

Senate Bill 1515

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services and Early Childhood)

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**.

Establishes standards and criteria for mandatory licensing, certification or authorization of child-caring agencies by Department of Human Services. Authorizes department to place conditions on license, certificate or authorization. Establishes conditions for determining full compliance and per se insubstantial compliance.

Authorizes child-caring agency to certify family foster homes upon certification by department.

Permits Director of Human Services to issue interim emergency order or to enjoin operations of child-caring agency if condition exists that seriously endangers or places at risk health, safety or welfare of child.

Establishes standards and requirements for supervision and inspection of premises, books and financial statements of child-caring agencies.

Creates definition of "abuse" of child in care of child-caring agency. Mandates that department immediately notify certain persons and entities and commence investigation upon obtaining knowledge of suspected abuse. Defines findings of substantiated, unsubstantiated and inconclusive abuse.

Becomes operative on July 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to child welfare; creating new provisions; amending ORS 30.260, 109.070, 109.319, 128.640, 278.322, 418.205, 418.210, 418.215, 418.240, 418.246, 418.250, 418.255, 418.260, 418.263, 418.265, 418.270, 418.275, 418.280, 418.285, 418.290, 418.295, 418.305, 418.306, 418.312, 418.325, 418.327, 418.475, 418.485, 418.495, 418.625, 418.647, 418.950, 418.990, 418.992, 418.993, 418.995, 418.998, 419A.004, 419B.005, 419B.100, 419B.371, 441.277, 443.830, 479.210, 479.217, 497.162, 609.652 and 657.060; and declaring an emergency.

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

CHILD-CARING AGENCIES

SECTION 1. ORS 418.205 is amended to read:

418.205. As used in ORS 418.205 to [418.310] **418.327, 418.470, 418.475, 418.950 to 418.970** and 418.992 to 418.998, unless the context requires otherwise:

(1) "Child" means an unmarried person under [18] **21** years of age.

(2)(a) "Child-caring agency":

(A) Means any [private] school, [private] agency or [private] organization providing:

[(A)] (i) Day treatment for children with emotional disturbances;

[(B)] (ii) Adoption placement services;

[(C)] (iii) Residential care, including but not limited to foster care or residential treatment for children;

[(D)] (iv) Residential care in combination with academic education and therapeutic care, in-

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 cluding but not limited to treatment for emotional, behavioral or mental health disturbances;

2 [(E)] (v) Outdoor youth programs; or

3 [(F)] (vi) Other similar **care or** services for children.

4 **(B) Includes the following:**

5 **(i) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;**

6 **(ii) An independent residence facility as described in ORS 418.475;**

7 **(iii) A private residential boarding school; and**

8 **(iv) A child-caring facility as defined in ORS 418.950.**

9 (b) “Child-caring agency” does not include:

10 (A) Residential facilities or foster care homes certified or licensed by the Department of Human
11 Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental
12 disability services;

13 (B) Any private agency or organization facilitating the provision of respite services for parents
14 pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subpar-
15 agraph, “respite services” means the voluntary assumption of short-term care and control of a minor
16 child without compensation or reimbursement of expenses for the purpose of providing a parent in
17 crisis with relief from the demands of ongoing care of the parent’s child;

18 [(C) *A private residential boarding school as defined in subsection (5)(b) of this section; or*]

19 [(D)] (C) A youth job development organization as defined in ORS 344.415[.];

20 **(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or**

21 **(E) A foster home subject to ORS 418.625 to 418.645.**

22 **(3) “Child-caring facility” has the meaning given that term in ORS 418.950.**

23 **(4) “Family foster home” means a foster home certified by a child-caring agency under**
24 **section 6 of this 2016 Act that is not subject to ORS 418.625 to 418.645.**

25 **(5) “Independent residence facility” has the meaning given that term in ORS 418.475.**

26 [(3)(a)] **(6)(a) “Outdoor youth program” means a program that provides, in an outdoor living**
27 **setting, services to children who have behavioral problems, mental health problems or problems with**
28 **abuse of alcohol or drugs.**

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

30 (A) Operated by a governmental entity;

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

32 (C) Licensed by the Department of Human Services under other authority of the department; or

33 (D) Operated by a youth job development organization as defined in ORS 344.415.

34 [(4)] **(7) “Private” means not owned, operated or administered by any governmental agency or**
35 **unit.**

36 [(5)] **(8) “Private residential boarding school” means either of the following as the context re-**
37 **quires:**

38 (a) A child-caring agency that is a private school that provides residential care in combination
39 with academic education and therapeutic care, including but not limited to treatment for emotional,
40 behavioral or mental health disturbances; or

41 (b) A private school providing residential care that is primarily engaged in educational work
42 under ORS 418.327.

43 **(9) “Provider of care or services for children” means a person, entity or organization that**
44 **provides care or services to children, regardless of whether the child is in the custody of the**
45 **Department of Human Services, and that does not otherwise meet the definition of, or re-**

1 **quirements for, a child-caring agency. “Provider of care or services for children” includes**
 2 **a family foster home certified by a child-caring agency under section 6 of this 2016 Act.**

3 **(10) “Shelter-care home” has the meaning given that term in ORS 418.470.**

4 **SECTION 2.** ORS 418.210 is amended to read:

5 418.210. ORS 418.205 to [418.325] **418.327** shall not apply to:

6 (1) Homes established and maintained by fraternal organizations wherein only members, their
 7 spouses and surviving spouses in marriages and children are admitted as residents;

8 (2) Any [family] foster home that is subject to ORS 418.625 to 418.645;

9 (3) Any child care facility that is subject to ORS 329A.030 and 329A.250 to 329A.450;

10 (4) Any individual, or home of an individual, providing respite services, as defined in ORS
 11 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

12 (5) Any private agency or organization facilitating the provision of respite services, as defined
 13 in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

14 or

15 *[(6) A private residential boarding school as defined in ORS 418.205 (5)(b).]*

16 **(6) A shelter-care home that is subject to ORS 418.625 to 418.645.**

17 **SECTION 3.** ORS 418.215 is amended to read:

18 418.215. *[No private child-caring agency shall provide or engage in any care or service described*
 19 *in ORS 418.205 unless the agency is at the time:]*

20 *[(1) Duly incorporated under the corporation laws of any state; and]*

21 *[(2) Licensed to provide or engage in the care or service by the Department of Human Services*
 22 *under the provisions of ORS 418.205 to 418.325.]*

23 **(1) A child-caring agency may not provide or engage in any care or services described in**
 24 **ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 unless the agency is licensed,**
 25 **certified or otherwise authorized to provide or engage in the provision of care or services to**
 26 **a child by the Department of Human Services under ORS 418.205 to 418.327, 418.470, 418.475**
 27 **or 418.950 to 418.970.**

28 **(2) A child-caring agency that provides care or services to a child that is not committed**
 29 **to the custody of the department may not be licensed, certified or authorized under ORS**
 30 **418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 unless the agency is duly incorporated**
 31 **under the corporation laws of any state.**

32 **SECTION 4.** ORS 418.240 is amended to read:

33 418.240. *[(1) All private child-caring agencies subject to ORS 418.205 to 418.325 shall obtain from*
 34 *the Department of Human Services a license authorizing their work. The department shall use the cri-*
 35 *teria designated in this subsection, and such rules pursuant thereto as the department may develop*
 36 *subject to ORS chapter 183, as the basis of judgment in granting, withholding, suspending or revoking*
 37 *such licenses. The criteria are as follows:]*

38 **(1) All child-caring agencies shall obtain from the Department of Human Services a li-**
 39 **cence, certification or other authorization to provide care or services to children under ORS**
 40 **418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970. The criteria for issuance, renewal,**
 41 **suspension or revocation of, or for placing conditions on, a license, certification or authori-**
 42 **zation under this section must:**

43 **(a) Be set forth in rules adopted by the department;**

44 **(b) Include the full compliance requirements set forth in subsection (2) of this section;**

45 **and**

1 (c) **Include, but are not limited to, the following:**

2 [(a)] (A) The fitness of the [applicant] **child-caring agency.**

3 [(b)] (B) The employment of capable, trained or experienced staff [who are not applicants for the
4 approval] **that meet minimum staffing requirements.**

5 [(c)] (C) Sufficient financial backing to [insure] **ensure** effective [work] **operations.**

6 [(d)] (D) The probability of permanence in the [proposed organization] **child-caring agency.**

7 [(e)] (E) The care and services provided to the children served will be in their best interests and
8 that of society.

9 [(f)] (F) That the **child-caring** agency is **or will be** in compliance with the standards of care
10 and treatment established in rules **adopted** by the department.

11 [(2) *In addition to the licensing requirements of subsection (1) of this section, a private child-caring
12 agency shall submit written proof of compliance with ORS 336.575 to the department.*]

13 (2)(a) **The department may not issue or renew a license, certification or other authori-
14 zation to a child-caring agency unless the department finds the agency is or will be in full
15 compliance with all of the following:**

16 (A) **The agency ensures child and family rights.**

17 (B) **The agency complies with abuse reporting and investigation requirements.**

18 (C) **The agency engages in and applies appropriate behavior management techniques.**

19 (D) **The agency provides adequate furnishings and personal items for children.**

20 (E) **The agency provides appropriate food services.**

21 (F) **The agency ensures the safety of children.**

22 (G) **The agency utilizes approved procedures and protocols for use of medications for
23 children receiving care or services from the agency.**

24 (H) **The agency or the agency's employees or agents have not engaged in financial mis-
25 management.**

26 (I) **The agency fully and timely corrects violations and maintains standards in accordance
27 with any plan of correction imposed by the department.**

28 (J) **The agency provides access as required under ORS 418.305 to a child or the agency's
29 premises to the department or the department's employees, investigators, court appointed
30 special advocates, attorneys for a child or other authorized persons or entities.**

31 (b) **The department may suspend, revoke or place conditions on a license, certification
32 or authorization of a child-caring agency if the department finds the agency is not in full
33 compliance with any one or more of the full compliance requirements listed in paragraph (a)
34 of this subsection.**

35 (c) **The following circumstances shall be the basis for a per se finding of insubstantial
36 compliance, and the department may not issue, renew or place conditions on a license, cer-
37 tificate or authorization of a child-caring agency but must take immediate steps to suspend
38 or revoke the license, certification or other authorization of the child-caring agency, if any
39 of the following are found to exist:**

40 (A) **There has been the death of a child as a result of abuse or neglect on the part of the
41 agency or any of the agency's employees or agents.**

42 (B) **There has been sexual or physical abuse or neglect of a child in the agency's care or
43 custody that was known to the agency and the agency did not take immediate steps to report
44 the abuse or neglect and to ensure the child's safety.**

45 (C) **The agency failed to cooperate fully with any local, state or federal regulatory entity's**

1 investigation of the agency or the agency's operations or employees.

2 (D) The agency failed to provide reports or financial statements as required under ORS
3 418.255 and 418.265.

4 (d) It is grounds to deny issuance or renewal, suspend, revoke or place conditions on a
5 license, certification or other authorization if a child-caring agency, or the owner or operator
6 of the agency, has been found by other state or federal entities to have engaged in financial,
7 civil or criminal misconduct.

8 (3) The department may place conditions on any license, certification or authorization
9 issued under this section, including but not limited to placing full or partial restrictions on
10 admission of children, temporary suspension, limitation of operations subject to an intent to
11 revoke and limitation of operations subject to correction of violations as specified in a plan
12 of correction imposed by the department.

13 (4) If applicable, an applicant shall submit written proof of compliance with the notifica-
14 tion requirements in ORS 336.575.

15 [(3)] (5) *[The department shall charge no fee for its own inspections leading to its decisions re-*
16 *garding such licensing, nor for issuance of such licenses,]* **The department may not charge a fee**
17 **for inspections leading to decisions regarding, and issuance of, licenses, certifications or au-**
18 **thorizations under this section, but may impose fees to cover costs of related inspections done for**
19 **the department by other governmental agencies.**

20 [(4)] (6) A license, **certification or authorization** issued by the department under this section
21 shall be valid for a period of two years, unless suspended or revoked sooner by the department.
22 However, the department at any time may require amendments to an existing license, **certificate**
23 **or authorization** to accommodate changes in the factors upon which *[an existing license]* **the is-**
24 **suance** was based.

25 (7) When a condition exists that seriously endangers or places at risk the health, safety
26 or welfare of a child who is receiving care or services at a child-caring agency:

27 (a) The Director of Human Services shall issue an interim emergency order without no-
28 tice, or with reasonable notice under the circumstances, requiring the agency to correct the
29 conditions and ensure the safety of children in the care of the agency. The interim emer-
30 gency order shall remain in force until a final order, after a hearing, has been entered in
31 accordance with ORS chapter 183.

32 (b) The director may commence an action to enjoin operation of a child-caring agency:

33 (A) If the agency is being operated without a valid license, certificate or other authori-
34 zation issued under this section; or

35 (B) If the agency fails to comply with a plan of correction imposed by the department
36 or to correct conditions not in conformity with standards as set out in an order issued under
37 paragraph (a) of this subsection, within the time specified in the order.

38 (8) If the director, the director's designee or the department becomes aware through any
39 means that a child-caring agency, or an owner, operator or employee of a child-caring
40 agency, is the subject of an investigation by another state agency, law enforcement agency
41 or federal agency, the director or director's designee shall take immediate steps to cause an
42 investigation to take place into the circumstances surrounding the investigation and whether
43 there is a threat to a child, or whether a child is at risk, at the child-caring agency. Upon
44 determination of the level of threat or risk to children at the agency, the director shall take
45 appropriate steps to protect and ensure the health, safety and welfare of children as neces-

1 sary under the circumstances. Failure to comply with the requirements of this subsection
2 constitutes grounds for a charge of official misconduct in the second degree under ORS
3 162.405.

