

Requested by Representative OLSON

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2903**

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “418.205,”.  
2 Delete lines 5 through 20 and delete pages 2 through 11 and insert:  
3 **“SECTION 1.** Section 36, chapter 106, Oregon Laws 2016, is amended to  
4 read:  
5 **“Sec. 36.** As used in sections 36 to 38 [*of this 2016 Act*], **chapter 106,**  
6 **Oregon Laws 2016:**  
7 **“(1)(a) ‘Abuse’ has the meaning given that term in ORS 419B.005,**  
8 **except that:**  
9 **“(b) ‘Abuse’ includes:**  
10 **“(A) Abandonment, including the desertion or willful forsaking of**  
11 **a child in care or the withdrawal or neglect of duties and obligations**  
12 **owed a child in care by a child-caring agency, caretaker or other per-**  
13 **son.**  
14 **“(B) Involuntary seclusion by means of confinement of a child in**  
15 **care alone in a room from which the child in care is physically pre-**  
16 **vented from leaving, except for age-appropriate discipline, which in-**  
17 **cludes, but is not limited to, a time-out.**  
18 **“(C) A wrongful use of a physical or chemical restraint of a child**  
19 **in care, excluding an act of restraint prescribed by a physician licensed**  
20 **under ORS chapter 677 and any treatment activities that are consist-**  
21 **ent with an approved treatment plan or in connection with a court**

1 **order.**

2 “[(1) ‘Abuse’ means one or more of the following:]

3 “[(a) Any physical injury to a child in care caused by other than accidental  
4 means, or which appears to be at variance with the explanation given of the  
5 injury.]

6 “[(b) Neglect of a child in care.]

7 “[(c) Abandonment, including desertion or willful forsaking of a child in  
8 care or the withdrawal or neglect of duties and obligations owed a child in  
9 care by a child-caring agency, caretaker or other person.]

10 “[(d) Willful infliction of physical pain or injury upon a child in care.]

11 “[(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,  
12 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.]

13 “[(f) Verbal abuse.]

14 “[(g) Financial exploitation.]

15 “[(h) Sexual abuse.]

16 “[(i) Involuntary seclusion of a child in care for the convenience of a  
17 child-caring agency or caretaker or to discipline the child in care.]

18 “[(j) A wrongful use of a physical or chemical restraint of a child in care,  
19 excluding an act of restraint prescribed by a physician licensed under ORS  
20 chapter 677 and any treatment activities that are consistent with an approved  
21 treatment plan or in connection with a court order.]

22 “(2) ‘Child in care’ means a person under 21 years of age who is residing  
23 in or receiving care or services from a child-caring agency or proctor foster  
24 home subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

25 “(3) ‘Child-caring agency’ has the meaning given that term in ORS  
26 418.205.

27 “(4) ‘Proctor foster home’ has the meaning given that term in ORS  
28 418.205.

29 “[(5)(a) ‘Financial exploitation’ means:]

30 “[(A) Wrongfully taking the assets, funds or property belonging to or in-

1 *tended for the use of a child in care.]*

2 *“[(B) Alarming a child in care by conveying a threat to wrongfully take or*  
3 *appropriate moneys or property of the child in care if the child would reason-*  
4 *ably believe that the threat conveyed would be carried out.]*

5 *“[(C) Misappropriating, misusing or transferring without authorization any*  
6 *moneys from any account held jointly or singly by a child in care.]*

7 *“[(D) Failing to use the income or assets of a child in care effectively for*  
8 *the support and maintenance of the child in care.]*

9 *“[(b) ‘Financial exploitation’ does not include age-appropriate discipline*  
10 *that may involve the threat to withhold, or the withholding of, privileges.]*

11 *“[(6) ‘Intimidation’ means compelling or deterring conduct by threat. ‘In-*  
12 *timidation’ does not include age-appropriate discipline that may involve the*  
13 *threat to withhold privileges.]*

14 *“[(7)] (5) ‘Law enforcement agency’ means:*

15 *“(a) Any city or municipal police department.*

16 *“(b) Any county sheriff’s office.*

17 *“(c) The Oregon State Police.*

18 *“(d) Any district attorney.*

19 *“(e) A police department established by a university under ORS 352.121*  
20 *or 353.125.*

21 *“[(8) ‘Neglect’ means:]*

22 *“[(a) Failure to provide the care, supervision or services necessary to*  
23 *maintain the physical and mental health of a child in care; or]*

24 *“[(b) The failure of a child-caring agency, proctor foster home, caretaker or*  
25 *other person to make a reasonable effort to protect a child in care from*  
26 *abuse.]*

