

# Senate Bill 819

Sponsored by Senators GELSER, OLSEN

## 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**.

Expands parameters of duties and responsibilities of Critical Incident Response Team assigned by Department of Human Services upon becoming aware of fatality of child that was result of abuse or neglect.

Sets forth membership of team. Requires department to provide team members with all available information and records. Requires team to submit initial, progress and final reports to department within specified timelines. Describes requirements for maintaining record of team's case review. Directs team to refer to department personnel matters that led to incident of fatality.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to Critical Incident Response Teams; creating new provisions; amending ORS 419B.024; and  
3 declaring an emergency.

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

5 **SECTION 1.** ORS 419B.024 is amended to read:

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

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

10 (b) The child, **the child's sibling or any other child living in the household with the child**  
11 was the subject of a child protective services assessment by the department within the 12 months  
12 preceding the fatality[.];

13 (c) **The child, the child's sibling or any other child living in the household with the child**  
14 **had a pending child welfare or adoption case with the department within the 12 months**  
15 **preceding the fatality; or**

16 (d) **The child, the child's sibling or any other child living in the household with the child**  
17 **was the subject of a report of abuse or neglect made to the department or a law enforcement**  
18 **agency, whether or not the report was closed at screening without an investigation being**  
19 **commenced.**

20 (2) **Members of the Critical Incident Response Team must be appointed within 24 hours**  
21 **of the assignment of the team under subsection (1) of this section and shall include, at a**  
22 **minimum, the following:**

23 (a) **The Director of Human Services;**

24 (b) **The lead Department of Human Services personnel responsible for the administration**  
25 **and oversight of the child welfare system within the department;**

26 (c) **The department personnel responsible for media and communications;**

27 (d) **A representative from a law enforcement agency as that term is defined in ORS**  
28 **419B.005;**

**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 (e) A court appointed special advocate who is not personally involved in the case;

2 (f) A member of the local citizen review board in the community in which the incident  
3 resulting in the fatality occurred; and

4 (g) A state Senator appointed by the President of the Senate and a state Representative  
5 appointed by the Speaker of the House of Representatives.

6 [(2)] (3) During the course of its review of the case, the Critical Incident Response Team may  
7 include or consult with the district attorney from the county in which the incident resulting in the  
8 fatality occurred.

9 (4) All information and records available to the Department of Human Services regarding  
10 the incident that led to the fatality shall be provided to team members. Information and re-  
11 cords under this subsection include, but are not limited to, medical records, hospital records,  
12 records maintained by any state, county or local agency, police investigative data, coroner  
13 or medical examiner investigative data and social services records, as necessary to complete  
14 a case review under this section. Information and records provided to team members are  
15 confidential and may be disclosed only as necessary to carry out the purposes of the team's  
16 case review.

17 (5) In reviewing the case to which the Critical Incident Response Team has been as-  
18 signed, the team shall, with the assistance and cooperation of the Department of Human  
19 Services:

20 (a) Review and investigate the case with the primary focus on the safety and well-being  
21 of the child who was involved in the incident that led to the fatality and any other children  
22 who may be impacted by the circumstances surrounding the incident.

23 (b) Document and make a part of the record of the case review as described in subsection  
24 (7) of this section all team conclusions and decisions.

25 (c) Ensure that the case review is timely, efficient and comprehensive, includes inter-  
26 views with individuals who were involved in the incident and includes examination of or  
27 contact with collateral resources that may have or contain information not available or  
28 provided in the information and records provided to the team by the department under sub-  
29 section (4) of this section.

30 (d) Complete the case review even if the team concludes that the incident that led to the  
31 fatality was the result of the actions of one or more department employees or staff and that  
32 such actions were inconsistent with department policy or administrative rule.

33 (e) Subject to subsection (6) of this section, submit an initial written report to the de-  
34 partment that includes information about the team's case review status, team conclusions  
35 and recommendations at the time of the initial report and identification of systemic issues  
36 that the team has concluded led to the fatality. The initial report may not contain confi-  
37 dential information or records that may not be disclosed to members of the public. The initial  
38 report must be submitted as soon as possible but no later than 60 days following assignment  
39 of the team under this section.

