nurse practitioner. Any  
15 record or report disclosed by the Department of Human Services to other persons or entities pur-  
16 suant to subsections (1) and (3) of this section shall be kept confidential.

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

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

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

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

29 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS  
30 181A.010.

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

32 **SECTION 5. The amendments to ORS 418.747, 419B.020, 419B.023 and 419B.035 by sections**  
33 **1 to 4 of this 2019 Act apply to child abuse medical assessments taking place on or after the**  
34 **effective date of this 2019 Act.**

35 **SECTION 6. This 2019 Act being necessary for the immediate preservation of the public**  
36 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
37 **on its passage.**

38