27 *“[(9)] (6) ‘Services’ includes but is not limited to the provision of food,*  
28 *clothing, medicine, housing, medical services, assistance with bathing or*  
29 *personal hygiene or any other service essential to the well-being of a child*  
30 *in care.*

1       “[(10) ‘Sexual abuse’ means:]

2       “[(a) Sexual harassment, sexual exploitation or inappropriate exposure to  
3 sexually explicit material or language;]

4       “[(b) Any sexual contact between a child in care and an employee of a  
5 child-caring agency or proctor foster home, caretaker or other person responsi-  
6 ble for the provision of care or services to a child in care;]

7       “[(c) Any sexual contact between a person and a child in care that is un-  
8 lawful under ORS chapter 163 and not subject to a defense under that chapter;  
9 or]

10       “[(d) Any sexual contact that is achieved through force, trickery, threat or  
11 coercion.]

12       “[(11) ‘Sexual contact’ has the meaning given that term in ORS 163.305.]

13       “[(12) ‘Sexual exploitation’ as described in ORS 419B.005 (1)(a)(E).]

14       “[(13) ‘Verbal abuse’ means to threaten significant physical or emotional  
15 harm to a child in care through the use of:]

16       “[(a) Derogatory or inappropriate names, insults, verbal assaults, profanity  
17 or ridicule; or]

18       “[(b) Harassment, coercion, threats, intimidation, humiliation, mental cru-  
19 elty or inappropriate sexual comments.]

20       “**SECTION 2.** Section 37, chapter 106, Oregon Laws 2016, is amended to  
21 read:

22       “**Sec. 37.** (1) When the Department of Human Services becomes aware of  
23 a report of suspected [*child*] abuse of a child in care, whether in the form  
24 of an allegation, complaint or formal report made under this section, and  
25 whether made directly to the Director of Human Services, the department  
26 or an employee of the department, to a hotline operated by the department,  
27 through the mandatory abuse reporting process set forth in ORS 419B.005 to  
28 419B.050 or otherwise, the department shall immediately[:] **determine if the**  
29 **incident of suspected abuse was life threatening or affected the phys-**  
30 **ical safety of the child in care.**

1       **“(2) If the incident of suspected abuse was life threatening or af-**  
2 **ected the physical safety of a child in care, the department shall:**

3       “(a) Notify appropriate personnel within the department, including but  
4 not limited to employees responsible for licensing, certifying or authorizing  
5 child-caring agencies.

6       “(b) Notify any [*governmental agency or unit*] **state agency or juvenile**  
7 **department** that has a contract with the child-caring agency to provide care  
8 or services to the child in care.

9       “(c) Commence an investigation to determine whether the report of sus-  
10 pected abuse is substantiated[,] **or** unsubstantiated [*or inconclusive*] under  
11 section 38, **chapter 106, Oregon Laws 2016** [*of this 2016 Act*].

12       “(d) Report to a law enforcement agency any crime that the department  
13 has reason to believe has occurred with respect to a child in care or at a  
14 child-caring agency or proctor foster home, even if the suspected crime is  
15 not related to a report of abuse made under this section.

16       **“(3)(a) Within five days of determining that the incident of sus-**  
17 **pected abuse was not life threatening or did not affect the physical**  
18 **safety of a child in care:**

19       **“(A) The department may commence an investigation regarding the**  
20 **incident unless the Director of Human Services or the director’s**  
21 **designee determines that further investigation is not appropriate or is**  
22 **not necessary; or**

23       **“(B) The director or the director’s designee may do one of the fol-**  
24 **lowing:**

25       **“(i) Issue a letter of concern. The letter of concern may set forth**  
26 **the rules, policies or procedures that were not followed or that were**  
27 **violated by the incident of abuse and may make recommendations to**  
28 **the child-caring agency or responsible employee, person or entity for**  
29 **remedial action, including but not limited to seeking peer review,**  
30 **providing or obtaining additional training or seeking professional**

1 **counseling and support. The director, the director’s designee and the**  
2 **department are not required to follow up regarding whether the re-**  
3 **medial actions recommended in the letter of concern, if any, were**  
4 **taken by the child-caring agency, employee, person or entity. A copy**  
5 **of the letter must be provided to the child-caring agency and the em-**  
6 **ployee, person or entity responsible for the incident of abuse.**