40 (f) Subject to subsection (6) of this section and if the team's case review is not complete  
41 prior to preparation of an initial report, submit a progress report to the department every  
42 30 days following submission of the initial report.

43 (g) Subject to subsection (6) of this section, submit a detailed final written report to the  
44 department upon conclusion of the team's case review that includes, but is not limited to:

45 (A) A description of the incident that resulted in the fatality and of the events that led

1 to the incident;

2 (B) A description of any concerns raised by actions taken or not taken by the department  
 3 or law enforcement agencies in response to the incident or to the events that led to the in-  
 4 cident;

5 (C) Recommendations for improvements in the administration and oversight of the child  
 6 welfare system that are specific to the case reviewed by the team;

7 (D) A description of actions that are necessary to implement the recommendations and  
 8 of timelines, tasks and responsible individuals to implement the recommendations; and

9 (E) Methods to evaluate implementation of the recommendations and expected outcomes.

10 (h) Prepare a version of the final written report described in paragraph (g) of this sub-  
 11 section that does not contain confidential information or records that may not be disclosed  
 12 and that may be made accessible to members of the public.

13 (6)(a) Prior to submitting an initial report, a progress report or a final report to the de-  
 14 partment as described in subsection (5) of this section, the team shall take into consideration  
 15 the following:

16 (A) Whether submission of the report is likely to compromise an ongoing investigation  
 17 of a law enforcement agency, after the team has communicated with and obtained agreement  
 18 of appropriate law enforcement agency representatives and the district attorney;

19 (B) Whether the report can be modified so as to permit submission of the report to the  
 20 department without compromising a law enforcement agency investigation; and

21 (C) Whether, as determined by the team with the advice and consultation of the Director  
 22 of Human Services, the public interest outweighs the potential consequences to a law  
 23 enforcement agency investigation as provided in ORS 192.501 (3).

24 (b) The director may extend the deadline for submission of an initial report, a progress  
 25 report or a final report if the director determines that a delay is reasonable or if the report,  
 26 even if modified, will compromise a law enforcement agency investigation and the public in-  
 27 terest does not outweigh the potential consequences.

28 (c) If the director delays the submission of a report under this subsection, the  
 29 department's website must reflect the status of and expected submission date for the report.

30 (7) The record of the case review, including but not limited to records received, prepared  
 31 and maintained by the team, is subject to the following:

32 (a) The electronic case record of the incident that led to the fatality must be identified  
 33 as a sensitive case and access must be limited to the team and the department personnel  
 34 assigned to the case review.

35 (b) Hard copies of child welfare records relating to the case must be collected and  
 36 maintained in a location that prevents unauthorized personnel and others from obtaining  
 37 access to the copies.

38 (c) Case notes and narratives in existence before or after the incident that led to the  
 39 fatality may not be altered in any way.

40 (d) New information and records obtained, prepared or received after the incident that  
 41 led to the fatality must be dated and initialed by the person responsible for obtaining, pre-  
 42 paring or receiving the information and records.

43 (8) If the Critical Incident Response Team concludes that the incident that led to the  
 44 fatality involves personnel matters relevant to the Department of Human Services, the team  
 45 shall refer the matters to the human resources or personnel divisions of the department.

1 **The department shall provide team members with a confidential report regarding any per-**  
2 **sonnel actions taken as a result of the referral.**

3 [(3)] (9) The Department of Human Services shall adopt rules necessary to carry out the pro-  
4 visions of this section. The rules adopted by the department shall substantially conform with the  
5 department's child welfare protocol regarding Notification and Review of Critical Incidents.

6 **SECTION 2. The amendments to ORS 419B.024 by section 1 of this 2017 Act apply to**  
7 **Critical Incident Response Teams assigned on or after the effective date of this 2017 Act.**

8 **SECTION 3. This 2017 Act being necessary for the immediate preservation of the public**  
9 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
10 **on its passage.**

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