

Senate Bill 196

Sponsored by Senator BATES, Representative BUCKLEY (Pre-session 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**.

Requires Department of Human Services and counties to implement Strengthening, Preserving and Reunifying Families programs in each county of state to provide family preservation and reunification services for children in department's legal custody. Requires department to issue licenses, enter into agreements with and make payments to eligible programs. Directs department to seek federal approval to access federal savings accrued as result of reduction in costs of foster and substitute care to reinvest in programs under Act. Includes program services in definition of "purchase of care."

Creates Strengthening, Preserving and Reunifying Families Program Fund. Continuously appropriates moneys in fund to department for specified purposes.

Requires department and court to include in reasonable effort considerations and determinations whether preservation and reunification services provided by programs are most likely to prevent or eliminate removal of child from child's home or most likely to make it possible for child to safely return home.

Requires department to adopt rules.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to programs for children in legal custody of the Department of Human Services; creating
3 new provisions; amending ORS 418.480, 418.485, 418.495 and 418.990; appropriating money; and
4 declaring an emergency.

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

6 **SECTION 1. Sections 2 to 10 of this 2011 Act are added to and made a part of ORS**
7 **chapter 418.**

8 **SECTION 2. As used in sections 2 to 10 of this 2011 Act:**

9 (1) "Child" means a child or ward in the legal custody of the Department of Human Ser-
10 vices.

11 (2) "Family" means, at a minimum but not to the exclusion of siblings as that term is
12 defined in ORS 419A.004 or other persons living in the same household with a child, the child
13 and:

14 (a) The child's parent as that term is defined in ORS 419A.004;

15 (b) The child's guardian appointed pursuant to ORS chapter 125;

16 (c) A person who has a caregiver relationship as that term is defined in ORS 419B.116
17 with the child; or

18 (d) Any other person with care, custody or control of the child.

19 (3) "Juvenile court" means the court having jurisdiction of juvenile matters in the se-
20 veral counties of this state.

21 (4) "Program" means a Strengthening, Preserving and Reunifying Families program de-
22 scribed in section 4 of this 2011 Act.

23 (5) "Reasonable efforts" means the reasonable efforts taken or to be taken or, if the In-
24 dian Child Welfare Act applies, active efforts taken or to be taken, by the Department of

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 Human Services to prevent or eliminate the need for removal of a child from the child's
2 home or, if the child has already been removed from the child's home, the reasonable or
3 active efforts taken or to be taken to make it possible for the child to safely return home.

4 **SECTION 3.** The Legislative Assembly finds that:

5 (1) There is growing empirical evidence that severe trauma may result to children who
6 are in the legal custody of the Department of Human Services by removing them from their
7 families, and that this trauma may give rise to negative child outcomes that last a lifetime,
8 cause intergenerational patterns of addiction, abuse and neglect, and give rise to disrupted
9 and broken families.

10 (2) Improving permanency outcomes for children is best accomplished by providing ser-
11 vices that allow children to remain with their families when appropriate and safe.

12 (3) Allowing families to remain intact while parents undergo mental health or addiction
13 treatment, or to take steps to move out of poverty by obtaining employment and housing,
14 preserves child-parent bonds with improved outcomes for children and families and positive
15 long-term societal effects.

16 (4) Where placement in foster or substitute care outside the home must occur, this can
17 be less traumatic and of shorter duration with the provision of appropriate family-focused
18 treatment and services.

19 (5) Continuing child and family connections with regular visits and contacts between
20 children in foster or substitute care and their families increases the likelihood of reunifica-
21 tion and eases the transition of children back into families.

22 (6) System-wide changes in the delivery of child welfare services for children are needed
23 that emphasize the provision of supervision and case management and preserving and reu-
24 nifying children and their families.

25 (7) Adopting a new model for placing children that involves keeping families together is
26 cost-effective, not only in the long-term sense that families that remain intact require less
27 intervention in the future, but also in terms of the direct expenditure of overall moneys
28 available for the provision of child welfare services.

29 (8) The efficacy of programs that allow families to remain together or that assist families
30 with reunification has been demonstrated by pilot programs, including one that has operated
31 in Jackson County since 2005.

32 (9) Increased foster care savings means increased availability of moneys for child welfare
33 services to all children and families in Oregon.

34 **SECTION 4.** (1) To the extent practicable within available resources, by the year 2016, the
35 Department of Human Services and the counties of this state shall implement and have
36 available in each county at least one Strengthening, Preserving and Reunifying Families
37 program as described in this section.