7 **“(ii) Issue a reprimand. The reprimand may set forth the rules,**  
8 **policies or procedures that were violated and may set forth recom-**  
9 **mendations for remedial action. The director, the director’s designee**  
10 **and the department must follow up regarding whether the remedial**  
11 **actions set forth in the reprimand, if any, were taken. A copy of the**  
12 **reprimand must be provided to the child-caring agency and the em-**  
13 **ployee, person or entity responsible for the incident of abuse.**

14 **“(b) The final decision as to whether to issue a letter of concern**  
15 **or a reprimand under this section is within the sole discretion of the**  
16 **director or the director’s designee.**

17 **“(4) The final determination of whether an incident of suspected**  
18 **abuse was life threatening or affected the physical safety of a child in**  
19 **care under this section is within the sole discretion of the Director of**  
20 **Human Services or the director’s designee.**

21 **“[(2)] (5) As a condition for issuance or renewal of a license, certificate**  
22 **or authorization to a child-caring agency under ORS 418.205 to 418.327,**  
23 **418.470, 418.475 or 418.950 to 418.970, the department shall require and verify**  
24 **that the child-caring agency has procedures and protocols that:**

25 **“(a) Require employees of the child-caring agency, or a proctor foster**  
26 **home certified by the child-caring agency, to immediately report suspected**  
27 **abuse of a child in care to the Director of Human Services, the director’s**  
28 **designee or personnel within the department who have been specifically**  
29 **designated to receive reports of abuse of children in care;**

30 **“(b) Mandate that the child-caring agency provide an annual training and**

1 written materials that include information about the child abuse reporting  
2 hotline, and that the agency advise and educate employees of the child-caring  
3 agency, and employees of any proctor foster home certified by the child-  
4 caring agency, of the duty under this section **and ORS 419B.005 to 419B.050**  
5 to report abuse of a child in care; and

6 “(c) Inform employees of child-caring agencies and proctor foster homes  
7 that the duty to report abuse of a child in care is personal to the employee  
8 and that the duty is not fulfilled by reporting the abuse to the owner, oper-  
9 ator or any other employee of the child-caring agency or proctor foster home  
10 even if the owner, operator or other employee reports the abuse of a child  
11 in care to the director, the director’s designee or the department.

12 “[3] **(6)** Interference or hindering an investigation of abuse of a child in  
13 care, including but not limited to the intimidation of witnesses, falsification  
14 of records or denial or limitation of interviews with the child in care who  
15 is the subject of the investigation or with witnesses, may constitute grounds  
16 for the revocation, suspension or placing of conditions on the license, cer-  
17 tificate or other authorization of a child-caring agency or proctor foster  
18 home.

19 “[4)(a)] **(7)(a)** Anyone, including but not limited to an employee of a  
20 child-caring agency or proctor foster home, who makes a report of suspected  
21 abuse of a child in care to the Governor, the Department of Justice, the Di-  
22 rector of Human Services, the director’s designee or the Department **of Hu-**  
23 **man Services** under this section in good faith and who has reasonable  
24 grounds for the making of the report shall have immunity:

25 “(A) From any liability, civil or criminal, that might otherwise be in-  
26 curred or imposed with respect to the making or content of [*such*] **the** report;

27 “(B) From disciplinary action taken by the person’s employer; and

28 “(C) With respect to participating in any judicial proceeding resulting  
29 from or involving the report.

30 “(b) A person making a report under this section may include references

1 to otherwise confidential information for the sole purpose of making the re-  
2 port, and any such disclosure must be protected from further disclosure to  
3 other persons or entities for any other purpose not related to the making of  
4 the report.

5 **“SECTION 3.** Section 38, chapter 106, Oregon Laws 2016, is amended to  
6 read:

7 **“Sec. 38.** (1) The investigation conducted by the Department of Human  
8 Services under section 37 (2), chapter 106, Oregon Laws 2016, [of this 2016  
9 Act] must result in one of the following findings:

10 “(a) That the report is substantiated. A report is substantiated when  
11 [there is reasonable cause to believe] **a preponderance of the evidence**  
12 **demonstrates** that the abuse of a child in care occurred.

13 “(b) That the report is unsubstantiated. A report is unsubstantiated when  
14 [there is no evidence] **a preponderance of the evidence does not demon-**  
15 **strate** that the abuse of a child in care occurred.