4 (9) If the Department of Justice, Department of Revenue or Bureau of Labor and Indus-
5 tries commences an investigation of a child-caring agency or an owner, operator or employee
6 of a child-caring agency, the Department of Justice, Department of Revenue or Bureau of
7 Labor and Industries shall notify, inform and regularly update the director, the director's
8 designee or such other personnel in the department designated to receive such information
9 regarding the investigation. The director and the department shall immediately undertake
10 the responsive action required by subsection (8) of this section upon receiving such notifi-
11 cation. Interference with, discouragement of or impediment to the receipt of the notification,
12 information and updates required under this subsection constitutes official misconduct in the
13 second degree under ORS 162.405.

14 (10) The Department of Human Services shall adopt rules to implement the provisions
15 of this section.

16 **SECTION 5.** Sections 6 and 7 of this 2016 Act are added to and made a part of ORS 418.205
17 to 418.327.

18 **SECTION 6.** (1) A child-caring agency may certify a family foster home as a provider of
19 care or services for children. The agency may not certify a family foster home under this
20 section unless the Department of Human Services has certified that the family foster home
21 meets minimum standards as established by rules adopted by the department. The certifica-
22 tion of a family foster home by the department and the child-caring agency must take place
23 before placement of a child in the family foster home.

24 (2) Prior to certification as a family foster home, an applicant shall provide the depart-
25 ment and the child-caring agency with a release of information or other written authori-
26 zation sufficient to enable the department and the agency to conduct a records check of the
27 applicant. Results of a records check are confidential and are subject to inspection only by
28 the department, by the agency or pursuant to a court order. An applicant must disclose to
29 the department and the agency any criminal conviction, imposition of a restraining or pro-
30 tective order against the applicant or abuse investigation of the applicant related to a vul-
31 nerable person, including but not limited to a child, elderly person, person with a disability
32 or person residing in a long term care facility as defined in ORS 442.015, a residential facility
33 as defined in ORS 443.400, including but not limited to an assisted living facility, or an adult
34 foster home as defined in ORS 443.705.

35 (3) If a decision is made not to certify a family foster home under this section for reasons
36 related to the records check performed under subsection (2) of this section, the department
37 and the agency shall disclose to the applicant the reasons for the denial of certification.

38 (4) The department shall adopt rules to implement the provisions of this section.

39 **SECTION 7.** The Department of Human Services shall maintain a staff of a minimum of
40 five full-time equivalent employees who are responsible for the issuance, renewal, suspension
41 or revocation of, or for the placing of conditions on, licenses, certifications or other au-
42 thorizations issued under ORS 418.240 and section 6 of this 2016 Act, and for the inspection
43 and investigation of child-caring agencies licensed, certified or otherwise authorized by the
44 department.

45 **SECTION 8.** ORS 418.246 is amended to read:

1 418.246. (1) In addition to any requirements for licensure established by the Department of Hu-
 2 man Services, each outdoor youth program that is applying for licensure as a child-caring agency
 3 shall file with the department a bond in the amount of \$50,000 or 50 percent of the program's yearly
 4 budget, whichever amount is less. The bond shall be issued by a surety company or an insured in-
 5 stitution, as defined in ORS 706.008, authorized to do business in this state.

6 (2) The bond required under subsection (1) of this section shall be continuous until canceled and
 7 shall remain in full force and unimpaired at all times to comply with this section. The surety or
 8 insured institution shall give the department at least 30 days' written notice before it cancels or
 9 terminates its liability under the bond.

10 (3) An action on the bond may be brought by any person aggrieved by the misconduct of an
 11 outdoor youth program required to be licensed under ORS 418.205 to [418.310] **418.327**.

12 **SECTION 9.** ORS 418.250 is amended to read:

13 418.250. [(1) *In order to enable it to supervise all child-caring agencies and institutions in this*
 14 *state, public and private, and also all homeless or neglected children in this state, whether kept in such*
 15 *agencies or institutions or not, the Department of Human Services may require such agencies or insti-*
 16 *tutions, and also any court functioning as a juvenile court, to furnish at any time, on blanks prepared*
 17 *or recommended by the department, such information as the department in its judgment may require*
 18 *in regard to each child in any such agency or institution or any record of each child that has been*
 19 *placed out under order of any such court. The agency, institution or court shall furnish such informa-*
 20 *tion to the department upon request. All such information so requested and received by the department*
 21 *shall be considered and treated at all times as confidential and not as a public record.]*

22 [(2) *No employee of the department shall disclose any such information contrary to the provisions*
 23 *of subsection (1) of this section.]*

24 **In order to enable the Department of Human Services to supervise and monitor all**
 25 **child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970**
 26 **and all providers of care or services to children in this state, and to safeguard children re-**
 27 **ceiving care or services from such agencies or providers, the department may require the**
 28 **child-caring agency or provider, and any juvenile court as defined in ORS 419A.004, to provide**
 29 **at any time, in the manner prescribed by rules adopted by the department, such information**
 30 **as the department requires with respect to a child who is receiving care or services from the**
 31 **agency or provider, or who is the subject of an order entered by the juvenile court. All in-**
 32 **formation requested or received by the department under this section is confidential and not**
 33 **subject to public disclosure or inspection.**

34 **SECTION 10.** ORS 418.255 is amended to read:

35 418.255. [(1) *The Department of Human Services shall inspect and supervise all private child-caring*
 36 *agencies, whether incorporated or not, within this state, and may inspect and supervise public child-*
 37 *caring agencies within this state. The department is given right of entrance, privilege of inspection, and*
 38 *access to all accounts and records of work and children, for the purpose of ascertaining the kind and*
 39 *quality of work done and to obtain a proper basis for its decisions and recommendations.]*

40 [(2) *Inspection and visitation of child-caring agencies by the department shall be made at unex-*
 41 *pected times, with irregular intervals between visits, and without previous notice to the agency visited.*
 42 *In addition to such official inspection, many other informal visits shall be made.]*

43 [(3) *The department shall advise agency and institution officers and workers in regard to approved*
 44 *methods of child care, best types of housing and equipment and adequate records of agency or institu-*
 45 *tional work. The principal purpose of such advice shall be to offer friendly counsel and assistance on*

1 *child welfare problems and advice on progressive methods and improvement of the service.]*

2 (1) **The Department of Human Services shall inspect and supervise all child-caring agen-**
 3 **cies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970 as provided in**
 4 **this section.**

5 (2) **Inspections of the premises of a child-caring agency shall occur no less frequently**
 6 **than once per year and shall be made at unexpected times, with irregular intervals between**
 7 **inspections and without previous notice to the agency. The inspection must include in-**
 8 **spection of all areas where children reside or receive care or services including, but not**
 9 **limited to, common areas, children's personal living spaces and bathrooms.**

10 (3)(a) **A child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950**
 11 **to 418.970 that has annual revenues in excess of \$1 million must provide the department with**
 12 **annual financial statements that have been audited by an independent certified public ac-**
 13 **countant at such times as the department specifies by rule.**

14 (b) **All child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950**
 15 **to 418.970 that are not described in paragraph (a) of this subsection shall provide the de-**
 16 **partment, upon request or at such times as prescribed in rules adopted by the department,**
 17 **with financial statements that have been reviewed by an independent certified public ac-**
 18 **countant.**

19 (c) **Information in financial statements submitted to the department under this sub-**
 20 **section is a public record and open for inspection by any person without order of a court.**

21 (4) **The department may conduct an audit, including a forensic audit, of any child-caring**
 22 **agency subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 to determine**
 23 **compliance with ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970. The department**
 24 **may, upon request at any time, inspect and audit the books and records, including but not**
 25 **limited to financial records, of the agency. An audit or inspection under this subsection shall**
 26 **be at the expense of the department.**

27 (5) **Failure to permit an inspection, whether of the premises or of the books and records**
 28 **of the child-caring agency, or failure to provide the financial statements, as required by this**
 29 **section is grounds for a finding of per se insubstantial compliance under ORS 418.240 and for**
 30 **denial, revocation or suspension of a license, certificate or other authorization issued by the**
 31 **department.**

32 (6) **The department may advise the operators, owners and employees of child-caring**
 33 **agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970 in regard to**
 34 **approved methods of child care, recommended housing and equipment and appropriate**
 35 **methods to maintain adequate records of operations.**

36 [(4)] (7) **In addition to advice provided under subsection [(3)] (6) of this section, the department**
 37 **shall provide training regarding appropriate ethnic hair and skin care for children of African-**
 38 **American, Hispanic, Native American, Asian-American or multiracial descent to:**

39 (a) **Child-caring agencies;**

40 (b) **Persons providing treatment, care or services under the supervision of a child-caring agency;**
 41 **and**

42 (c) **Prospective adoptive parents of a child in foster care.**

43 (8) **The department shall adopt rules to implement the provisions of this section.**

44 **SECTION 11.** ORS 418.260 is amended to read:

45 418.260. *[If any abuses, derelictions or deficiencies are made known to the Department of Human*

1 *Services or its agents during their inspection of any child-caring agency or institution, or at any time*
2 *are reported to the department, the department shall at once carefully investigate the reports or rumors*
3 *and take such action as the matters require. If any abuses, derelictions or deficiencies are found in any*
4 *state child-caring institution or agency, they shall be reported at once in writing to the responsible state*
5 *agency. If any such abuses, derelictions or deficiencies are found in any other public institution, they*
6 *shall be reported in like manner to the proper authority or governing board. In either case, if such*
7 *abuses, derelictions or deficiencies are not corrected in a reasonable time, the same shall be reported*
8 *in writing to the legislature or the appropriate interim committee if the legislature is not in session. If*
9 *any such abuses, derelictions or deficiencies are found in any private child-caring agency, they shall*
10 *be brought at once to the attention of its trustees or managers. If they are not corrected in a reasonable*
11 *time, the department shall suspend or revoke its approval of such agency. However, if the abuses, der-*
12 *elictions or deficiencies found in a private child-caring agency are determined by the department to be*
13 *or threaten a serious danger to any child or to the public, the department may immediately suspend*
14 *or revoke the agency's license, subject to the provisions of ORS 183.430.]*

15 **(1) If the Department of Human Services becomes aware of any suspected or founded**
16 **abuses, deficiencies or violations, including but not limited to the failure to comply with the**
17 **full compliance requirements described in ORS 418.240, occurring in a child-caring agency,**
18 **whether as a part of the inspections undertaken pursuant to ORS 418.255 or otherwise, the**
19 **department shall immediately investigate and take appropriate action, with primary concern**
20 **given to the health, safety and welfare of the children for whom the child-caring agency is**
21 **responsible. The department shall immediately report the alleged abuses, deficiencies or vi-**
22 **olations to the state agency, governing board, trustees, owners, managers or operators or**
23 **other appropriate authority responsible for the child-caring agency. The department may**
24 **notify law enforcement agencies as necessary to coordinate and assist in the investigation**
25 **and enforcement of corrective actions undertaken by the department.**

26 **(2) If the department finds, after investigation by the department or law enforcement**
27 **agencies, that the abuses, deficiencies, violations or insubstantial compliance are founded,**
28 **the department may suspend, revoke or place conditions on the license, certificate or other**
29 **authorization of the child-caring agency. The conditions placed on a license, certificate or**
30 **authorization may include, but are not limited to, placing full or partial restrictions on ad-**
31 **mission of children, temporary suspension, limitation of operations subject to an intent to**
32 **revoke or limitation of operations subject to correction of violations as specified in a plan**
33 **of correction. If the department imposes a plan of correction, and the corrections are not**
34 **made within 45 days from the effective date of the plan of correction, the department may**
35 **immediately suspend or revoke the license, certificate or authorization of the child-caring**
36 **agency.**

37 **(3) If the department determines at any time during or after an investigation that the**
38 **abuses, deficiencies, violations or insubstantial compliance are or threaten a serious danger**
39 **to any child or to the public, or place a child at risk with respect to the child's health, safety**
40 **or welfare, the department may immediately suspend or revoke the child-caring agency's li-**
41 **cence, certificate or authorization, subject to the provisions of ORS chapter 183.**

42 **(4) If the department determines that the abuses, deficiencies, violations or insubstantial**
43 **compliance are founded and the department imposes a plan of correction that the child-**
44 **caring agency does not comply with in the time allotted for correction, the department shall**
45 **immediately notify the following of the failure of the agency to comply with the plan of cor-**

1 **rection:**

2 (a) **The Legislative Assembly or the interim committees of the Legislative Assembly re-**
3 **lating to child welfare.**

4 (b) **The state agency, governing board, trustees, owners, managers or operators or other**
5 **appropriate authority responsible for the child-caring agency.**

6 (5) **Any employee of the department that has reasonable cause to believe that a child-**
7 **caring agency has committed an abuse, incurred a deficiency or violation or is in insubstan-**
8 **tial compliance, and that such abuse, deficiency, violation or insubstantial compliance is or**
9 **threatens a serious danger to any child at the agency or to the public, or places a child at**
10 **risk with respect to the child's health, safety or welfare, is required to immediately inform**
11 **the Director of Human Services, the director's designee or such other personnel in the de-**
12 **partment designated to receive such information. Upon receipt of an employee report under**
13 **this subsection, the director and department personnel shall immediately commence an in-**
14 **vestigation and take all reasonably prudent and necessary actions to ensure the health,**
15 **safety and welfare of children at the agency. Failure to commence an investigation and take**
16 **actions as required by this subsection constitutes official misconduct in the second degree**
17 **under ORS 162.405.**

18 **SECTION 12.** ORS 418.263 is amended to read:

19 418.263. There is established in the State Treasury, separate and distinct from the General Fund,
20 the [Private] Child-Caring Agencies Fund. The fund consists of moneys received by the Department
21 of Human Services under ORS 418.998 (2) and such other moneys as may be otherwise made avail-
22 able by law. Interest earned on the fund shall be credited to the fund. Moneys in the fund are con-
23 tinuously appropriated to the department and must be used only for the administration and
24 enforcement of ORS 418.205 to [418.310] **418.327, 418.470, 418.475, 418.950 to 418.970 or 418.992 to**
25 **418.998.**

26 **SECTION 13.** ORS 418.265 is amended to read:

27 418.265. [(1) *At the request of the Department of Human Services, each public or private child-*
28 *caring agency or institution within this state shall make a report of its work to the department in such*
29 *form and detail as the department prescribes.*]

30 [(2) *The reports may include detailed statistics of all children served, financial statements of the*
31 *expense of their care, the number and kind of workers employed, the value and conditions of the plant*
32 *owned or used, the amount of the endowment or invested funds and any other essential matters that*
33 *may be indicated by the requirements of the department.*]

34 [(3) *The department shall prepare and supply to the various child-caring agencies and institutions*
35 *the necessary printed blanks to record the desired information. Within any year, the department may*
36 *require such further detailed information and audit of the financial affairs of such agency or institution*
37 *as it deems to be in the public interest and may make such inspection of the books and records of such*
38 *agency or institution as it deems necessary. Such audit and inspection of books and records of such*
39 *agencies and institutions shall be at the expense of the department.*]

40 [(4) *All such agencies or institutions shall conform their records to the statutory fiscal year of the*
41 *state.*]

42 [(5) *All reports required of agencies and institutions shall be filed with the department not later*
43 *than 60 days from the date of request.*]

44 (1) **All child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950**
45 **to 418.970 shall report to the Department of Human Services at such times and with such**

1 information as the department prescribes in rules adopted by the department. At a mini-
 2 mum, the reports must be required at least once every two years and must contain infor-
 3 mation regarding the number of children served, the type of care and services provided,
 4 financial information about the cost to provide care and services, the value and condition of
 5 any real property owned, leased or used by the agency and any other information required
 6 under rules adopted by the department.

7 (2) Information submitted in reports under this section is a public record and open for
 8 inspection by any person without order of a court.

9 (3) Failure to provide the reports required under this section is grounds for a finding of
 10 per se insubstantial compliance under ORS 418.240 and for denial, revocation or suspension
 11 of a license, certificate or other authorization issued by the department.

12 **SECTION 14.** ORS 418.270 is amended to read:

13 418.270. (1) If licensed for such purposes by the Department of Human Services, a [*private*]
 14 child-caring agency may receive children from [*their*] **the children's** parents or legal guardians for
 15 special, temporary or continued care. The parents or guardians may sign releases or surrenders
 16 giving to [*such agencies*] **the agency** guardianship and control of the [*persons of such*] children
 17 during the period of [*such*] care, which may be extended until the children arrive at legal age.
 18 [*Such*] Releases do not surrender the rights of [*such*] parents or guardians in respect to the adoption
 19 of [*such*] children and do not entitle [*such organization*] **the agency** to give consent to the adoption
 20 of the children unless the release or surrender expressly recites that [*it*] **the release or surrender**
 21 is given for the purpose of adoption. [*Private*] Child-caring agencies are authorized to place children
 22 for adoption or **family** foster care only if authorized by the department in the license issued by the
 23 department **to the agency**.

24 (2) [*Any entire*] Severance of family ties [*of such*] **with** children by adoption or otherwise
 25 [*shall*] **may** be accomplished only by the order of a court of competent jurisdiction.

26 (3) In the absence of the certificate provided for in subsection (4) of this section, it is unlawful
 27 to present a child **released or** surrendered to [*an*] **a child-caring** agency by a parent, parents or
 28 guardian for a court to pass upon the adoption of the child until at least six months have elapsed
 29 after signing the **release or** surrender.

30 (4) [*Parents or legal guardians of children whom they have by release or surrender agreement*
 31 *given into the guardianship of incorporated child-caring agencies*] **Parents or guardians who have**
 32 **given a child into the guardianship of a child-caring agency by release or surrender under**
 33 **this section** for the purpose of adoption may, concurrently or subsequently and without any
 34 adoption proceeding having been initiated, agree that the release or surrender shall become irrev-
 35 ocable as soon as the child is placed by the agency in the physical custody of a person or persons
 36 for the purpose of adoption [*by them*], and waive their right to personal appearance in court in
 37 matters of adoption of [*such children*] **the child**, by a duly signed and attested certificate. From and
 38 after [*such*] physical placement for adoption, **the** [*such*] certificate of irrevocability and waiver and
 39 the release or surrender may not be revoked by the parent or guardian unless fraud or duress is
 40 affirmatively proved.

41 (5) No agreement to release or surrender a child for adoption, or other agreement or waiver of
 42 rights having the same effect, executed before March 24, 1971, in connection with the surrender of
 43 a child into the guardianship of a child-caring agency for purposes of adoption, may be revoked or
 44 held invalid for any reason except upon affirmative proof of fraud or duress.

45 **SECTION 15.** ORS 418.275 is amended to read:

1 418.275. (1) A [*private*] child-caring agency shall be the guardian of each child released or sur-
 2 rendered to [*it*] **the agency** under the conditions provided in ORS 418.270 and of each child com-
 3 mitted to [*it through a permanent*] **the agency by** order of a court of competent jurisdiction.

4 (2) The **child-caring** agency may retain [*children*] **a child** released, surrendered or committed
 5 to [*it*] **the agency** in institutional care, or may place [*them in private family*] **the child in family**
 6 **foster homes temporarily or as [*members of families.*] a member of a family. An agency maintains**
 7 **custody, control and guardianship of, and responsibility for, a child placed with a family**
 8 **foster home by the agency.** If the agency deems the action proper and desirable, [*it*] **the agency**
 9 may consent in loco parentis to the legal [*adoptions*] **adoption** of the [*children*] **child**, subject to the
 10 conditions provided in ORS 418.270.

11 **SECTION 16.** ORS 418.280 is amended to read:

12 418.280. [*Private child-caring agencies, in placing children in private families, shall:*]

13 (1) **A child-caring agency may not place a child with a family foster home unless the**
 14 **home has been certified by the Department of Human Services and the agency pursuant to**
 15 **section 6 of this 2016 Act.**

16 (2) **In placing a child with a family foster home that has been certified by the department**
 17 **and a child-caring agency under this section and section 6 of this 2016 Act, the agency shall:**

18 [(1)] (a) Safeguard the welfare of the [*children*] **child** by the thorough investigation of each ap-
 19 plicant and home and its environment;

20 [(2)] (b) Carefully select the child to suit the new relationship and location;

21 [(3)] (c) Personally and adequately supervise [*each*] **the** home and child until the [*latter*] **child**
 22 returns to the direct care of the agency or, if permanently placed, receives legal adoption or attains
 23 legal age; and

24 [(4)] (d) So far as practicable, place [*such children in families*] **the child in a family** of the same
 25 religious faith as that held by the [*children or their parents*] **child or the child's parents.**

26 (3) **A child-caring agency maintains custody, control and guardianship of, and responsi-**
 27 **bility for, a child placed with a family foster home by the agency.**

28 **SECTION 17.** ORS 418.285 is amended to read:

29 418.285. In addition to [*its*] other powers and responsibilities **of the Department of Human**
 30 **Services**, the [*Department of Human Services*] **department** has the same authority as a [*private*]
 31 child-caring agency under ORS 418.270 to 418.280. In exercising this authority, the department shall
 32 comply with the provisions of ORS 418.270 to 418.280 **in the same manner** as a [*private*] child-caring
 33 agency.

34 **SECTION 18.** ORS 418.290 is amended to read:

35 418.290. No person, agent, agency or institution of another state shall place a child in [*a family*
 36 *home*] **a child-caring agency or family foster home** in this state without first having furnished the
 37 Department of Human Services such guarantee as the department may require against the child
 38 becoming a public charge within five years from the date of [*such*] **the** placement.

39 **SECTION 19.** ORS 418.295 is amended to read:

40 418.295. (1) No attorney employed by the State of Oregon shall represent prospective adoptive
 41 parents in [*their*] **the parents'** attempt to adopt a child being cared for under the provisions of ORS
 42 412.001 to 412.161, 418.005 to 418.025, 418.205 to [*418.315*] **418.327**, 418.625 to 418.685 and 418.647.

43 (2) No employee of the Department of Human Services shall recommend any attorney to serve
 44 as counsel for prospective adoptive parents.

45 **SECTION 20.** ORS 418.305 is amended to read:

1 418.305. *[The Department of Human Services may require any child-caring agency to divulge the*
 2 *location and relationship of any of its placed-out children. The department or its agents may visit the*
 3 *location to ascertain the condition of such children or the quality of the child-placing work done. The*
 4 *location and relationship of each placed-out child shall be confidentially held by the department and*
 5 *its agents and revealed only when the welfare of the child requires such action on order of a court of*
 6 *competent jurisdiction.]*

7 **(1) The Department of Human Services may require any child-caring agency subject to**
 8 **ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 to disclose to the department the**
 9 **location and circumstances of any child for whom the agency is providing care or services.**

10 **(2) The child-caring agency shall permit immediate access to a child receiving care or**
 11 **services, and to any area of the premises upon which the child receives care or services, to**
 12 **the following:**

13 **(a) Employees and representatives of the department;**

14 **(b) The child's attorney;**

15 **(c) The child's court appointed special advocate;**

16 **(d) The parent or legal guardian of the child if the child has not been committed to the**
 17 **custody of the department; and**

18 **(e) Any other person authorized by the department.**

19 **(3) The purposes for which access to a child or premises under this section may be al-**
 20 **lowed include, but are not limited to, the following:**

21 **(a) To ascertain the circumstances and condition of a child placed with the child-caring**
 22 **agency.**

23 **(b) To determine the quality of the care or services provided to a child by the agency.**

24 **(c) To ensure the health, safety and welfare of a child receiving care or services from the**
 25 **agency.**

26 **SECTION 21.** ORS 418.306 is amended to read:

27 418.306. A child-caring agency **subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950**
 28 **to 418.970 that is** providing [*residential*] care **or services to a child may** [*shall*] not deny a
 29 parent, [*or*] guardian **or sibling** of [*a*] **the** child [*who is under the care of the child-caring agency*] the
 30 right to visit the child solely as a disciplinary measure against the child.

31 **SECTION 22.** ORS 418.312 is amended to read:

32 418.312. (1) The Department of Human Services may not require any parent or legal guardian
 33 to transfer legal custody of a child in order to have the child placed **in a child-caring agency** under
 34 ORS 418.205 to [*418.310,*] **418.327, 418.470, 418.475,** 418.480 to 418.500, **418.950 to 418.970** and 418.992
 35 to 418.998 [*in a foster home, group home or institutional child care setting,*] when the sole reason for
 36 the placement is the need to obtain services for the child's emotional, behavioral or mental disorder
 37 or developmental or physical disability. In all such cases, the child shall be placed pursuant to a
 38 voluntary placement agreement. When a child is placed pursuant to a voluntary placement agree-
 39 ment, the department shall have responsibility for the child's placement and care. When a child re-
 40 mains in voluntary placement for more than 180 days, the juvenile court shall make a judicial
 41 determination, within the first 180 days of the placement, that the placement is in the best interests
 42 of the child. In addition, the juvenile court shall hold a permanency hearing as provided in ORS
 43 419B.476 no later than 14 months after the child's original voluntary placement, and not less fre-
 44 quently than once every 12 months thereafter during the continuation of the child's original volun-
 45 tary placement, to determine the future status of the child.

1 (2) As used in this section, “voluntary placement agreement” means a binding, written agree-
 2 ment between the department and the parent or legal guardian of a minor child that does not
 3 transfer legal custody to the department but that specifies, at a minimum, the legal status of the
 4 child and the rights and obligations of the parent or legal guardian, the child and the department
 5 while the child is in placement.

6 **SECTION 23.** ORS 418.325 is amended to read:

7 418.325. (1) A child-caring agency **that is subject to ORS 418.205 to 418.327, 418.470, 418.475**
 8 **or 418.950 to 418.970** shall safeguard the health of each **child**, ward or other dependent or delin-
 9 quent child [*in its care*] **to whom the agency provides care or services** by providing for medical
 10 examinations of each child by a qualified physician at the following intervals:

- 11 (a) Three examinations during the first year of the child’s life;
- 12 (b) One examination during the second year of the child’s life;
- 13 (c) One examination at the age of four;
- 14 (d) One examination at the age of six;
- 15 (e) One examination at the age of nine; and
- 16 (f) One examination at the age of 14.

17 (2) If an examination under subsection (1) of this section has not occurred within six months
 18 prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospec-
 19 tive adoptive parents of such child, a child-caring agency shall provide for a medical examination
 20 of such child within six months prior to such transfer.

21 (3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of
 22 this section shall not be considered to be in lieu of the required examinations. However, nothing in
 23 subsections (1) and (2) of this section is intended to limit more frequent examinations that are dic-
 24 tated by the general state of the child’s health or by any particular condition.

25 (4) Within 90 days of obtaining guardianship over a child under six years of age, a child-caring
 26 agency shall provide for [*such*] **the** child to be:

- 27 (a) Inoculated as determined appropriate by the local health department; and
- 28 (b) Tested for:
 - 29 (A) Phenylketonuria pursuant to ORS 433.285;
 - 30 (B) Visual and aural acuity consistent with the child’s age;
 - 31 (C) Sickle-cell anemia;
 - 32 (D) Effects of rubella, if any;
 - 33 (E) Effects of parental venereal disease, if any; and
 - 34 (F) The hereditary or congenital effects of parental use of drugs or controlled substances.