38 (2) The programs implemented under this section shall provide an array of services in-
39 cluding most if not all of the following:

40 (a) Front end intervention services that include accompanying department caseworkers
41 on initial calls and visits in response to allegations or reports of abuse or neglect, partic-
42 ipating in assessments to determine the appropriateness and level of program services re-
43 quired for a child and the child's family and the development of family preservation plans for
44 presentation to the juvenile court.

45 (b) Residential treatment services whereby a child and the child's family remain together

1 at the child's and family's home with 24-hour supervision while the child and child's family
2 engage in family-strengthening activities and receive appropriate mental health and addiction
3 treatment interventions.

4 (c) Family-centered outpatient treatment services at a program outpatient site, either
5 after completion of residential treatment or in lieu of residential treatment, that involve
6 therapeutic day care and treatment designed specifically for substance-abusing family mem-
7 bers.

8 (d) Where a child cannot remain safely together with the child's family, services that
9 ensure the child remains in contact with the child's family, through regular visits or other-
10 wise, if appropriate and safe.

11 (e) Case managers that provide ongoing child and family supervision, assistance identi-
12 fying and accessing needed services, intervention when problems emerge or relapse behaviors
13 occur and observation and monitoring of parenting behavior.

14 (f) Immediate access to safe permanent or short-term housing with on-site case manag-
15 ers and access to supportive services that increase stability for a child and the child's family.

16 (g) Assistance identifying extended family members to provide additional support, re-
17 sources and alternative placement options if necessary.

18 (h) Advocate services whereby an advocate acts as a liaison for a child and the child's
19 family to bridge the court and child welfare systems, providing information to ensure coop-
20 eration with court orders and legal requirements and, if necessary and appropriate, assist-
21 ance with expunging criminal records.

22 (i) Other services and interventions as programs evolve, research develops and funding
23 becomes available.

24 (3) The services provided by programs must be culturally competent, evidence-based and
25 reflect differences in approaches for urban and rural children and families.

26 (4) Programs shall develop and implement training and continuing education curriculum
27 for persons delivering program services and, when adequate funding exists, sponsor the at-
28 tendance of service providers at state or national training programs, conferences or other
29 similar events.

30 (5) Programs may seek funds from public and private sources to:

31 (a) Meet match requirements for state or federal grants to support the provision of
32 program services;

33 (b) Implement and operate the training and educational requirements of subsection (4)
34 of this section; and

35 (c) Provide financial resources for the hiring of personnel and the provision of existing
36 or enhanced program services.

37 (6) The Department of Human Services, in consultation with programs, shall report an-
38 nually to the Governor and the appropriate interim committees of the Legislative Assembly
39 that address child welfare issues on the progress toward and projected costs of full imple-
40 mentation of sections 2 to 10 of this 2011 Act.

41 **SECTION 5.** (1) Upon finding that a Strengthening, Preserving and Reunifying Families
42 program described in section 4 of this 2011 Act meets the standards of the Department of
43 Human Services for the physical health, care and safety of children, the department shall
44 issue a license to operate the program. The license shall be valid for a period of two years,
45 unless sooner suspended or revoked by the department. However, the department may re-

1 quire that application be made for amendment to an existing license when changes in a fa-
2 cility or program are to occur. The department shall charge no fee for its own inspections
3 or reviews, nor for issuing licenses, but may charge fees to cover costs of inspections done
4 by other governmental agencies for the department.

5 (2) No person or organization shall operate a program without having a current, valid
6 license issued by the department.

7 (3) Any person, including the Director of Human Services, may file a complaint with the
8 department alleging that a child or the child's family is not receiving services necessary to
9 the health, safety or welfare of the child.

10 (4) The department shall investigate complaints made under subsection (3) of this section
11 and, if a reasonable basis for sustaining the complaint appears, shall set a hearing to exam-
12 ine publicly the complaint. Except as provided in subsection (6) of this section, at least two
13 weeks' written notice of the hearing and substance of the complaint and the evidence in
14 support of the complaint must be provided to the program that is the subject of the com-
15 plaint. The parents or guardian of the child involved shall be notified if such persons can be
16 conveniently located. Notice shall be served personally on the program, but may be served
17 by mail at the last-known or determined address of the parent or guardian of the child.

18 (5) The hearing shall comply with the provisions of ORS chapter 183 as to procedures,
19 findings and orders. Where the evidence at the hearing justifies such an order, the depart-
20 ment is authorized to order the program to correct the conditions not in conformity with
21 standards. If corrections are not made within time limits set by the department, the de-
22 partment may suspend or revoke the license or may refuse to renew the license and is em-
23 powered to make any other lawful orders necessary to the protection of the child involved.