16 “[c) *That the report is inconclusive. A report is inconclusive when there*  
17 *is some indication that the abuse occurred but there is insufficient evidence to*  
18 *conclude that there is reasonable cause to believe that the abuse occurred.*]

19 **“(2)(a)** [When a report is received under section 37 of this 2016 Act alleging  
20 that a child in care may have been subjected to abuse, the department shall  
21 notify the attorney for the child, the child’s court appointed special advocate,  
22 the parents or guardians of the child, any attorney representing a parent or  
23 guardian of the child and any governmental agency or unit that has a contract  
24 with the child-caring agency to provide care or services to the child that a re-  
25 port has been received.] **The department shall notify the persons or en-**  
26 **tities described in paragraph (b) of this subsection that a report of**  
27 **suspected abuse has been made when the department becomes aware**  
28 **of a report under section 37 (1), chapter 106, Oregon Laws 2016, and the**  
29 **department determines that the incident of abuse was life threatening**  
30 **or affected the physical safety of a child in care.**



1       **“(b) The persons or entities that the department must notify under**  
2 **this subsection that a report of suspected abuse has been made in-**  
3 **clude:**

4       **“(A) The case managers for the child;**

5       **“(B) The attorney for the child;**

6       **“(C) The child’s court appointed special advocate;**

7       **“(D) The parents or guardians of the child;**

8       **“(E) Any attorney representing a parent or guardian of the child;**  
9 **and**

10       **“(F) Any state agency or juvenile department that has a contract**  
11 **with the child-caring agency to provide care or services to the child**  
12 **in care.**

13       “(3) The department may interview the child in care who is the subject  
14 of suspected abuse and witnesses without the presence of child-caring agency  
15 or proctor foster home employees or department personnel. The department  
16 shall inform the child in care that the child may have the child’s parent or  
17 guardian, if the child has not been committed to the custody of the depart-  
18 ment or the Oregon Youth Authority, or attorney present when participating  
19 in an interview conducted in the course of an abuse investigation.

20       “(4) The department shall notify the following when a report of abuse is  
21 substantiated **as described in subsection (1)(a) of this section:**

22       “(a) The Director of Human Services.

23       “(b) Personnel in the department responsible for the licensing, certificate  
24 or authorization of child-caring agencies.

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

27       “*[(d) With respect to the child in care who is the subject of the abuse report*  
28 *and investigation:]*

29       “*[(A) Case managers for the child in care;]*

30       “*[(B) The court appointed special advocate, if any, for the child in care;*

1 *and]*

2 “[*(C) The attorney for the child in care, if any.*]

3 “**(d) With respect to the child in care who is the subject of the abuse**  
4 **report and investigation, the case managers for the child, the attorney**  
5 **for the child, the child’s court appointed special advocate and any at-**  
6 **torney representing a parent or guardian of the child.**

7 “(e) The parents or guardians of the child in care who is the subject of  
8 the abuse report and investigation if the child in care has not been commit-  
9 ted to the custody of the department or the youth authority. Notification  
10 under this paragraph may not include any details or information other than  
11 that a report of abuse has been substantiated **as described in subsection**  
12 **(1)(a) of this section.**

13 “[*(f) The parents or guardians of each child in care that is residing, or*  
14 *receiving care or services, at the child-caring agency or proctor foster home that*  
15 *is the subject of the report and investigation, if the child in care has not been*  
16 *committed to the custody of the department or the youth authority. Notification*  
17 *under this paragraph may not include any details or information other than*  
18 *that a report of abuse has been substantiated.*]

19 “[*(g)*] **(f) Any [governmental agency or unit] state agency or juvenile**  
20 **department** that has a contract with the child-caring agency to provide care  
21 or services to a child in care.

22 “(5) The department shall report on a quarterly basis to the interim leg-  
23 islative committees on child welfare for the purposes of public review and  
24 oversight of the quality and safety of child-caring agencies that are licensed,  
25 certified or authorized by the department in this state and of proctor foster  
26 homes that are certified by the child-caring agencies. Information provided  
27 in reports under this subsection may not contain the name or any identifying  
28 information of a child in care but must contain all of the following:

29 “(a) The name of any child-caring agency or proctor foster home where  
30 the department conducted an investigation [*pursuant to*] **under** section 37

1 **(2), chapter 106, Oregon Laws 2016, [of this 2016 Act]** that resulted in a  
2 finding that the report of abuse was substantiated **as described in sub-**  
3 **section (1)(a) of this section,** during that quarter;

4 “(b) The approximate date that the abuse occurred;

5 “(c) The nature of the abuse and a brief narrative description of the abuse  
6 that occurred;

7 “(d) Whether physical injury, sexual abuse or death resulted from the  
8 abuse; and

9 “(e) Corrective actions taken or ordered by the department and the out-  
10 come of the corrective actions.