35 (5) Within six months prior to the transfer for adoption of the custody of a child by a child-
 36 caring agency to the prospective adoptive parents of such child, the child-caring agency shall pro-
 37 vide for such child to have a complete physical examination by a physician, including but not limited
 38 to inspection for evidence of child abuse in accordance with rules of the Department of Human
 39 Services, and be tested for visual and aural acuity consistent with the child’s age.

40 (6) A child-caring agency shall record the results of tests provided a child pursuant to sub-
 41 sections (1) to (5) of this section in the child’s health record. The child’s health record shall be kept
 42 as a part of the agency’s total records of that child. The child’s health record shall be made avail-
 43 able to both natural parents and to both prospective foster or adoptive parents of that child. A
 44 qualified member of a child-caring agency under the supervision of a qualified physician shall ex-
 45 plain to adoptive parents the medical factors possible as a result of a child’s birth history, heredi-

1 tary or congenital defects, or disease or disability experience.

2 [(7) *This section does not apply to a private residential boarding school as defined in ORS 418.205*
3 *(5)(a).*]

4 **SECTION 24.** ORS 418.327 is amended to read:

5 418.327. [(1) *Inspections and reviews of private residential boarding schools that are primarily en-*
6 *gaged in educational work or other organizations offering residential programs for children may be*
7 *conducted by the Department of Human Services at times and frequencies of the department's choosing.*
8 *The department shall consult with representatives of the private residential boarding schools and or-*
9 *ganizations in developing the standards that shall be the basis for inspections and reviews.*]

10 [(2)] (1) Upon finding that the facilities and operation of a [*school or organization described in*
11 *subsection (1) of this section*] **private residential boarding school** meet the standards of the de-
12 partment for the physical health, care and safety of the children, the department shall issue a li-
13 cense to operate the [*residential program*] **school**. The license shall be valid for a period of two
14 years, unless sooner suspended or revoked by the department **pursuant to the provisions of ORS**
15 **418.240**. However, the department **at any time** may require [*that application be made for*
16 *amendment*] **amendments** to an existing license [*when changes in a facility or program are to*
17 *occur*] **to accommodate changes in the factors upon which the issuance was based.**

18 (2) [*The department shall charge no fee for its own inspections or reviews, nor for issuing*
19 *licenses,*] **The department may not charge a fee for inspections leading to decisions regarding,**
20 **and issuance of, licenses under this section,** but may charge fees to cover costs of inspections
21 done by other governmental agencies for the department.

22 (3) **The department may place conditions on any license issued under this section in ac-**
23 **cordance with the provisions of ORS 418.240, including but not limited to placing full or par-**
24 **tial restrictions on admission of children, temporary suspension, limitation of operations**
25 **subject to an intent to revoke and limitation of operations subject to correction of violations**
26 **as specified in a plan of correction imposed by the department.**

27 [(3)] (4) No person or organization shall operate a [*facility described in subsection (1) of this*
28 *section*] **private residential boarding school** without having a current, valid license issued by the
29 department.

30 [(4)] (5) Any person, including the Director of Human Services, may file a complaint with the
31 department alleging that children attending a private residential boarding school [*described in sub-*
32 *section (1) of this section*], or that children within the control of any other organization that provides
33 boarding or residential programs, are not receiving shelter, food, guidance, training or education
34 necessary to the health, safety, welfare or social growth of the children or necessary to serve the
35 best interests of society.

36 [(5)] (6) The department shall **immediately** investigate complaints made under subsection [(4)]
37 (5) of this section **in the manner provided under ORS 418.205 to 418.327.** [*and, if a reasonable*
38 *basis for sustaining the complaint appears, shall set a hearing to examine publicly the complaint. The*
39 *department shall conduct its investigation under the standards and authority provided under ORS*
40 *418.215 to 418.325. Except as provided in subsection (7) of this section, at least two weeks' written no-*
41 *tice of the hearing and substance of the complaint and the evidence in support thereof shall be provided*
42 *to the operator of the school or organization. The parents of the child or children involved shall be*
43 *notified if such persons can be conveniently located. Notice shall be served personally on the operator*
44 *of the school or organization, but may be served by mail at the last-known or determined address of*
45 *the parent or other adult responsible for the child.*]

1 [(6) *The hearing shall comply with the provisions of ORS chapter 183 as to procedures, findings*
 2 *and orders. Where the evidence at the hearing justifies such an order, the department is authorized to*
 3 *order the school or organization to correct the conditions not in conformity with standards. If cor-*
 4 *rections are not made within time limits set by the department, the department may suspend or revoke*
 5 *the license or may refuse to renew the license and is empowered to make any other lawful orders nec-*
 6 *essary to the protection of the child or children involved.*]

7 [(7) *Where a condition exists that immediately endangers the health or safety of a child, the Di-*
 8 *rector of Human Services may issue an interim order without any notice, or with such notice as is*
 9 *practical under the circumstances, requiring the school or organization to alter the conditions under*
 10 *which the child lives or receives schooling. Such interim emergency order shall remain in force until*
 11 *a final order, after a hearing as provided in subsection (5) of this section, is entered.*]

12 [(8) *Any school or organization shall cooperate with the department in making any inspection or*
 13 *review or investigating any complaint made under this section.*]

14 [(9)] (7) The Superintendent of Public Instruction shall cooperate with the department upon re-
 15 quest by advising the department as to whether or not the educational program conducted at the
 16 [school or organization] **private residential boarding school** meets minimum standards required of
 17 public educational institutions.

18 [(10)] (8) Nothing in this section applies to public or private institutions of higher education,
 19 community colleges, common or union high school districts that provide board and room in lieu of
 20 transportation or any other child-caring program already subject to state licensing procedures by
 21 any agency of this state.

22 [(11) *Subject to ORS chapter 183, the department may adopt rules to implement this section.*]

23 [(12) *In addition to remedies otherwise provided under this section and under ORS 418.990, the*
 24 *department may commence an action to enjoin operation of a private residential boarding school de-*
 25 *scribed in subsection (1) of this section or other organization offering residential programs for*
 26 *children.*]

27 [(a) *If the school or organization is being operated without a valid license issued under subsection*
 28 *(2) of this section; or]*

29 [(b) *If the school or organization fails to correct the conditions not in conformity with standards,*
 30 *as set out in an order issued under subsection (6) of this section, within the time specified in the*
 31 *order.*]

32 **SECTION 25.** ORS 418.475 is amended to read:

33 418.475. (1) Within the limit of moneys appropriated therefor, the Department of Human Services
 34 may establish or certify independent residence facilities for minors who:

35 (a) Are 16 years of age or older;

36 (b) Have been placed in at least one substitute care resource;

37 (c) Have been determined by the department to be unsuitable for placement in a substitute care
 38 resource;

39 (d) Have received permission from the appropriate juvenile court, if they are wards of the court;
 40 and

41 (e) Have been determined by the department to be suitable for an independent [*resident*] **living**
 42 program.

43 (2) **Independent** residence facilities shall provide independent housing arrangements with
 44 counseling services and minimal supervision available from at least one counselor. All [*residential*]
 45 **independent residence** facilities having six or more residents shall be licensed by the department

1 under ORS 443.400 to 443.455.

2 (3) Each resident shall be required to maintain a program of education or employment, or a
3 combination thereof, amounting to full-time activity and shall be required to pay a portion or all of
4 the resident's housing expenses and other support costs.

5 (4) The department may make payment grants directly to minors enrolled in an independent
6 living program for food, shelter, clothing and incidental expenses. The payment grants shall be
7 subject to an agreement between the minor and the department that establishes a budget of ex-
8 penses.

9 (5) The department may establish cooperative financial management agreements with a minor
10 and for that purpose may enter into joint bank accounts requiring two signatures for withdrawals.
11 The management agreements or joint accounts may not subject the department or any counselor
12 involved to any liability for debts or other responsibilities of the minor.

13 (6) The department shall make periodic reports to the juvenile court as required by the court
14 regarding any minor who is a ward of the court enrolled in an independent living program.

15 (7) The enrollment of a minor in an independent living program in accordance with the pro-
16 visions of subsection (1) of this section does not remove or limit in any way the obligation of the
17 parent of the minor to pay support as ordered by a court under the provisions of ORS 419B.400 or
18 419C.590.

19 **SECTION 26.** ORS 418.495 is amended to read:

20 418.495. (1) Within the limits of funds available therefor, the Department of Human Services may
21 enter into agreements and contracts with [*licensed*] child-caring agencies, Strengthening, Preserving
22 and Reunifying Families programs under ORS 418.575 to 418.598, [*and*] other appropriate **providers**
23 **of care or services to children and** facilities, including youth care centers, for the purchase of
24 care for children who require and are eligible for such care, regardless of whether the [*children are*
25 *wards*] **child is a ward** of the state, [*or*] whether the department is [*their*] **the child's** guardian or
26 has [*their*] custody **of the child**, or whether the [*children are*] **child has been released or** surren-
27 dered to a child-caring agency **pursuant to ORS 418.270** or to a Strengthening, Preserving and
28 Reunifying Families program under ORS 418.575 to 418.598 or committed thereto by order of a court
29 under ORS chapter 419B or 419C. The agreement shall prescribe the procedures for payment and the
30 rate of payment and may contain such other conditions as the department and the agency, facility
31 or program may agree. **Payment must be made by electronic funds transfer from the depart-**
32 **ment to the payee and may not be made by check.**

33 (2) The department shall by rule adopt payment standards for foster care **that is provided un-**
34 **der ORS 418.625 to 418.645.** In establishing standards, the department may take into account the
35 income, resources and maintenance available to and the necessary expenditures of a foster parent
36 who is a relative, as defined by rule, of the child placed in care.

37 **SECTION 27.** ORS 418.625 is amended to read:

38 418.625. As used in ORS 418.625 to 418.645:

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

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

44 (3) "Foster home" means any home maintained by a person who has under the care of the person
45 in the home any child under the age of 21 years unattended by the child's parent or guardian, for

1 the purpose of providing the child with care, food and lodging, but does not include:

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

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

4 (c) Any foster home under the direct supervision of a [*private*] child-caring agency or institution
5 certified by the department;

6 (d) Any home under the direct supervision of a custodial parent for the purpose of providing
7 respite care as defined by rule;

8 (e) Any developmental disability child foster home as defined in ORS 443.830; or

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

11 **SECTION 28.** ORS 418.647 is amended to read:

12 418.647. (1) With respect to any period for which federal funds are made available to this state
13 in aid of a state-administered program of aid to any child defined in and meeting the requirements
14 of this section, the Department of Human Services may provide foster care payments in behalf of a
15 child in the foster home of any individual or in a [*licensed private*] child-caring agency who:

16 (a) Is a needy child meeting the requirements of ORS 412.001 (3)(b)(A) or (B) who has been de-
17 prived of parental support or care by reason of the continued absence from the home, the physical
18 or mental incapacity or the unemployment or underemployment of a parent or parents;

19 (b) Would meet the requirements of ORS 412.006 except for the removal of the child from the
20 home of a caretaker relative as a result of a judicial determination to the effect that continuation
21 therein would be contrary to the welfare of such child;

22 (c) Has been accepted for placement and care by the department;

23 (d) Has been placed in a foster home or [*licensed private*] child-caring agency as a result of such
24 determination; and

25 (e) Received aid in or for the month in which court proceedings leading to such determination
26 were initiated, or would have received such aid in or for such month if application had been made
27 therefor, or in the case of a child who had been living with a caretaker relative as defined in ORS
28 412.001 within six months prior to the month in which such proceedings were initiated, would have
29 received such aid in or for such month if in such month the child had been living with and removed
30 from the home of such a relative and application had been made therefor.

31 (2) **As used in this section:**

32 (a) **“Child-caring agency” has the meaning given that term in ORS 418.205.**

33 (b) **“Foster home” means a foster home [*which*] that is certified by this state or that has been**
34 **approved, by the agency of this state responsible for the certification of foster homes, as meeting**
35 **the standards established for such certification.**

36 **SECTION 29.** ORS 418.950 is amended to read:

37 418.950. As used in ORS 418.950 to 418.970, unless the context requires otherwise:

38 (1) **“Agency” means any person or organization providing substitute residential care for an av-**
39 **erage daily population of eight or fewer children. “Agency” includes but is not limited to:**

40 (a) Child-caring agencies licensed, **certified or otherwise authorized** by the Department of
41 Human Services under ORS 418.205 to [*418.325*] **418.327**;

42 (b) Foster homes as defined in ORS 418.625 providing care for more than four children; and

43 (c) Youth care centers as defined in ORS 420.855.

44 (2) **“Average daily population” means the sum of days in residence of all children residing in a**
45 **child-caring facility during a certain period divided by the number of days in the period.**

1 (3) "Child-caring facility" means a residence or building used by an agency to provide substitute
2 residential care for children.

3 **SECTION 30.** ORS 418.990 is amended to read:

4 418.990. (1) A person who violates ORS [~~418.250 (2),~~] 418.255, 418.290 or 418.300 commits a Class
5 D violation.

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

7 (3) Violation of ORS 418.215, 418.250 [(1)] or 418.327 [(3)] (4) is a Class A misdemeanor. Each
8 day of violation is a separate offense.

9 **SECTION 31.** ORS 418.992 is amended to read:

10 418.992. (1) In addition to any other liability or penalty provided by law, the Director of Human
11 Services may impose a civil penalty on a [*private*] child-caring agency **that is subject to ORS**
12 **418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970** for any of the following:

13 (a) Violation of any of the terms or conditions of a license, **certificate or other authorization**
14 issued under ORS 418.205 to [~~418.310~~] **418.327, 418.470, 418.475 or 418.950 to 418.970.**

15 (b) Violation of any rule **adopted by**, or general order of, the Department of Human Services
16 that pertains to a [*private*] child-caring agency.

