

Enrolled
House Bill 2052

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

CHAPTER

AN ACT

Relating to payments to adoptive parents; creating new provisions; amending ORS 418.330, 418.335 and 418.340; and declaring an emergency.

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

SECTION 1. ORS 418.330 is amended to read:

418.330. (1) **As used in this section:**

(a) **“Child” means:**

(A) **A person under 18 years of age;**

(B) **A person under 21 years of age if the Department of Human Services determines that the person has a mental or physical disability that warrants the continuation of assistance; or**

(C) **A person who has attained 18 years of age and:**

(i) **On whose behalf payments under this section were received prior to the person attaining 18 years of age, provided the person was at least 16 years of age at the time the payments commenced;**

(ii) **Has not attained 21 years of age; and**

(iii) **(I) Is completing secondary education or a program leading to an equivalent credential;**

(II) Is enrolled in an institution or program that provides post-secondary or vocational education;

(III) Is participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) Is employed for at least 80 hours per month; or

(V) Is incapable of doing any of the activities described in sub-sub-paragraphs (I) to (IV) of this sub-paragraph due to a medical condition, which incapability is supported by regularly updated documentation.

(b) **“Child-caring agency” means:**

(A) **A child-caring agency as defined in ORS 418.205; and**

(B) For a child who has attained 18 years of age, an independent residence facility established or certified under ORS 418.475 in which the child resides as an enrollee in an independent living program.

(c) **“Nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees and other expenses that are directly related to the adoption of a child with special needs and that are not incurred in violation of state or federal law.**

[1] (2) The department [of *Human Services*] may make payments to adoptive parents on behalf of a child placed for adoption by the department or by an approved child-caring agency when the department determines:

(a) The child has special needs because of [a *handicap*] **an impediment** to adoptive placement by reason of the child's physical or mental condition, race, age, or membership in a sibling group; or

(b) The adoptive family is capable of providing the permanent family relationships needed by the child in all respects other than financial, and the needs of the child are beyond the economic ability and resources of the family.

[2] *Payments in subsidization of adoption may include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child. Such payments may not exceed the cost of providing comparable assistance in foster care and shall not be made after the adoptive child becomes 18 years of age.*

(3) Payments to subsidize adoptions made under subsection (2) of this section:

(a) Shall include payment of nonrecurring adoption expenses incurred by or on behalf of adoptive parents in connection with the adoption of a child with special needs;

(b) May include, but are not limited to, the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child;

(c) May not exceed the cost of providing comparable assistance in foster care; and

(d) May not be made:

(A) For a child who has not attained 18 years of age, when the adoptive parents are no longer legally responsible for the support of the child; or

(B) When the child is no longer receiving any support from the adoptive parents.

(4) Adoptive parents receiving payments under subsection (2) of this section shall inform the department of circumstances that would make the adoptive parents:

(a) Ineligible to receive the payments; or

(b) Eligible to receive the payments in a different amount.

SECTION 2. ORS 418.335 is amended to read:

418.335. [(1) *Qualification for payments in subsidization of adoption shall be determined and approved by the Department of Human Services prior to the completion of the adoption proceeding, and shall be redetermined annually thereafter. The department may increase, decrease, suspend or terminate payments at any time in its discretion.*]

[(2) *If a payment in subsidization of adoption is suspended or terminated prior to the 18th birthday of the child, the parents of the child may petition the department for a review of the case. The department shall afford the petitioner an opportunity for a hearing which shall be held in the county the petitioner elects.*]

(1) Qualification for payments under ORS 418.330 must be determined by the Department of Human Services prior to the completion of the adoption proceeding.

(2) The department shall set the amount of payments under ORS 418.330 through negotiations with the prospective adoptive parents, taking into consideration the circumstances of the prospective adoptive parents and the needs of the child.

(3) The department may change the amount of payments under ORS 418.330:

(a) Through renegotiation with the adoptive parents, based upon a showing that there has been a change in the circumstances of the adoptive parents or the needs of the child; or

(b) When the department has reduced or increased the amount of comparable assistance in foster care under ORS 418.647.

(4) The department may suspend or terminate payments when one or more of the following conditions exist:

(a) The child attains 18 years of age.

(b) The adoptive parents are no longer legally responsible for the support of the child.

(c) The child is no longer receiving any support from the adoptive parents.

(5) If a payment under ORS 418.330 is suspended or terminated for a reason not related to the age of the child, the adoptive parents of the child may petition the department for a review of the case. The department shall afford the petitioner an opportunity for a hearing, which must be held in the county the petitioner elects.

SECTION 3. ORS 418.340 is amended to read:

418.340. The Department of Human Services shall make all necessary rules [and regulations for administering the program for payments in subsidization of] for payments to subsidize adoptions.

SECTION 4. The amendments to ORS 418.330, 418.335 and 418.340 by sections 1 to 3 of this 2011 Act become operative on October 1, 2011.

SECTION 5. The Department of Human Services may adopt rules or take any action before the operative date specified in section 4 of this 2011 Act that is necessary for the department to exercise, on or after the operative date specified in section 4 of this 2011 Act, all of the duties, functions and powers conferred on the department by the amendments to ORS 418.330, 418.335 and 418.340 by sections 1 to 3 of this 2011 Act.

SECTION 6. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House March 3, 2011

Received by Governor:

Repassed by House May 12, 2011

.....M.,....., 2011

Approved:

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Ramona Kenady Line, Chief Clerk of House

.....M.,....., 2011

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Bruce Hanna, Speaker of House

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John Kitzhaber, Governor

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Arnie Roblan, Speaker of House

Filed in Office of Secretary of State:

Passed by Senate May 10, 2011

.....M.,....., 2011

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Peter Courtney, President of Senate

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Kate Brown, Secretary of State