11 “**(6) In compiling records, reports and other information during an**  
12 **investigation under section 37 (2), chapter 106, Oregon Laws 2016, and**  
13 **in issuing findings, letters of concern or reprimands, the Director of**  
14 **Human Services or the director’s designee and the department shall**  
15 **refer to the employee, person or entity that is the subject of the in-**  
16 **vestigation only as the ‘subject.’**

17 “**SECTION 4.** ORS 418.240, as amended by section 4, chapter 106, Oregon  
18 Laws 2016, is amended to read:

19 “418.240. (1) All child-caring agencies shall obtain from the Department  
20 of Human Services a license, certificate or other authorization to provide  
21 care or services to children under ORS 418.205 to 418.327, 418.470, 418.475 or  
22 418.950 to 418.970. The criteria for issuance, renewal, suspension or revoca-  
23 tion of, or for placing conditions on, a license, certificate or authorization  
24 under this section must:

25 “(a) Be set forth in rules adopted by the department;

26 “(b) Include the full compliance requirements set forth in subsection (2)  
27 of this section; and

28 “(c) Include, but are not limited to, the following:

29 “(A) The fitness of the child-caring agency.

30 “(B) The employment of capable, trained or experienced staff that meet

1 minimum staffing requirements.

2 “(C) Sufficient financial backing to ensure effective operations.

3 “(D) The probability of permanence in the child-caring agency.

4 “(E) The care and services provided to the children served will be in their  
5 best interests and that of society.

6 “(F) That the child-caring agency is or will be in compliance with the  
7 standards of care and treatment established in rules adopted by the depart-  
8 ment.

9 “(2)(a) The department may not issue or renew a license, certificate or  
10 other authorization to a child-caring agency unless the department finds the  
11 agency is or will be in full compliance with all of the following:

12 “(A) The agency ensures child and family rights.

13 “(B) The agency complies with abuse reporting and investigation re-  
14 quirements.

15 “(C) The agency engages in and applies appropriate behavior management  
16 techniques.

17 “(D) The agency provides adequate furnishings and personal items for  
18 children.

19 “(E) The agency provides appropriate food services.

20 “(F) The agency ensures the safety of children.

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

23 “(H) The agency or the agency’s employees or agents have not engaged  
24 in financial mismanagement.

25 “(I) The agency fully and timely corrects violations and maintains stan-  
26 dards in accordance with any plan of correction imposed by the department.

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

1 “(b) The department may suspend, revoke or place conditions on a license,  
2 certificate or authorization of a child-caring agency if the department finds  
3 the agency is not in full compliance with any one or more of the full com-  
4 pliance requirements listed in paragraph (a) of this subsection.

5 “(c) In the following circumstances, the [*department*] **Director of Human**  
6 **Services or the director’s designee** may [*not issue, renew or place condi-*  
7 *tions on a license, certificate or authorization of a child-caring agency but*  
8 *must*] take immediate steps to suspend or revoke the license, certificate or  
9 other authorization of the child-caring agency, if any of the following are  
10 found to exist:

11 “(A) There has been the death of a child as a result of abuse [*or neglect*]  
12 on the part of the agency [*or any of the agency’s employees or agents*].

13 “(B) There has been sexual or physical abuse [*or neglect*] of a child in the  
14 agency’s care or custody that was known to the agency and the agency did  
15 not take immediate steps to report the abuse [*or neglect*] and to ensure the  
16 child’s safety.

17 “(C) The agency failed to cooperate fully with any local, state or federal  
18 regulatory entity’s investigation of the agency or the agency’s operations or  
19 employees.

20 “(D) The agency failed to provide financial statements as required under  
21 ORS 418.255.

22 “(d) It is grounds to deny issuance or renewal, suspend, revoke or place  
23 conditions on a license, certificate or other authorization if the department  
24 becomes aware that a child-caring agency, or the owner or operator of the  
25 agency, has been found by other state or federal entities to have engaged in  
26 financial, civil or criminal misconduct.

27 “**(3) If the Director of Human Services or the director’s designee**  
28 **has taken action under subsection (2)(c) of this section to suspend or**  
29 **revoke a license, certificate or other authorization, the notice of intent**  
30 **to suspend or revoke may be rescinded by the director or the director’s**

1 **designee within the director’s or the director’s designee’s sole dis-**  
2 **cretion if the director or the director’s designee determines that the**  
3 **concerns regarding the health and safety of the children in the child-**  
4 **caring agency’s care or custody have been ameliorated and that any**  
5 **conditions placed on the license, certificate or other authorization of**  
6 **the child-caring agency have been resolved.**

7 “[3] (4) The department may place conditions on any license, certificate  
8 or authorization issued under this section, including but not limited to  
9 placing full or partial restrictions on admission of children, temporary sus-  
10 pension, limitation of operations subject to an intent to revoke and limita-  
11 tion of operations subject to correction of violations as specified in a plan  
12 of correction imposed by the department. The department shall immediately  
13 notify any [*governmental agency or unit*] **state agency or juvenile depart-**  
14 **ment** that has a contract with the child-caring agency to provide care or  
15 services to a child of conditions placed by the department on the child-caring  
16 agency’s license, certificate or authorization under this section.