17 (c) Violation of any final order of the director that pertains specifically to the [*private*] child-
18 caring agency.

19 **(d) Violation of the requirement to have a license, certificate or other authorization un-**
20 **der ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.**

21 **(2) The director shall impose a civil penalty not to exceed \$500, unless otherwise required**
22 **by law, on any child-caring agency for falsifying records, reports, documents or financial**
23 **statements or for causing another person to do so.**

24 **(3) The director shall impose a civil penalty of not less than \$250 nor more than \$500,**
25 **unless otherwise required by law, on a child-care facility that assumes care or custody of,**
26 **or provides care or services to, a child knowing that the child's care needs exceed the li-**
27 **cence, certificate or authorization classification of the child-care agency if the assumption**
28 **of care or custody, or provision of care or services, places that child's health, safety or**
29 **welfare at risk.**

30 [*(2) A civil penalty may not be imposed under this section:*]

31 [*(a) For violations other than those involving direct care or feeding of children, staff to child ratio*
32 *or sanitation involving direct care; or]*

33 [*(b) Unless a violation is found on two consecutive surveys of the private child-caring agency.]*

34 [(3)] (4) **Unless the health, safety or welfare of a child is at risk**, the director in every case
35 shall prescribe a reasonable time for elimination of a violation:

36 (a) Not to exceed [30] **45** days after first notice of a violation; or

37 (b) In cases where the violation requires more than [30] **45** days to correct, such time as is
38 specified in a plan of correction found acceptable by the director.

39 [(4)] (5) A civil penalty imposed under this section may be remitted or reduced upon such terms
40 and conditions as the director considers proper and consistent with the public health and safety.

41 **(6) The department shall adopt rules establishing objective criteria for the imposition and**
42 **amount of civil penalties under ORS 418.992 to 418.998.**

43 **SECTION 32.** ORS 418.993 is amended to read:

44 418.993. (1) Any civil penalty under ORS 418.992 shall be imposed in the manner provided in
45 ORS 183.745.

1 (2) Notwithstanding ORS 183.745, the [private] child-caring agency to whom the notice is ad-
 2 dressed shall have 10 days from the date of service of the notice in which to make written applica-
 3 tion for a hearing before the Director of Human Services.

4 **SECTION 33.** ORS 418.995 is amended to read:

5 418.995. In imposing a penalty [pursuant to the schedule adopted] pursuant to ORS 418.992, the
 6 Director of Human Services shall consider the following factors:

7 (1) The past history of the [private] child-caring agency incurring a penalty in taking all feasible
 8 steps or procedures necessary or appropriate to correct any violation.

9 (2) Any prior violations of statutes or rules pertaining to [private] child-caring agencies.

10 (3) The economic and financial conditions of the [private] child-caring agency incurring the
 11 penalty.

12 (4) The immediacy and extent to which the violation threatens **or places at risk** the health,
 13 safety and well-being of the children.

14 **SECTION 34.** ORS 418.998 is amended to read:

15 418.998. (1) Except as provided in subsection (2) of this section, all penalties recovered under
 16 ORS 418.992 to 418.998 shall be paid into the State Treasury and credited to the General Fund.

17 (2) All penalties recovered under ORS 418.992 to 418.998 for violations of any provision of ORS
 18 418.205 to [418.310] **418.327, 418.470, 418.475 or 418.950 to 418.970** shall be paid to the Department
 19 of Human Services to be paid into the State Treasury and credited to the [Private] Child-Caring
 20 Agencies Fund.

21 **SECTION 35.** Sections 36 to 38 of this 2016 Act are added to and made a part of ORS
 22 **418.205 to 418.327.**

23 **SECTION 36.** As used in sections 36 to 38 of this 2016 Act:

24 (1) **“Abuse” means one or more of the following:**

25 (a) **Any physical injury to a child in care caused by other than accidental means, or which**
 26 **appears to be at variance with the explanation given of the injury.**

27 (b) **Neglect.**

28 (c) **Abandonment, including desertion or willful forsaking of a child in care or the with-**
 29 **drawal or neglect of duties and obligations owed a child in care by a child-caring agency,**
 30 **caretaker or other person.**

31 (d) **Willful infliction of physical pain or injury upon a child in care.**

32 (e) **An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425,**
 33 **163.427, 163.465, 163.467 or 163.525.**

34 (f) **Verbal abuse.**

35 (g) **Financial exploitation.**

36 (h) **Sexual abuse.**

37 (i) **Involuntary seclusion of a child in care for the convenience of a child-caring agency**
 38 **or caretaker or to discipline the child in care.**

39 (j) **A wrongful use of a physical or chemical restraint of a child in care, excluding an act**
 40 **of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment**
 41 **activities that are consistent with an approved treatment plan or in connection with a court**
 42 **order.**

43 (2) **“Child in care” means a person under 21 years of age who is residing in or receiving**
 44 **care or services from a child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475**
 45 **or 418.950 to 418.970.**

1 (3) "Child-caring agency" has the meaning given that term in ORS 418.205.

2 (4) "Financial exploitation" means:

3 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use
4 of a child in care.

5 (b) Alarming a child in care by conveying a threat to wrongfully take or appropriate
6 moneys or property of the child in care if the child would reasonably believe that the threat
7 conveyed would be carried out.

8 (c) Misappropriating, misusing or transferring without authorization any moneys from
9 any account held jointly or singly by a child in care.

10 (d) Failing to use the income or assets of a child in care effectively for the support and
11 maintenance of the child in care.

12 (5) "Intimidation" means compelling or deterring conduct by threat.

13 (6) "Law enforcement agency" means:

14 (a) Any city or municipal police department.

15 (b) Any county sheriff's office.

16 (c) The Oregon State Police.

17 (d) Any district attorney.

18 (e) A police department established by a university under ORS 352.121 or 353.125.

19 (7) "Neglect" means:

20 (a) Failure to provide the care, supervision or services necessary to maintain the physical
21 and mental health of a child in care; or

22 (b) The failure of a child-caring agency, caretaker or other person to make a reasonable
23 effort to protect a child in care from abuse.

24 (8) "Services" includes but is not limited to the provision of food, clothing, medicine,
25 housing, medical services, assistance with bathing or personal hygiene or any other service
26 essential to the well-being of a child in care.

27 (9) "Sexual abuse" means:

28 (a) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit
29 material or language;

30 (b) Any sexual contact between an employee of a child-caring agency, caretaker or other
31 person and a child in care;

32 (c) Any sexual contact between a child in care and a relative of the child in care; or

33 (d) Any sexual contact that is achieved through force, trickery, threat or coercion.

34 (10) "Sexual contact" has the meaning given that term in ORS 163.305.

35 (11) "Verbal abuse" means to threaten significant physical or emotional harm to a child
36 in care through the use of:

37 (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

38 (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappro-
39 priate sexual comments.

40 **SECTION 37.** (1) When the Department of Human Services becomes aware of a report
41 of suspected child abuse of a child in care, whether in the form of an allegation, complaint,
42 rumor or formal report made under this section, and whether made directly to the Director
43 of Human Services, the department or an employee of the department, to a hotline operated
44 by the department, through the mandatory abuse reporting process set forth in ORS 419B.005
45 to 419B.050 or otherwise, the department shall immediately:

1 (a) Notify appropriate personnel within the department, including but not limited to em-
 2 ployees responsible for licensing, certifying or authorizing child-care agencies.

3 (b) Commence an investigation to determine whether the report of suspected abuse is
 4 substantiated, unsubstantiated or inconclusive under section 38 of this 2016 Act.

5 (c) Report to a law enforcement agency any crime that the department has reason to
 6 believe has occurred with respect to a child in care or at a child-caring agency, even if the
 7 suspected crime is not related to a report of abuse made under this section.

8 (2) As a condition for issuance or renewal of a license, certification or authorization to
 9 a child-caring agency under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970, the
 10 department shall require and verify that the agency has procedures and protocols that:

11 (a) Require employees of the child-caring agency to immediately report suspected abuse
 12 of a child in care to the director, to the director's designee or to personnel within the de-
 13 partment who have been specifically designated to receive reports of abuse of children in
 14 care;

15 (b) Mandate that the child-caring agency provide an annual training and written materi-
 16 als that include information about the child abuse reporting hotline, and that the agency
 17 advise and educate employees of the duty under this section to report abuse of a child in
 18 care; and

19 (c) Inform employees of child-caring agencies that the duty to report abuse of a child in
 20 care is personal to the employee and that the duty is not fulfilled by reporting the abuse to
 21 the owner, operator or any other employee of the agency even if the owner, operator or
 22 other employee reports the abuse of a child in care to the director, the director's designee
 23 or the department.

24 (3) Interference or hindering an investigation of abuse of a child in care, including but
 25 not limited to the intimidation of witnesses, falsification of records or denial or limitation
 26 of interviews with the child in care who is the subject of the investigation or with witnesses,
 27 may constitute grounds for the revocation, suspension or placing of conditions on the li-
 28 cense, certification or other authorization of a child-caring agency.

29 (4)(a) Anyone, including but not limited to an employee of a child-caring agency, who
 30 makes a report of suspected abuse of a child in care to the Governor, the Department of
 31 Justice, the Director of Human Services, the director's designee or the department under
 32 this section in good faith and who has reasonable grounds for the making of the report shall
 33 have immunity:

34 (A) From any liability, civil or criminal, that might otherwise be incurred or imposed
 35 with respect to the making or content of such report;

36 (B) From disciplinary action taken by the person's employer; and

37 (C) With respect to participating in any judicial proceeding resulting from or involving
 38 the report.

39 (b) A person making a report under this section may include references to otherwise
 40 confidential information for the sole purpose of making the report, and any such disclosure
 41 must be protected from further disclosure to other persons or entities for any other purpose
 42 not related to the making of the report.

43 **SECTION 38.** (1) The investigation conducted by the Department of Human Services un-
 44 der section 37 of this 2016 Act must result in one of the following findings:

45 (a) That the report is substantiated. A report is substantiated when there is reasonable

1 cause to believe that the abuse of a child in care occurred.

2 (b) That the report is unsubstantiated. A report is unsubstantiated when there is no ev-
3 idence that the abuse of a child in care occurred.

4 (c) That the report is inconclusive. A report is inconclusive when there is some indication
5 that the abuse occurred but there is insufficient evidence to conclude that there is reason-
6 able cause to believe that the abuse occurred.

7 (2) When a report is received under section 37 of this 2016 Act alleging that a child in a
8 child-caring agency may have been subjected to abuse, the department shall notify the at-
9 torney for the child, the child’s court appointed special advocate, the parents or guardians
10 of the child and any attorney representing a parent or guardian of the child that a report
11 has been received.

12 (3) The department may interview the child in care who is the subject of suspected abuse
13 and witnesses without the presence of child-caring agency employees or department person-
14 nel. The child in care may have the child’s parent or guardian, if the child has not been
15 committed to the custody of the department, or attorney present when participating in an
16 interview conducted in the course of an abuse investigation.

17 (4) If a report of abuse is substantiated, the report and any documents, records or other
18 information compiled as a result of the investigation are public records except that all iden-
19 tifying information, including but not limited to the names, ages, birth dates, addresses and
20 contact information of the child in care who was the subject of the abuse and witnesses,
21 must be redacted to protect the confidentiality of the child and witnesses.

22 (5) If a report of abuse is substantiated, the department shall notify the following of the
23 determination unless to do so would violate a provision in a safety plan for the child in care:

24 (a) The Director of Human Services.

25 (b) Personnel in the department responsible for the licensing, certification or authori-
26 zation of child-caring agencies.

27 (c) The department’s lead personnel in that part of the department that is responsible
28 for child welfare generally.

29 (d) With respect to the child in care who is the subject of the abuse report and investi-
30 gation:

31 (A) Case managers for the child in care;

32 (B) The court appointed special advocate, if any, for the child in care; and

33 (C) The attorney for the child in care, if any.

34 (e) The parents or guardians of the child in care who is the subject of the abuse report
35 and investigation.

36 (f) The parents or guardians of each child in care that is residing, or receiving care or
37 services, at the child-caring agency that is the subject of the report and investigation.

38 **SECTION 39.** ORS 419B.005 is amended to read:

39 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

40 (1)(a) “Abuse” means:

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

44 (B) Any mental injury to a child, which shall include only observable and substantial impairment
45 of the child’s mental or psychological ability to function caused by cruelty to the child, with due

1 regard to the culture of the child.

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

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

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

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

13 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
14 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
15 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

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

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

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

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

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

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

28 (2) "Child" means an unmarried person who:

29 (a) Is under 18 years of age; or

30 (b) **Is under 21 years of age and residing in or receiving care or services at a child-caring**
31 **agency as that term is defined in ORS 418.205.**

32 (3) "Higher education institution" means:

33 (a) A community college as defined in ORS 341.005;

34 (b) A public university listed in ORS 352.002;

35 (c) The Oregon Health and Science University; and

36 (d) A private institution of higher education located in Oregon.

37 (4) "Law enforcement agency" means:

38 (a) A city or municipal police department.

39 (b) A county sheriff's office.

40 (c) The Oregon State Police.

41 (d) A police department established by a university under ORS 352.121 or 353.125.

42 (e) A county juvenile department.

43 (5) "Public or private official" means:

44 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
45 including any intern or resident.