24 (6) Where a condition exists that immediately endangers the health or safety of a child,
25 the director may issue an interim order without any notice, or with such notice as is prac-
26 tical under the circumstances, requiring the program to alter the conditions under which the
27 child lives or receives services. The interim emergency order shall remain in force until a
28 final order, after a hearing as provided in subsection (4) of this section, is entered.

29 (7) Inspections and reviews of programs may be conducted by the department at times
30 and frequencies of the department's choosing. The department shall consult with represen-
31 tatives of the programs in developing the standards that shall be the basis for inspections
32 and reviews.

33 (8) A program shall cooperate with the department in making any inspection or review
34 or investigating any complaint made under this section.

35 (9) In addition to remedies otherwise provided under this section and ORS 418.992 to
36 418.998, the department may commence an action to enjoin operation of a program:

37 (a) If the program is being operated without a valid license issued under this section; or

38 (b) If the program provider fails to correct the conditions not in conformity with stan-
39 dards, as set out in an order issued under subsection (5) of this section, within the time
40 specified in the order.

41 (10) The department shall adopt rules to implement this section in accordance with ORS
42 chapter 183.

43 **SECTION 6.** (1) The Director of Human Services or the authorized representative of the
44 director shall enter into agreements with, and make reasonable payment for services pro-
45 vided by, Strengthening, Preserving and Reunifying Families programs that have been li-

1 censed in accordance with section 5 of this 2011 Act for the provision of preservation or
2 reunification services for children in the legal custody of the Department of Human Services
3 and their families as described in section 4 of this 2011 Act.

4 (2) The agreement shall provide for such services as are available through the program
5 existing in each county.

6 (3) The agreement shall be signed by the person or authorized representative of the
7 person operating the program providing the agreed-upon services and by the director or the
8 authorized representative of the director.

9 (4) A program licensed under section 5 of this 2011 Act and contracted with under sub-
10 section (1) of this section shall be the guardian of each child committed to the program.

11 **SECTION 7.** (1) There is established in the State Treasury, separate and distinct from the
12 General Fund, the Strengthening, Preserving and Reunifying Families Program Fund. Inter-
13 est earned by the Strengthening, Preserving and Reunifying Families Program Fund shall be
14 credited to the fund. The fund consists of:

15 (a) Moneys received by the Department of Human Services under section 8 of this 2011
16 Act;

17 (b) Amounts donated to the fund;

18 (c) Amounts appropriated or otherwise transferred to the fund by the Legislative As-
19 ssembly;

20 (d) Investment earnings received on moneys in the fund; and

21 (e) Other amounts deposited in the fund from any source.

22 (2) Moneys in the fund are continuously appropriated to the Department of Human Ser-
23 vices for the purposes of sections 2 to 10 of this 2011 Act.

24 (3) The administrative costs and expenses of the department in implementing sections 2
25 to 10 of this 2011 Act may be paid from moneys available in the fund.

26 **SECTION 8.** (1) The Department of Human Services shall seek federal approval, renewal
27 of an existing waiver of federal requirements or a new waiver of federal requirements as
28 necessary to:

29 (a) Access federal savings that have accrued to the state as a result of a reduction in the
30 cost of foster and substitute care to children in the legal custody of the department; and

31 (b) Create a reinvestment plan for federal savings under paragraph (a) of this subsection
32 into the provision of services through Strengthening, Preserving and Reunifying Families
33 programs under sections 2 to 10 of this 2011 Act.

34 (2) The department shall combine state, federal and private resources to support imple-
35 mentation of a statewide system of programs at the local level as provided under sections 2
36 to 10 of this 2011 Act.

37 **SECTION 9.** (1) In considering what constitutes reasonable efforts or whether reasonable
38 efforts have been made under ORS 419B.185, 419B.337, 419B.340, 419B.470, 419B.476, 419B.498
39 and 419C.173, the Department of Human Services and the juvenile court shall determine
40 whether:

41 (a) A Strengthening, Preserving and Reunifying Families program and at least one pro-
42 gram provider exist in the child's county of residence as that term is defined in ORS
43 419A.004; and

44 (b) Placement of a child and referral of a child and the child's family to a program is or
45 was in the child's best interests and the action most likely to prevent or eliminate the need

1 for removal of the child from the child's home or the action most likely to make it possible
2 for the child to safely return home.