17 “[4] (5) If applicable, an applicant shall submit written proof of compli-  
18 ance with the notification requirements in ORS 336.575.

19 “[5] (6) The department may not charge a fee for inspections leading to  
20 decisions regarding, and issuance of, licenses, certifications or authorizations  
21 under this section, but may impose fees to cover costs of related inspections  
22 done for the department by other governmental agencies.

23 “[6] (7) A license, certificate or authorization issued by the department  
24 under this section shall be valid for a period of two years, unless suspended  
25 or revoked sooner by the department. However, the department at any time  
26 may require amendments to an existing license, certificate or authorization  
27 to accommodate changes in the factors upon which the issuance was based.

28 “[7] (8) When a condition exists that seriously endangers or places at  
29 risk the health, safety or welfare of a child who is receiving care or services  
30 at a child-caring agency:

1       “(a) The Director of Human Services shall issue an interim emergency  
2 order without notice, or with reasonable notice under the circumstances,  
3 requiring the agency to correct the conditions and ensure the safety of  
4 children in the care of the agency. The interim emergency order shall remain  
5 in force until a final order, after a hearing, has been entered in accordance  
6 with ORS chapter 183.

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

9       “(A) If the agency is being operated without a valid license, certificate  
10 or other authorization issued under this section; or

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

15       “~~[(8)]~~ **(9)** If the director, the director’s designee or the department becomes  
16 aware through any means that a child-caring agency, or an owner, operator  
17 or employee of a child-caring agency, is the subject of an investigation by  
18 another state agency, law enforcement agency or federal agency, the director  
19 or director’s designee shall take immediate steps to cause an investigation  
20 to take place into the circumstances surrounding the investigation and  
21 whether there is a threat to a child, or whether a child is at risk, at the  
22 child-caring agency. Upon determination of the level of threat or risk to  
23 children at the agency, the director shall take appropriate steps to protect  
24 and ensure the health, safety and welfare of children as necessary under the  
25 circumstances. Failure to comply with the requirements of this subsection  
26 constitutes grounds for a charge of official misconduct in the second degree  
27 under ORS 162.405.

28       “~~[(9)]~~ **(10)** If the Department of Justice or Bureau of Labor and Industries  
29 commences an investigation of a child-caring agency or an owner, operator  
30 or employee of a child-caring agency, the Department of Justice or Bureau

1 of Labor and Industries shall notify, inform and regularly update the direc-  
2 tor, the director's designee or such other personnel in the Department of  
3 Human Services designated to receive such information regarding the inves-  
4 tigation. The director and the department shall immediately undertake the  
5 responsive action required by subsection (8) of this section upon receiving  
6 such notification. Interference with, discouragement of or impediment to the  
7 receipt of the notification, information and updates required under this sub-  
8 section constitutes official misconduct in the second degree under ORS  
9 162.405.

10 “[10] (11) The Department of Human Services shall adopt rules to im-  
11 plement the provisions of this section.

12 “**SECTION 5.** ORS 418.260, as amended by section 11, chapter 106, Oregon  
13 Laws 2016, is amended to read:

14 “418.260. (1) If the Department of Human Services **receives a report or**  
15 **otherwise** becomes aware that any suspected [*or founded abuses,*] deficien-  
16 cies, violations or failures to comply with the full compliance requirements  
17 described in ORS 418.240 are occurring in a child-caring agency, whether as  
18 a part of the inspections undertaken pursuant to ORS 418.255 or otherwise,  
19 the department shall immediately **notify appropriate personnel within the**  
20 **department, including but not limited to employees responsible for li-**  
21 **ensing, certifying or authorizing child-caring agencies, who shall in-**  
22 **vestigate and take appropriate action without undue delay,** with primary  
23 concern given to the health, safety and welfare of the children for whom the  
24 child-caring agency is responsible. [*The department shall immediately report*  
25 *the alleged abuses, deficiencies or violations to the state or governmental*  
26 *agency or unit, governing board, trustees, owners, managers or operators or*  
27 *other appropriate authorities responsible for the child-caring agency. The de-*  
28 *partment shall immediately notify any governmental agency or unit that has*  
29 *a contract with the child-caring agency to provide care or services to a child*  
30 *of the alleged abuses, deficiencies, violations or failures to comply.*] The de-