- 1 (b) Dentist.
- 2 (c) School employee, including an employee of a higher education institution.
- 3 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 4 or employee of an in-home health service.
- 5 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 6 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
- 7 health department, a community mental health program, a community developmental disabilities
- 8 program, a county juvenile department, a [*licensed*] child-caring agency **as that term is defined in**
- 9 **ORS 418.205** or an alcohol and drug treatment program.
- 10 (f) Peace officer.
- 11 (g) Psychologist.
- 12 (h) Member of the clergy.
- 13 (i) Regulated social worker.
- 14 (j) Optometrist.
- 15 (k) Chiropractor.
- 16 (L) Certified provider of foster care, or an employee thereof.
- 17 (m) Attorney.
- 18 (n) Licensed professional counselor.
- 19 (o) Licensed marriage and family therapist.
- 20 (p) Firefighter or emergency medical services provider.
- 21 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 22 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 23 (s) Member of the Legislative Assembly.
- 24 (t) Physical, speech or occupational therapist.
- 25 (u) Audiologist.
- 26 (v) Speech-language pathologist.
- 27 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 28 gations or discipline by the commission.
- 29 (x) Pharmacist.
- 30 (y) An operator of a preschool recorded program under ORS 329A.255.
- 31 (z) An operator of a school-age recorded program under ORS 329A.257.
- 32 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 33 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 34 109.056.
- 35 (bb) Employee of a public or private organization providing child-related services or activities:
- 36 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 37 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 38 vision or auspices of religious, public or private educational systems or community service organ-
- 39 izations; and
- 40 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
- 41 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
- 42 ficking.
- 43 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
- 44 if compensated and if the athlete is a child.
- 45 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

1 (ee) Home care worker, as defined in ORS 410.600.

2 **SECTION 40.** ORS 128.640 is amended to read:

3 128.640. (1) ORS 128.610 to 128.769 do not apply to the United States, any state, territory or
4 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to
5 any of their agencies or governmental subdivisions.

6 (2) ORS 128.650 to 128.670 and 128.720 do not apply to:

7 (a) Any religious corporation sole or other religious corporation or organization which holds
8 property for religious purposes, or to any officer, director or trustee thereof who holds property for
9 like purposes;

10 (b) A cemetery that is registered with the State Mortuary and Cemetery Board under ORS
11 692.275 or a historic cemetery listed with the Oregon Commission on Historic Cemeteries under ORS
12 97.782; **or**

13 (c) A trustee that holds property for charitable purposes in the event that the sole beneficiary
14 of a charitable remainder trust serves as trustee[; *or*]

15 [*d*] A child-caring agency regulated under ORS 418.215 to 418.265].

16
17 **CONFORMING AMENDMENTS**

18
19 **SECTION 41.** ORS 30.260 is amended to read:

20 30.260. As used in ORS 30.260 to 30.300, unless the context requires otherwise:

21 (1) "Department" means the Oregon Department of Administrative Services.

22 (2) "Director" means the Director of the Oregon Department of Administrative Services.

23 (3) "Governing body" means the group or officer in which the controlling authority of any public
24 body is vested.

25 (4) "Public body" means:

26 (a) A public body as defined in ORS 174.109;

27 (b) Any nonprofit corporation that is organized and existing under ORS chapter 65 and that has
28 only political subdivisions or municipal, quasi-municipal or public corporations in this state as
29 members;

30 (c) A [*private*] child-caring agency, as defined in ORS 418.205, that meets the criteria specified
31 in ORS 278.322 (1)(a) and that receives more than 50 percent of its funding from the state for the
32 purpose of providing residential treatment to children who have been placed in the care and custody
33 of the state or that provides residential treatment to children more than half of whom have been
34 placed in the care and custody of the state; or

35 (d) A private, nonprofit organization that provides public transportation services if more than
36 50 percent of the organization's funding for the purpose of providing public transportation services
37 is received from governmental bodies.

38 (5) "State" means:

39 (a) State government as defined in ORS 174.111;

40 (b) The State Accident Insurance Fund Corporation; and

41 (c) The Oregon Utility Notification Center.

42 (6) "Local public body" means any public body other than the state.

43 (7) "Nuclear incident" has the meaning given that term in 42 U.S.C. 2014(q).

44 (8) "Tort" means the breach of a legal duty that is imposed by law, other than a duty arising
45 from contract or quasi-contract, the breach of which results in injury to a specific person or persons

1 for which the law provides a civil right of action for damages or for a protective remedy.

2 **SECTION 42.** ORS 109.070 is amended to read:

3 109.070. (1) The paternity of a person may be established as follows:

4 (a) A man is rebuttably presumed to be the father of a child born to a woman if he and the
5 woman were married to each other at the time of the child's birth, without a judgment of separation,
6 regardless of whether the marriage is void.

7 (b) A man is rebuttably presumed to be the father of a child born to a woman if he and the
8 woman were married to each other and the child is born within 300 days after the marriage is ter-
9 minated by death, annulment or dissolution or after entry of a judgment of separation.

10 (c) By the marriage of the parents of a child after the birth of the child, and the parents filing
11 with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of
12 paternity form as provided for by ORS 432.098.

13 (d) By filiation proceedings.

14 (e) By filing with the State Registrar of the Center for Health Statistics the voluntary ac-
15 knowledgment of paternity form as provided for by ORS 432.098. Except as otherwise provided in
16 subsections (4) to (7) of this section, this filing establishes paternity for all purposes.

17 (f) By having established paternity through a voluntary acknowledgment of paternity process in
18 another state.

19 (g) By paternity being established or declared by other provision of law.

20 (2) The paternity of a child established under subsection (1)(a) or (c) of this section may be
21 challenged in an action or proceeding by the husband or wife. The paternity may not be challenged
22 by a person other than the husband or wife as long as the husband and wife are married and
23 cohabiting, unless the husband and wife consent to the challenge.

24 (3) If the court finds that it is just and equitable, giving consideration to the interests of the
25 parties and the child, the court shall admit evidence offered to rebut the presumption of paternity
26 in subsection (1)(a) or (b) of this section.

27 (4)(a) A party to a voluntary acknowledgment of paternity may rescind the acknowledgment
28 within the earlier of:

29 (A) Sixty days after filing the acknowledgment; or

30 (B) The date of a proceeding relating to the child, including a proceeding to establish a support
31 order, in which the party wishing to rescind the acknowledgment is also a party. For the purposes
32 of this subparagraph, the date of a proceeding is the date on which an order is entered in the pro-
33 ceeding.

34 (b) To rescind the acknowledgment, the party shall sign and file with the State Registrar of the
35 Center for Health Statistics a written document declaring the rescission.

36 (5)(a) A signed voluntary acknowledgment of paternity filed in this state may be challenged and
37 set aside in circuit court at any time after the 60-day period referred to in subsection (4) of this
38 section on the basis of fraud, duress or a material mistake of fact.

39 (b) The challenge may be brought by:

40 (A) A party to the acknowledgment;

41 (B) The child named in the acknowledgment; or

42 (C) The Department of Human Services or the administrator, as defined in ORS 25.010, if the
43 child named in the acknowledgment is in the care and custody of the department under ORS chapter
44 419B and the department or the administrator reasonably believes that the acknowledgment was
45 signed because of fraud, duress or a material mistake of fact.

1 (c) The challenge shall be initiated by filing a petition with the circuit court. Unless otherwise
 2 specifically provided by law, the challenge shall be conducted pursuant to the Oregon Rules of Civil
 3 Procedure.

4 (d) The party bringing the challenge has the burden of proof.

5 (e) Legal responsibilities arising from the acknowledgment, including child support obligations,
 6 may not be suspended during the challenge, except for good cause.

7 (f) If the court finds by a preponderance of the evidence that the acknowledgment was signed
 8 because of fraud, duress or material mistake of fact, the court shall set aside the acknowledgment
 9 unless, giving consideration to the interests of the parties and the child, the court finds that setting
 10 aside the acknowledgment would be substantially inequitable.

11 (6) Within one year after a voluntary acknowledgment of paternity form is filed in this state and
 12 if blood tests, as defined in ORS 109.251, have not been completed, a party to the acknowledgment,
 13 or the department if the child named in the acknowledgment is in the care and custody of the de-
 14 partment under ORS chapter 419B, may apply to the administrator for an order for blood tests in
 15 accordance with ORS 416.443.

16 (7)(a) A voluntary acknowledgment of paternity is not valid if, before the party signed the ac-
 17 knowledgment:

18 (A) The party signed a consent to the adoption of the child by another individual;

19 (B) The party signed a document relinquishing the child to a [*public or private*] child-caring
 20 agency **as defined in ORS 418.205**;

21 (C) The party's parental rights were terminated by a court; or

22 (D) In an adjudication, the party was determined not to be the biological parent of the child.

23 (b) Notwithstanding any provision of subsection (1)(c) or (e) of this section or ORS 432.098 to
 24 the contrary, an acknowledgment signed by a party described in this subsection and filed with the
 25 State Registrar of the Center for Health Statistics does not establish paternity and is void.

26 **SECTION 43.** ORS 109.319 is amended to read:

27 109.319. (1) The clerk or court administrator of any court having jurisdiction over adoption
 28 proceedings shall keep a separate record of the case for each adoption proceeding filed with the
 29 court. Adoption proceedings shall not be entered upon the general records of the court.

30 (2) The clerk, court administrator and any other person having custody of the records, papers
 31 and files in the court's record of an adoption case shall cause the records, papers and files, both
 32 prior to entry of judgment and after entry of judgment of adoption, to be sealed. The clerk, court
 33 administrator and any other person having custody of the records, papers and files shall not unseal
 34 or allow inspection or copying of or disclose any information in the records, papers and files to any
 35 person or entity, except as provided in this section or pursuant to ORS 109.305 to 109.410 or 109.425
 36 to 109.507.

37 (3) Prior to entry of judgment in an adoption proceeding, and after entry of judgment in an
 38 adoption proceeding but prior to the minor child who is the subject of the adoption proceeding at-
 39 taining 18 years of age, the following may inspect and copy sealed records, papers and files that are
 40 maintained in the court's record of an adoption case without a court order:

41 (a) Presiding judges and judges of the court operating under the Judicial Department, and court
 42 staff or other persons operating under the direction of the presiding judges or judges;

43 (b) Petitioners and their attorneys of record; and

44 (c) The Department of Human Services.

45 (4) After entry of judgment in an adoption proceeding and after the minor child who is the

1 subject of the adoption proceeding has attained 18 years of age, the following may inspect and copy
2 sealed records, papers and files that are maintained in the court's record of the adoption case
3 without a court order:

4 (a) Judges of the court operating under the Judicial Department and court staff or other persons
5 operating under the direction of the judges;

6 (b) The person who was the minor child in the adoption proceeding, except that the person who
7 was the minor child in the adoption proceeding may not inspect or copy the home study approved
8 under ORS 109.309 (7) except pursuant to a court order and with good cause;

9 (c) Petitioners and their attorneys of record; and

10 (d) The Department of Human Services.

11 (5)(a) After entry of judgment in an adoption proceeding and after the minor child who is the
12 subject of the adoption proceeding has attained 18 years of age, an individual whose consent for the
13 adoption is required under ORS 109.321 may file a motion with the court to inspect and copy sealed
14 records, papers and files that are maintained in the court's record of the adoption case.

15 (b) Except as provided in paragraph (c) of this subsection, the court shall grant the motion ex-
16 cept for good cause but must exclude from inspection and copying:

17 (A) For adoption cases filed on or after January 1, 2014:

18 (i) The Adoption Summary and Segregated Information Statement filed in accordance with ORS
19 109.317; and

20 (ii) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption
21 case.

22 (B) For adoption cases filed before January 1, 2014:

23 (i) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody
24 Jurisdiction and Enforcement Act pursuant to ORS 109.767;

25 (ii) A home study;

26 (iii) A report of adoption on a form prescribed and furnished by the State Registrar of the
27 Center for Health Statistics under ORS 432.223 or a similar document in which the court has certi-
28 fied to the state registrar the facts of the live birth of the person adopted;

29 (iv) A medical history described in ORS 109.342 or a similar document provided to the court for
30 the purpose of describing the medical history of the minor child or of the biological parents; and

31 (v) Addresses, phone numbers and Social Security numbers of persons or entities described in
32 ORS 109.317 (1)(a) to (d) that are contained in the court's record of the adoption case.

33 (c) If the Department of Human Services consented or has the authority to consent to the
34 adoption of a minor child under ORS 109.325 or 419B.529:

35 (A) A parent who has signed a release and surrender to the department under ORS 418.270, that
36 was accepted by the department, or whose parental rights were terminated under ORS 419B.500 and
37 419B.502 to 419B.524, may file a motion with the court to inspect or copy sealed records, papers and
38 files that are maintained in the court's record of the adoption case but may not be granted the right
39 to inspect or copy:

40 (i) For adoption cases filed on or after January 1, 2014:

41 (I) The Adoption Summary and Segregated Information Statement filed in accordance with ORS
42 109.317; and

43 (II) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the
44 adoption case.

45 (ii) For adoption cases filed before January 1, 2014:

1 (I) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody
2 Jurisdiction and Enforcement Act pursuant to ORS 109.767;

3 (II) A home study;

4 (III) A report of adoption on a form prescribed and furnished by the State Registrar of the
5 Center for Health Statistics under ORS 432.223 or a similar document in which the court has certi-
6 fied to the state registrar the facts of the live birth of the person adopted; and

7 (IV) A medical history described in ORS 109.342 or a similar document provided to the court for
8 the purpose of describing the medical history of the minor child or of the biological parents.

9 (B)(i) The court may grant the motion for good cause. The name, address, phone number, Social
10 Security number or other identifying information of any individual or entity contained in the re-
11 cords, papers and files must be redacted and may not be disclosed as part of the inspection or
12 copying allowed under this paragraph.