3 (2) If the department or juvenile court determines that placement of the child and re-
4 ferral of the child and the child's family to a program would not prevent or eliminate the
5 need for removal of the child from the child's home or be the action most likely to make it
6 possible for the child to safely return home:

7 (a) The department shall, in any description or documentation of its reasonable efforts,
8 include a written explanation of the reasons why the department did not believe the place-
9 ment of the child and referral of the child and the child's family to the program was in the
10 child's best interests and the course most likely to prevent or shorten the child's separation
11 from the child's family; and

12 (b) The court shall, in any order where a determination or written findings of the
13 department's reasonable efforts are required, include a written explanation of the reasons
14 why the court did not believe the placement of the child and referral of the child and the
15 child's family to the program was in the child's best interests and the course most likely to
16 prevent or shorten the child's separation from the child's family.

17 **SECTION 10.** The Department of Human Services shall adopt rules to implement the
18 provisions of sections 2 to 10 of this 2011 Act.

19 **SECTION 11.** ORS 418.480 is amended to read:

20 418.480. As used in ORS 418.480 to 418.500, "purchase of care" includes the purchase of insti-
21 tutional and foster family care and services, adoptive services, **services provided by Strengthen-**
22 **ing, Preserving and Reunifying Families programs under sections 2 to 10 of this 2011 Act,**
23 services to the unwed mother and her child and such other care and services as the Department of
24 Human Services shall determine to be necessary to carry out the policy stated in ORS 418.485.

25 **SECTION 12.** ORS 418.485 is amended to read:

26 418.485. It is the policy of the State of Oregon to strengthen family life and to insure the pro-
27 tection of all children either in their own homes or in other appropriate care outside their homes.
28 In affording such protection, the Director of Human Services shall in cooperation with public and
29 private child-caring agencies **and with Strengthening, Preserving and Reunifying Families pro-**
30 **grams under sections 2 to 10 of this 2011 Act,** develop a set of short-range and long-range pri-
31 orities for the development of needed child care and services, such priorities to be periodically
32 reviewed and revised as necessary. Such priorities are to be set out in a form enumerating the
33 number of children in each category of need, the type of child care and services needed, the areas
34 of the state where such care and services are needed, and the projected costs. The State of Oregon
35 hereby commits itself to the purchase of care and services for children who need care and to en-
36 courage private child-caring agencies **and Strengthening, Preserving and Reunifying Families**
37 **programs under sections 2 to 10 of this 2011 Act** to develop programs required to meet the needs
38 of the children of this state and money may be appropriated therefor. In developing programs nec-
39 essary to meet the needs of the children of this state, the Director of Human Services shall make
40 every attempt feasible to develop **local, community and county-based** organizations. [*Such efforts*
41 *to develop community organizations are to be documented and presented to the next session of the*
42 *Legislative Assembly.*] **The Department of Human Services shall document and present an an-**
43 **ual report to the appropriate interim committees of the Legislative Assembly that address**
44 **child welfare issues regarding efforts taken under this section.**

45 **SECTION 13.** ORS 418.495 is amended to read:

1 418.495. (1) Within the limits of funds available therefor, the Department of Human Services may
 2 enter into agreements with licensed child-caring agencies, **licensed Strengthening, Preserving and**
 3 **Reunifying Families programs under sections 2 to 10 of this 2011 Act** and other appropriate
 4 facilities, including youth care centers, for the purchase of care for children who require and are
 5 eligible for such care, regardless of whether the children are wards of the state or whether the de-
 6 partment is their guardian or has their custody or whether the children are surrendered to a
 7 child-caring agency **or to a licensed Strengthening, Preserving and Reunifying Families pro-**
 8 **gram under sections 2 to 10 of this 2011 Act** or committed thereto by order of a court under ORS
 9 chapter 419B or 419C. The agreement shall prescribe the procedures for payment, the rate of pay-
 10 ment and may contain such other conditions as the department and the agency, [or] facility **or**
 11 **program** may agree.

12 (2) The department shall by rule adopt payment standards for foster care. In establishing stan-
 13 dards, the department may take into account the income, resources and maintenance available to
 14 and the necessary expenditures of a foster parent who is a relative, as defined by rule, of the child
 15 placed in care.

16 **SECTION 14.** ORS 418.990 is amended to read:

17 418.990. (1) A person who violates ORS 418.250 (2), 418.255, 418.290 or 418.300 commits a Class
 18 D violation.

19 (2) A person who violates ORS 418.630 commits a Class B misdemeanor.

20 (3) Violation of ORS 418.215, 418.250 (1), [or] 418.327 (3) **or section 5 (2) of this 2011 Act** is a
 21 Class A misdemeanor. Each day of violation is a separate offense.

22 **SECTION 15. This 2011 Act being necessary for the immediate preservation of the public**
 23 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 24 **on its passage.**

25