1 department may notify law enforcement agencies as necessary to coordinate  
2 and assist in the investigation and enforcement of corrective actions under-  
3 taken by the department. **If the child-caring agency is known or found**  
4 **to serve children committed to the care of the Oregon Youth Author-**  
5 **ity or the developmental disabilities office within the department, the**  
6 **department shall notify those entities of the report of suspected defi-**  
7 **ciencies, violations or failures.**

8 “(2) If the department finds, after investigation by the department or law  
9 enforcement agencies, that the [*abuses,*] deficiencies, violations or failures  
10 to comply are founded **or that a report of abuse of a child in care has**  
11 **been substantiated under section 38, chapter 106, Oregon Laws 2016,** the  
12 department may suspend, revoke or place conditions on the license, certifi-  
13 cate or other authorization of the child-caring agency. The conditions placed  
14 on a license, certificate or authorization may include, but are not limited to,  
15 placing full or partial restrictions on admission of children, temporary sus-  
16 pension, limitation of operations subject to an intent to revoke or limitation  
17 of operations subject to correction of violations as specified in a plan of  
18 correction. If the department imposes a plan of correction, and the cor-  
19 rections are not made within 45 days from the effective date of the plan of  
20 correction, the department may immediately suspend or revoke the license,  
21 certificate or authorization of the child-caring agency. The department shall  
22 immediately notify any [*governmental agency or unit*] **state agency or ju-**  
23 **venile department** that has a contract with the child-caring agency to  
24 provide care or services to a child **in care** of any suspension or revocation  
25 of, or conditions placed on, the license, certificate or other authorization of  
26 the child-caring agency.

27 “(3) If the department determines at any time during or after an investi-  
28 gation that the abuses, deficiencies, violations or failures to comply are or  
29 threaten a serious danger to any child or to the public, or place a child at  
30 risk with respect to the child’s health, safety or welfare, the department may

1 immediately suspend, [or] revoke **or place conditions on** the child-caring  
2 agency's license, certificate or authorization, subject to the provisions of  
3 ORS chapter 183. The department shall immediately notify any [*governmental*  
4 *agency or unit*] **state agency or juvenile department** that has a contract  
5 with the child-caring agency to provide care or services to a child **in care**  
6 of any suspension or revocation of the license, certificate or other authori-  
7 zation of the child-caring agency. **The department shall immediately re-**  
8 **port the suspected deficiencies, violations or failures to comply to the**  
9 **state agency and the governing board responsible for the oversight of**  
10 **the child-caring agency.**

11 “(4) If the department determines that the [*abuses,*] deficiencies, violations  
12 or failures to comply are founded and the department imposes a plan of  
13 correction that the child-caring agency does not comply with in the time  
14 allotted for correction, the department shall immediately notify the following  
15 of the failure of the child-caring agency to comply with the plan of cor-  
16 rection:

17 “(a) The Legislative Assembly or the interim committees of the Legisla-  
18 tive Assembly relating to child welfare.

19 “(b) [*The state or governmental agency or unit, governing board, trustees,*  
20 *owners, managers or operators or other appropriate authorities*] **Members of**  
21 **the governing board** responsible for the child-caring agency.

22 “(c) Any [*governmental agency or unit*] **state agency or juvenile de-**  
23 **partment** that has a contract with the child-caring agency to provide care  
24 or services to a child **in care.**

25 “(5) Any employee of the department that has reasonable cause to believe  
26 that a child-caring agency has committed an abuse or incurred a deficiency  
27 or violation, or that grounds for immediate suspension or revocation of a  
28 license, certificate or authorization exist under ORS 418.240, and that such  
29 abuse, deficiency, violation or grounds is or threatens a danger to any child  
30 at the child-caring agency or to the public, or places a child at risk with

1 respect to the child’s health, safety or welfare, is required to immediately  
2 inform the Director of Human Services, the director’s designee or such other  
3 personnel in the department designated to receive such information. Upon  
4 receipt of an employee report under this subsection, the director and de-  
5 partment personnel shall immediately commence an investigation and take  
6 all reasonably prudent and necessary actions to ensure the health, safety and  
7 welfare of children at the child-caring agency. Failure to commence an in-  
8 vestigation and take actions as required by this subsection constitutes offi-  
9 cial misconduct in the second degree under ORS 162.405.