13 (ii) Notwithstanding sub-subparagraph (i) of this subparagraph, the name of the parent filing the
14 motion and the name, bar number and contact information for any attorney of record in the case
15 may be disclosed as part of the inspection or copying allowed under this paragraph.

16 (d) The fee imposed and collected by the court for the filing of a motion under this subsection
17 by the birth parent of an adult adoptee shall be in accordance with ORS 21.145, except that a fee
18 may not be imposed or collected for a motion filed under this subsection for adoptions where the
19 Department of Human Services consented to the adoption under ORS 109.325 or 419B.529.

20 (6) Except as provided in subsection (5)(c) of this section, an individual or entity that signed a
21 record, paper or document in a file contained in the court's record of the adoption case is entitled
22 to inspect and obtain a copy of that record, paper or document without a court order. The signature
23 and name of any other individual or entity on the same record, paper or document must be redacted
24 or otherwise not disclosed as part of the inspection and copying permitted under this subsection.

25 (7)(a) Any documents, writings, information and other records retained by the Department of
26 Human Services or [*an Oregon licensed*] a child-caring agency as defined in ORS 418.205 in the
27 department's or agency's record of an adoption case that are not records, papers and files in the
28 court's record of the adoption case are confidential and must be sealed. Any records, documents or
29 information, including records, papers and files in the court's record of the adoption case, retained
30 by the department or agency in its record of an adoption case may be accessed, used or disclosed
31 only as provided in this section or ORS 109.305 to 109.410 or 109.425 to 109.507, or pursuant to a
32 court order for good cause.

33 (b) The department or agency may, without a court order, access, use or disclose any records,
34 documents or information retained by the department or agency in its record of an adoption case,
35 including records, papers and files in the court's record of an adoption case that are in the pos-
36 session of the department or the agency for the purpose of providing adoption services or the ad-
37 ministration of child welfare services that the department or agency is authorized to provide under
38 applicable federal or state law.

39 (8) Except as otherwise provided in this section, a court may grant a motion and enter an order
40 allowing inspection, copying or other disclosure of records, papers and files that are maintained in
41 the court's record of an adoption case for good cause.

42 (9) Nothing contained in this section shall prevent the clerk or court administrator from certi-
43 fying or providing copies of a judgment of adoption to the petitioner in an adoption proceeding, to
44 the petitioner's attorney of record or to the Department of Human Services.

45 (10) The provisions of this section do not apply to the disclosure of information under ORS

1 109.425 to 109.507.

2 (11) Except as provided in subsection (5)(d) of this section, the court may impose and collect fees
3 for copies and services provided under this section, including but not limited to filing, inspection
4 and research fees.

5 (12) Unless good cause is shown, when the court grants a motion to inspect, copy or otherwise
6 disclose records, papers and files in the court's record of an adoption case, the court shall order a
7 prohibition or limitation on redisclosure of the records, papers and files, or of information contained
8 in the records, papers and files.

9 (13) When inspection, copying or disclosure is allowed under this section, the court may require
10 appropriate and reasonable verification of the identity of the requesting person to the satisfaction
11 of the court.

12 **SECTION 44.** ORS 278.322 is amended to read:

13 278.322. (1) The following child care facilities may obtain insurance in the same manner as a
14 local public body may obtain insurance under ORS 30.282:

15 (a) A [*private*] child-caring agency **as defined in ORS 418.205** if the agency:

16 (A) Is run by a private, nonprofit agency;

17 (B) Is licensed [*by the state*], **certified or otherwise authorized by the Department of Human**
18 **Services**; and

19 (C) Provides residential or psychiatric intensive day treatment services for children who have
20 been placed in the care and custody of the state; or

21 (b) A child care facility as defined in ORS 329A.250.

22 (2) The insurance obtained under subsection (1) of this section may not cover theft or bodily
23 injury and property damage arising out of operation of a motor vehicle by a child resident of the
24 facility or agency.

25 **SECTION 45.** 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 ensure 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 programs
30 under ORS 418.575 to 418.598, develop a set of short-range and long-range priorities for the devel-
31 opment of needed child care and services, such priorities to be periodically reviewed and revised
32 as necessary. Such priorities are to be set out in a form enumerating the number of children in each
33 category of need, the type of child care and services needed, the areas of the state where such care
34 and services are needed, and the projected costs. The State of Oregon hereby commits itself to the
35 purchase of care and services for children who need care and to encourage [*private*] child-caring
36 agencies and Strengthening, Preserving and Reunifying Families programs under ORS 418.575 to
37 418.598 to develop programs required to meet the needs of the children of this state, and [*money*]
38 **moneys** may be appropriated therefor. In developing programs necessary to meet the needs of the
39 children of this state, the Director of Human Services shall make every attempt feasible to develop
40 local, community and county-based organizations. The Department of Human Services shall docu-
41 ment and present an annual report to the committees of the Legislative Assembly that address ef-
42 forts taken under this section.

43 **SECTION 46.** ORS 419A.004 is amended to read:

44 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
45 otherwise:

- 1 (1) “Age-appropriate or developmentally appropriate activities” means:
- 2 (a) Activities or items that are generally accepted as suitable for children of the same chrono-
- 3 logical age or level of maturity or that are determined to be developmentally appropriate for a child,
- 4 based on the development of cognitive, emotional, physical and behavioral capacities that are typical
- 5 for an age or age group; and
- 6 (b) In the case of a specific child, activities or items that are suitable for the child based on the
- 7 developmental stages attained by the child with respect to the cognitive, emotional, physical and
- 8 behavioral capacities of the child.
- 9 (2) “Another planned permanent living arrangement” means an out-of-home placement for a ward
- 10 16 years of age or older that is consistent with the case plan and in the best interests of the ward
- 11 other than placement:
- 12 (a) By adoption;
- 13 (b) With a legal guardian; or
- 14 (c) With a fit and willing relative.
- 15 (3) “CASA Volunteer Program” means a program that is approved or sanctioned by a juvenile
- 16 court, has received accreditation from the National CASA Association and has entered into a con-
- 17 tract with the Oregon Volunteers Commission for Voluntary Action and Service under ORS 458.581
- 18 to recruit, train and supervise volunteers to serve as court appointed special advocates.
- 19 (4) “Child care center” means a residential facility for wards or youth offenders that is
- 20 licensed, **certified or otherwise authorized as a child-caring agency as that term is defined in**
- 21 **ORS 418.205** [*under the provisions of ORS 418.240*].
- 22 (5) “Community service” has the meaning given that term in ORS 137.126.
- 23 (6) “Conflict of interest” means a person appointed to a local citizen review board who has a
- 24 personal or pecuniary interest in a case being reviewed by that board.
- 25 (7) “Counselor” means a juvenile department counselor or a county juvenile probation officer.
- 26 (8) “Court” means the juvenile court.
- 27 (9) “Court appointed special advocate” means a person in a CASA Volunteer Program who is
- 28 appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.
- 29 (10) “Court facility” has the meaning given that term in ORS 166.360.
- 30 (11) “Current caretaker” means a foster parent who:
- 31 (a) Is currently caring for a ward who is in the legal custody of the Department of Human
- 32 Services and who has a permanency plan or concurrent permanent plan of adoption; and
- 33 (b) Who has cared for the ward, or at least one sibling of the ward, for at least the immediately
- 34 prior 12 consecutive months or for one-half of the ward’s or sibling’s life where the ward or sibling
- 35 is younger than two years of age.
- 36 (12) “Department” means the Department of Human Services.
- 37 (13) “Detention” or “detention facility” means a facility established under ORS 419A.010 to
- 38 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
- 39 pursuant to a judicial commitment or order.
- 40 (14) “Director” means the director of a juvenile department established under ORS 419A.010 to
- 41 419A.020 and 419A.050 to 419A.063.
- 42 (15) “Guardian” means guardian of the person and not guardian of the estate.
- 43 (16) “Indian child” means any unmarried person less than 18 years of age who is:
- 44 (a) A member of an Indian tribe; or
- 45 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-

1 dian tribe.

2 (17) "Juvenile court" means the court having jurisdiction of juvenile matters in the several
3 counties of this state.

4 (18) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

5 (19) "Parent" means the biological or adoptive mother and the legal father of the child, ward,
6 youth or youth offender. As used in this subsection, "legal father" means:

7 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
8 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

9 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
10 cable tribal law.

11 (20) "Permanent foster care" means an out-of-home placement in which there is a long-term
12 contractual foster care agreement between the foster parents and the department that is approved
13 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or
14 youth offender until the age of majority.

15 (21) "Public building" has the meaning given that term in ORS 166.360.

16 (22) "Reasonable and prudent parent standard" means the standard, characterized by careful and
17 sensible parental decisions that maintain the health, safety and best interests of a child or ward
18 while encouraging the emotional and developmental growth of the child or ward, that a substitute
19 care provider shall use when determining whether to allow a child or ward in substitute care to
20 participate in extracurricular, enrichment, cultural and social activities.

21 (23) "Reasonable time" means a period of time that is reasonable given a child or ward's emo-
22 tional and developmental needs and ability to form and maintain lasting attachments.

23 (24) "Records" means any information in written form, pictures, photographs, charts, graphs,
24 recordings or documents pertaining to a case.

25 (25) "Resides" or "residence," when used in reference to the residence of a child, ward, youth
26 or youth offender, means the place where the child, ward, youth or youth offender is actually living
27 or the jurisdiction in which wardship or jurisdiction has been established.

28 (26) "Restitution" has the meaning given that term in ORS 137.103.

29 (27) "Serious physical injury" means:

30 (a) A serious physical injury as defined in ORS 161.015; or

31 (b) A physical injury that:

32 (A) Has a permanent or protracted significant effect on a child's daily activities;

33 (B) Results in substantial and recurring pain; or

34 (C) In the case of a child under 10 years of age, is a broken bone.

35 (28) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward,
36 youth or youth offender who is taken into temporary custody pending investigation and disposition.

37 (29) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for
38 holding children, youths and youth offenders pending further placement.

39 (30) "Sibling" means one of two or more children or wards related:

40 (a) By blood or adoption through a common legal parent; or

41 (b) Through the marriage of the children's or wards' legal or biological parents.

42 (31) "Substitute care" means an out-of-home placement directly supervised by the department
43 or other agency, including placement in a foster family home, group home, **child-caring agency as**
44 **defined in ORS 418.205** or other child caring institution or facility. "Substitute care" does not in-
45 clude care in:

1 (a) A detention facility, forestry camp or youth correction facility;

2 (b) A family home that the court has approved as a ward’s permanent placement, when a [*private*
3 *child caring agency*] **child-caring agency as defined in ORS 418.205** has been appointed guardian
4 of the ward and when the ward’s care is entirely privately financed; or

5 (c) In-home placement subject to conditions or limitations.

6 (32) “Surrogate” means a person appointed by the court to protect the right of the child, ward,
7 youth or youth offender to receive procedural safeguards with respect to the provision of free ap-
8 propriate public education.

9 (33) “Tribal court” means a court with jurisdiction over child custody proceedings and that is
10 either a Court of Indian Offenses, a court established and operated under the code of custom of an
11 Indian tribe or any other administrative body of a tribe that is vested with authority over child
12 custody proceedings.

13 (34) “Victim” means any person determined by the district attorney, the juvenile department or
14 the court to have suffered direct financial, psychological or physical harm as a result of the act that
15 has brought the youth or youth offender before the juvenile court. When the victim is a minor,
16 “victim” includes the legal guardian of the minor. The youth or youth offender may not be consid-
17 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-
18 presented by the district attorney, are considered the victims.

19 (35) “Violent felony” means any offense that, if committed by an adult, would constitute a felony
20 and:

21 (a) Involves actual or threatened serious physical injury to a victim; or

22 (b) Is a sexual offense. As used in this paragraph, “sexual offense” has the meaning given the
23 term “sex crime” in ORS 163A.005.

24 (36) “Ward” means a person within the jurisdiction of the juvenile court under ORS 419B.100.

25 (37) “Young person” means a person who has been found responsible except for insanity under
26 ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

27 (38) “Youth” means a person under 18 years of age who is alleged to have committed an act that
28 is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the
29 United States or a state, county or city.

30 (39) “Youth care center” has the meaning given that term in ORS 420.855.

31 (40) “Youth offender” means a person who has been found to be within the jurisdiction of the
32 juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

33 **SECTION 47.** ORS 419B.100 is amended to read:

34 419B.100. (1) Except as otherwise provided in subsection (5) of this section and ORS 107.726, the
35 juvenile court has exclusive original jurisdiction in any case involving a person who is under 18
36 years of age and:

37 (a) Who is beyond the control of the person’s parents, guardian or other person having custody
38 of the person;

39 (b) Whose behavior is such as to endanger the welfare of the person or of others;

40 (c) Whose condition or circumstances are such as to endanger the welfare of the person or of
41 others;

42 (d) Who is dependent for care and support on a [*public or private*] child-caring agency **as defined**
43 **in ORS 418.205** that needs the services of the court in planning for the best interest of the person;

44 (e) Whose parents or any other person or persons having custody of the person have:

45 (A) Abandoned the person;

1 (B) Failed to provide the person with the care or education required by law;

2 (C) Subjected the person to cruelty, depravity or unexplained physical injury; or

3 (D) Failed to provide the person with the care, guidance and protection necessary for the
4 physical, mental or emotional well-being of the person;

5 (f) Who has run away from the home of the person;

6 (g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

7 (h) Who is subject to an order entered under ORS 419C.411 (7)(a).

8 (2) The court shall have jurisdiction under subsection (1) of this section even though the child
9 is receiving adequate care from the person having physical custody of the child.

10 (3) The provisions of subsection (1) of this section do not prevent a court of competent juris-
11 diction from entertaining a civil action or suit involving a child.

