

Senate Bill 991

Sponsored by Senator COURTNEY (Presession filed.)

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**.

Exempts providers of certain parental respite services from regulation by Department of Human Services.

Makes providers of certain parental respite services mandatory child abuse reporters.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to respite services for parents; creating new provisions; amending ORS 418.205, 418.625 and
3 419B.005; and declaring an emergency.

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

5 **SECTION 1.** ORS 418.205 is amended to read:

6 418.205. As used in ORS 418.205 to 418.310 and 418.992 to 418.998, unless the context requires
7 otherwise:

8 (1) "Child" means an unmarried person under 18 years of age.

9 (2)(a) "Child-caring agency" means any private agency or private organization providing:

10 (A) Day treatment for children with emotional disturbances;

11 (B) Adoption placement services;

12 (C) Residential care, including but not limited to foster care or residential treatment for chil-
13 dren;

14 (D) Outdoor youth programs; or

15 (E) Other similar services for children.

16 (b) "Child-caring agency" does not include:

17 (A) Residential facilities or foster care homes certified or licensed by the Department of Human
18 Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental
19 disability services[.]; **or**

20 **(B) Any private agency or organization providing respite services for parents pursuant**
21 **to a properly executed power of attorney under ORS 109.056. For purposes of this subpara-**
22 **graph, "respite services" means the voluntary assumption of short-term care and control of**
23 **a minor child without expectation of compensation or reimbursement of expenses for the**
24 **purpose of providing a parent in crisis with relief from the demands of ongoing care of the**
25 **parent's child.**

26 (3)(a) "Outdoor youth program" means a program that provides, in an outdoor living setting,
27 services to children who have behavioral problems, mental health problems or problems with abuse
28 of alcohol or drugs.

29 (b) "Outdoor youth program" does not include any program, facility or activity:

30 (A) Operated by a governmental entity;

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 (B) Operated or affiliated with the Oregon Youth Conservation Corps; or

2 (C) Licensed by the Department of Human Services under other authority of the department.

3 (4) "Private" means not owned, operated or administered by any governmental agency or unit.

4 **SECTION 2.** ORS 418.625 is amended to read:

5 418.625. As used in ORS 418.625 to 418.645:

6 (1) "Certificate" means a written approval to operate a foster home issued by the Department
7 of Human Services on a form prescribed by the department that states the name of the foster parent,
8 the address of the premises to which the certificate applies and the maximum number of children
9 to be maintained or boarded in the foster home at any one time.

10 (2) "Department" means the Department of Human Services.

11 (3) "Foster home" means any home maintained by a person who has under the care of the person
12 in the home any child under the age of 21 years unattended by the child's parent or guardian, for
13 the purpose of providing the child with care, food and lodging, but does not include:

14 (a) Any boarding school that is essentially and primarily engaged in educational work;

15 (b) Any home in which a child is provided board and room by a school board;

16 (c) Any foster home under the direct supervision of a private child-caring agency or institution
17 certified by the department;

18 (d) Any home under the direct supervision of a custodial parent for the purpose of providing
19 respite care as defined by rule; [or]

20 (e) Any developmental disability child foster home as defined in ORS 443.830[.]; or

21 **(f) Any home of a provider of respite services, as defined in ORS 418.205, for parents**
22 **pursuant to a properly executed power of attorney under ORS 109.056.**

23 **SECTION 3.** ORS 419B.005 is amended to read:

24 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

25 (1)(a) "Abuse" means:

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

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

32 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
33 tration and incest, as those acts are described in ORS chapter 163.

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

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

36 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
37 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
38 in the performing for people to observe or the photographing, filming, tape recording or other ex-
39 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
40 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
41 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
42 which is designed to serve educational or other legitimate purposes; and

43 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in
44 ORS chapter 167.

45 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to

1 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
2 welfare of the child.

3 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
4 to the child's health or welfare.

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

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

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

10 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
11 conditions described in paragraph (a) of this subsection.

12 (2) "Child" means an unmarried person who is under 18 years of age.

13 (3) "Public or private official" means:

14 (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric phy-
15 sician and surgeon, including any intern or resident.