12 (4) The court does not have further jurisdiction as provided in subsection (1) of this section after
13 a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

14 (5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an
15 Indian child who resides or is domiciled within the reservation of the tribe, except where the juris-
16 diction is otherwise vested in the state by existing federal law.

17 (b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the ju-
18 venile court, absent good cause to the contrary and absent objection by either parent, shall transfer
19 a proceeding for the foster care placement of, or termination of parental rights to, an Indian child
20 not domiciled or residing within the reservation of the Indian child's tribe, to the jurisdiction of the
21 tribe.

22 (c) The juvenile court shall give full faith and credit to the public acts, records and judicial
23 proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent
24 that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings
25 of any other entity.

26 **SECTION 48.** ORS 419B.371 is amended to read:

27 419B.371. (1) As used in this section:

28 (a) "Community guardian" means a child-caring agency licensed, **certified or otherwise au-**
29 **thorized** under ORS 418.205 to [418.310] **418.327** that is filing a motion for appointment as guardian
30 of a ward under ORS 419B.366.

31 (b) "Community guardianship" means a guardianship granted under ORS 419B.366 to a commu-
32 nity guardian.

33 (2) The court may appoint a community guardian and establish a community guardianship of a
34 ward under ORS 419B.366 when, in addition to the requirements of ORS 419B.366:

35 (a) The ward is 16 years of age or older;

36 (b) The ward has spent three or more years in substitute care;

37 (c) The proposed community guardian has provided care or services to the ward under ORS
38 418.205 to [418.310] **418.327** in the 12 months immediately preceding the filing of the motion for
39 community guardianship;

40 (d) Except for another planned permanent living arrangement, there is no other appropriate
41 permanency plan for the ward under ORS 419B.476 (5);

42 (e) The proposed community guardianship would include planning and guidance for the ward's
43 transition to successful adulthood, including needs and goals related to crisis intervention, housing,
44 physical and mental health, education, employment, community connections and supportive re-
45 lationships;

1 (f) The ward gives informed consent to the establishment of the community guardianship; and

2 (g) The ward has access to court-appointed counsel under ORS 419B.195.

3 (3) Informed consent of the ward under subsection (2)(f) of this section shall include:

4 (a) The ward’s written consent to information provided in writing to the ward by the court, the
5 Department of Human Services or the proposed community guardian about the consequences of es-
6 tablishment of a community guardianship, including any loss of benefits currently being received or
7 that may prospectively be provided to the ward if another permanency plan were ordered; and

8 (b) The ward’s written acknowledgment that the ward cannot be placed in substitute care in the
9 legal custody of the Department of Human Services after reaching 18 years of age.

10 **SECTION 49.** ORS 441.277 is amended to read:

11 441.277. As used in ORS 441.277 to 441.323:

12 (1) “Facility” means a long term care facility as defined in ORS 442.015 or a residential care
13 facility as defined in ORS 443.400. “Facility” does not include facilities licensed, **certified or oth-**
14 **erwise authorized** under ORS 418.205 to [418.325] **418.327, 418.470, 418.475 or 418.950 to 418.970**
15 by the Department of Human Services.

16 (2) “Licensee” means any person licensed by the department to operate a facility other than a
17 trustee appointed under ORS 441.281 or a temporary manager appointed under ORS 441.333.

18 (3) “Monitor” means an agent of the Director of Human Services designated by the director to
19 observe the operation of a facility.

20 **SECTION 50.** ORS 443.830 is amended to read:

21 443.830. As used in this section and ORS 443.835:

22 (1) “Child” means a person for whom developmental disability services are planned and provided
23 and who is:

24 (a) Under 18 years of age; or

25 (b) At least 18 years of age but less than 22 years of age and resides in a developmental disa-
26 bility child foster home and whose needs, as determined by the individual support plan team, are
27 best met if services are provided in a developmental disability child foster home.

28 (2) “Department” means the Department of Human Services.

29 (3)(a) “Developmental disability child foster home” means any home maintained by a person who
30 has under the care of the person, in the home, a child found eligible for developmental disability
31 services for the purpose of providing the child with supervision, food and lodging. The child must
32 be unrelated to the person by blood or marriage and be unattended by the child’s parent or guard-
33 ian.

34 (b) “Developmental disability child foster home” does not include:

35 (A) A boarding school that is essentially and primarily engaged in educational work;

36 (B) A home in which a child is provided with room and board by a school district board; or

37 (C) A foster home under the direct supervision of a [private] child-caring agency **as that term**
38 **is defined in ORS 418.205.**

39 (4) “Individual support plan team” means a team composed of the child, the child’s parent or
40 guardian, the community mental health program representative and representatives of all current
41 service providers that develops a written plan of services covering a 12-month period for a child.

42 **SECTION 51.** ORS 479.210 is amended to read:

43 479.210. As used in ORS 479.215 to 479.220, unless the context requires otherwise, “institution”
44 means:

45 (1) A child-caring facility that provides residential care and that receives state aid under ORS

1 412.001 to 412.161, 418.005 to 418.025, 418.205 to [418.315] **418.327, 418.470, 418.475**, 418.625 to
 2 418.685, [and] 418.647 **and 418.950 to 418.970**;

3 (2) An inpatient care facility required to be licensed under ORS 441.015 to 441.087, 441.525 to
 4 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463; or

5 (3) A residential facility subject to licensure under ORS 443.400 to 443.455.

6 **SECTION 52.** ORS 479.217 is amended to read:

7 479.217. (1) In lieu of an inspection approval by the State Fire Marshal or the approved au-
 8 thority of a governmental subdivision having jurisdiction in an area exempted by the State Fire
 9 Marshal, under ORS 479.215 for institutions licensed under ORS 412.001 to 412.161, 418.005 to
 10 418.025, 418.205 to [418.315] **418.327, 418.470, 418.475**, 418.625 to 418.685, 418.647, **418.950 to 418.970**,
 11 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.400 to 442.463 or 443.400 to
 12 443.455, the State Fire Marshal or the approved authority may issue a temporary permit which
 13 meets the requirements of ORS 479.215 for licensing of such institutions. The temporary permit may
 14 be issued only when it appears that:

15 (a) The facilities for protection from fire in an institution are adequate so that the institution
 16 can operate without jeopardizing the health or safety of its residents or patients; and

17 (b) The institution can comply with all applicable laws and rules relating to safety from fire
 18 within a period of two years from the date of issuance of the temporary permit.

19 (2) In issuing the temporary permit, the State Fire Marshal or approved authority of the gov-
 20 ernmental subdivision having jurisdiction in an exempt area may require that during the two-year
 21 period in which the temporary permit is in effect:

22 (a) Plans for compliance with all applicable laws and rules relating to safety from fire be sub-
 23 mitted with the application for a temporary permit;

24 (b) Periodic reports be submitted on the progress of the plans for compliance; and

25 (c) Special temporary provisions specified by the State Fire Marshal or the approved authority
 26 be maintained for the protection from fire of the residents or patients of the institution.

27 (3) If at any time, the State Fire Marshal or the approved authority determines that the facilities
 28 for protection from fire at the institution are no longer adequate to protect the residents or patients
 29 or that the requirements imposed under subsection (2) of this section are not being maintained, the
 30 State Fire Marshal or the approved authority shall cancel the temporary permit and shall notify the
 31 licensing agency of such cancellation.

32 (4) Extensions and renewals may be granted on the temporary permit.

33 **SECTION 53.** ORS 497.162 is amended to read:

34 497.162. (1) Upon application of the Oregon Youth Authority, the Oregon Health Authority or
 35 the Department of Human Services, the State Fish and Wildlife Commission shall issue, without fee,
 36 a license to angle for the temporary use of any person in a state institution as described in ORS
 37 179.610, any student in a youth correction facility or related camps or programs operated by the
 38 Oregon Youth Authority, any child placed by the department and under the care of a foster home
 39 or a [*private nonprofit child-caring agency certified*] **child-caring agency licensed, certified or**
 40 **otherwise authorized** by the department **under ORS 418.205 to 418.327**, any person in an alter-
 41 native to state hospitalization program as described in ORS 430.630 (2)(b) or (c), or any person re-
 42 ceiving services under ORS 430.664. The licenses issued under this subsection shall be in bearer
 43 form and, subject to applicable laws and regulations relating to angling, shall be used as the agency
 44 applying for the license directs.

45 (2) Upon application of the Department of Human Services, the commission shall issue, without

1 fee, a license to take shellfish for the temporary use of any child placed by the department and un-
 2 der the care of a foster home or a [*private nonprofit child-caring agency certified*] **child-caring**
 3 **agency licensed, certified or otherwise authorized** by the department **under ORS 418.205 to**
 4 **418.327**. The licenses issued under this subsection shall be in bearer form and, subject to applicable
 5 laws and regulations relating to taking shellfish, shall be used as the department directs.

6 (3) Upon application of the director of any veteran’s administration hospital or domiciliary
 7 within this state, the commission shall issue, without fee, to each hospital or domiciliary 30 licenses
 8 to angle or to take shellfish for the temporary use of any person who is a patient or resident in the
 9 hospital or domiciliary. The licenses issued under this subsection shall be in bearer form and, sub-
 10 ject to applicable laws and regulations relating to angling and to taking shellfish, shall be used as
 11 the director of the hospital or domiciliary provides.

12 **SECTION 54.** ORS 609.652 is amended to read:

13 609.652. As used in ORS 609.654:

14 (1)(a) “Aggravated animal abuse” means any animal abuse as described in ORS 167.322.

15 (b) “Aggravated animal abuse” does not include:

16 (A) Good animal husbandry, as defined in ORS 167.310; or

17 (B) Any exemption listed in ORS 167.335.

18 (2) “Law enforcement agency” means:

19 (a) Any city or municipal police department.

20 (b) A police department established by a university under ORS 352.121 or 353.125.

21 (c) Any county sheriff’s office.

22 (d) The Oregon State Police.

23 (e) A law enforcement division of a county or municipal animal control agency that employs
 24 sworn officers.

25 (f) A humane investigation agency as defined in ORS 181A.340 that employs humane special
 26 agents commissioned under ORS 181A.340.

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

28 (a) A physician, including any intern or resident.

29 (b) A dentist.

30 (c) A school employee.

31 (d) A licensed practical nurse or registered nurse.

32 (e) An employee of the Department of Human Services, Oregon Health Authority, Early Learn-
 33 ing Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
 34 health department, a community mental health program, a community developmental disabilities
 35 program, a county juvenile department, a [*licensed*] child-caring agency **as defined in ORS 418.205**
 36 or an alcohol and drug treatment program.

37 (f) A peace officer.

38 (g) A psychologist.

39 (h) A member of the clergy.

40 (i) A regulated social worker.

41 (j) An optometrist.

42 (k) A chiropractor.

43 (L) A certified provider of foster care, or an employee thereof.

44 (m) An attorney.

45 (n) A naturopathic physician.

1 (o) A licensed professional counselor.

2 (p) A licensed marriage and family therapist.

3 (q) A firefighter or emergency medical services provider.

4 (r) A court appointed special advocate, as defined in ORS 419A.004.

5 (s) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

6 (t) A member of the Legislative Assembly.

7 **SECTION 55.** ORS 657.060 is amended to read:

8 657.060. (1) "Employment" does not include service performed by a person in the employ of a
9 son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of the
10 father or mother.

11 (2) "Employment" does not include service performed as foster care parents certified by the
12 Department of Human Services or approved by a [*licensed child caring facility*] **child-caring agency**
13 **as defined in ORS 418.205.**

14 **SECTION 56.** (1) **Sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to stat-**
15 **utes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act become operative on July 1, 2016.**

16 (2) **The Director of Human Services and the Department of Human Services may take**
17 **any action before the operative date specified in subsection (1) of this section that is neces-**
18 **sary to enable the director and the department to exercise, on and after the operative date**
19 **specified in subsection (1) of this section, the duties, functions and powers conferred on the**
20 **director or the department by this 2016 Act.**

21 **SECTION 57.** (1) **Sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to stat-**
22 **utes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act apply to child-caring agencies**
23 **and family foster homes that are licensed, certified or otherwise authorized by the Depart-**
24 **ment of Human Services on or after the operative date specified in section 56 of this 2016**
25 **Act.**

26 (2) **A child-caring agency, facility, school or home that was licensed, certified or other-**
27 **wise authorized by the Department of Human Services to provide care or services to children**
28 **in this state pursuant to state law as that law existed on the day immediately preceding the**
29 **operative date specified in section 56 of this 2016 Act is considered to be licensed, certified**
30 **or otherwise authorized under, and is subject to, the provisions of this 2016 Act until such**
31 **license, certification or authorization expires or is suspended or revoked.**

32 (3) **Notwithstanding subsections (1) and (2) of this section, sections 6, 7 and 36 to 38 of**
33 **this 2016 Act and the amendments to statutes by sections 1 to 4, 8 to 34 and 39 to 55 of this**
34 **2016 Act do not affect a contract or agreement between the department and a child-caring**
35 **agency, facility, school or home that was licensed, certified or otherwise authorized by the**
36 **department to provide care or services to children in this state pursuant to state law as that**
37 **law existed on the day immediately preceding the operative date specified in section 56 of this**
38 **2016 Act. However, sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to statutes**
39 **by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act apply to a renewal or extension of any**
40 **such contract or agreement on or after the operative date specified in section 56 of this 2016**
41 **Act, as well as to any new contract or agreement made on or after the operative date spec-**
42 **ified in section 56 of this 2016 Act.**

43 **SECTION 58.** **The unit captions used in this 2016 Act are provided only for the conven-**
44 **ience of the reader and do not become part of the statutory law of this state or express any**
45 **legislative intent in the enactment of this 2016 Act.**

1 **SECTION 59. This 2016 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
3 **on its passage.**

4