16 (b) Dentist.

17 (c) School employee.

18 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
19 or employee of an in-home health service.

20 (e) Employee of the Department of Human Services, Oregon Health Authority, State Commission
21 on Children and Families, Child Care Division of the Employment Department, the Oregon Youth
22 Authority, a county health department, a community mental health program, a community develop-
23 mental disabilities program, a county juvenile department, a licensed child-caring agency or an al-
24 cohol and drug treatment program.

25 (f) Peace officer.

26 (g) Psychologist.

27 (h) Member of the clergy.

28 (i) Regulated social worker.

29 (j) Optometrist.

30 (k) Chiropractor.

31 (L) Certified provider of foster care, or an employee thereof.

32 (m) Attorney.

33 (n) Licensed professional counselor.

34 (o) Licensed marriage and family therapist.

35 (p) Firefighter or emergency medical technician.

36 (q) A court appointed special advocate, as defined in ORS 419A.004.

37 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

38 (s) Member of the Legislative Assembly.

39 (t) Physical, speech or occupational therapist.

40 (u) Audiologist.

41 (v) Speech-language pathologist.

42 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
43 gations or discipline by the commission.

44 (x) Pharmacist.

45 (y) An operator of a preschool recorded program under ORS 657A.255.

1 (z) An operator of a school-age recorded program under ORS 657A.257.

2 (aa) **A provider of respite services, as defined in ORS 418.205, for parents pursuant to a**
3 **properly executed power of attorney under ORS 109.056.**

4 (4) “Law enforcement agency” means:

5 (a) Any city or municipal police department.

6 (b) Any county sheriff’s office.

7 (c) The Oregon State Police.

8 (d) A county juvenile department.

9 **SECTION 4.** ORS 419B.005, as operative until July 1, 2010, is amended to read:

10 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

11 (1)(a) “Abuse” means:

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

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

18 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
19 tration and incest, as those acts are described in ORS chapter 163.

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

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

22 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
23 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
24 in the performing for people to observe or the photographing, filming, tape recording or other ex-
25 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
26 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
27 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
28 which is designed to serve educational or other legitimate purposes; and

29 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in
30 ORS chapter 167.

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

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

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

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

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

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

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

44 (3) “Public or private official” means:

45 (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric phy-

1 sician and surgeon, including any intern or resident.

2 (b) Dentist.

3 (c) School employee.

4 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
5 or employee of an in-home health service.

6 (e) Employee of the Department of Human Services, Oregon Health Authority, State Commission
7 on Children and Families, Child Care Division of the Employment Department, the Oregon Youth
8 Authority, a county health department, a community mental health program, a community develop-
9 mental disabilities program, a county juvenile department, a licensed child-caring agency or an al-
10cohol and drug treatment program.

11 (f) Peace officer.

12 (g) Psychologist.

13 (h) Member of the clergy.

14 (i) Regulated social worker.

15 (j) Optometrist.

16 (k) Chiropractor.

17 (L) Certified provider of foster care, or an employee thereof.

18 (m) Attorney.

19 (n) Licensed professional counselor.

20 (o) Licensed marriage and family therapist.

21 (p) Firefighter or emergency medical technician.

22 (q) A court appointed special advocate, as defined in ORS 419A.004.

23 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

24 (s) Member of the Legislative Assembly.

25 (t) Physical, speech or occupational therapist.

26 (u) Audiologist.

27 (v) Speech-language pathologist.

28 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
29gations or discipline by the commission.

30 (x) Pharmacist.

31 **(y) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a**
32 **properly executed power of attorney under ORS 109.056.**

33 (4) "Law enforcement agency" means:

34 (a) Any city or municipal police department.

35 (b) Any county sheriff's office.

36 (c) The Oregon State Police.

37 (d) A county juvenile department.

38 **SECTION 5. The amendments to ORS 418.205, 418.625 and 419B.005 by sections 1 to 4 of**
39 **this 2010 Act apply to respite services provided on or after the effective date of this 2010 Act.**

40 **SECTION 6. This 2010 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
42 **on its passage.**

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