10 **“SECTION 6.** ORS 418.205, as amended by section 1, chapter 106, Oregon  
11 Laws 2016, is amended to read:

12 “418.205. As used in ORS 418.205 to 418.327, 418.470, 418.475, 418.950 to  
13 418.970 and 418.992 to 418.998, unless the context requires otherwise:

14 “(1) ‘Child’ means an unmarried person under 21 years of age **who resides**  
15 **in or receives care or services from a child-caring agency.**

16 “(2)(a) ‘Child-caring agency’:

17 “(A) Means any private school, private agency or private organization  
18 providing:

19 “(i) Day treatment for children with emotional disturbances;

20 “(ii) Adoption placement services;

21 “(iii) Residential care, including but not limited to foster care or resi-  
22 dential treatment for children;

23 “(iv) Residential care in combination with academic education and  
24 therapeutic care, including but not limited to treatment for emotional, be-  
25 havioral or mental health disturbances;

26 “(v) Outdoor youth programs; or

27 “(vi) Other similar care or services for children.

28 “(B) Includes the following:

29 “(i) A shelter-care home that is not a foster home subject to ORS 418.625  
30 to 418.645;

1       “(ii) An independent residence facility as described in ORS 418.475;  
2       “(iii) A private residential boarding school; and  
3       “(iv) A child-caring facility as defined in ORS 418.950.  
4       “(b) ‘Child-caring agency’ does not include:  
5       “(A) Residential facilities or foster care homes certified or licensed by the  
6 Department of Human Services under ORS 443.400 to 443.455, 443.830 and  
7 443.835 for children receiving developmental disability services;  
8       “(B) Any private agency or organization facilitating the provision of re-  
9 spite services for parents pursuant to a properly executed power of attorney  
10 under ORS 109.056. For purposes of this subparagraph, ‘respite services’  
11 means the voluntary assumption of short-term care and control of a minor  
12 child without compensation or reimbursement of expenses for the purpose  
13 of providing a parent in crisis with relief from the demands of ongoing care  
14 of the parent’s child;  
15       “(C) A youth job development organization as defined in ORS 344.415;  
16       “(D) A shelter-care home that is a foster home subject to ORS 418.625 to  
17 418.645; [or]  
18       “(E) A foster home subject to ORS 418.625 to 418.645;  
19       **“(F) A facility that exclusively serves individuals 18 years of age or  
20 older; or  
21       “(G) A facility that primarily serves both adults and children but  
22 requires that a child be accompanied at all times by at least one cus-  
23 todial parent or guardian.**  
24       “(3) ‘Child-caring facility’ has the meaning given that term in ORS  
25 418.950.  
26       “(4) ‘Independent residence facility’ has the meaning given that term in  
27 ORS 418.475.  
28       “(5)(a) ‘Outdoor youth program’ means a program that provides, in an  
29 outdoor living setting, services to children who have behavioral problems,  
30 mental health problems or problems with abuse of alcohol or drugs.

1 “(b) ‘Outdoor youth program’ does not include any program, facility or  
2 activity:

3 “(A) Operated by a governmental entity;

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

5 “(C) Licensed by the Department of Human Services under other author-  
6 ity of the department; or

7 “(D) Operated by a youth job development organization as defined in ORS  
8 344.415.

9 “(6) ‘Private’ means not owned, operated or administered by any govern-  
10 mental agency or unit.

11 “(7) ‘Private residential boarding school’ means either of the following  
12 as the context requires:

13 “(a) A child-caring agency that is a private school that provides residen-  
14 tial care in combination with academic education and therapeutic care, in-  
15 cluding but not limited to treatment for emotional, behavioral or mental  
16 health disturbances; or

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

19 “(8) ‘Proctor foster home’ means a foster home certified by a child-caring  
20 agency under section 6, chapter 106, Oregon Laws 2016, that is not subject  
21 to ORS 418.625 to 418.645.

22 “(9) ‘Provider of care or services for children’ means a person, entity or  
23 organization that provides care or services to children, regardless of whether  
24 the child is in the custody of the Department of Human Services, and that  
25 does not otherwise meet the definition of, or requirements for, a child-caring  
26 agency. ‘Provider of care or services for children’ includes a proctor foster  
27 home certified by a child-caring agency under section 6, chapter 106, Oregon  
28 Laws 2016.

29 “(10) ‘Shelter-care home’ has the meaning given that term in ORS 418.470.

30 **“SECTION 7. (1) No later than September 15, 2018, the Department**

1 of Human Services shall submit a report to the interim legislative  
2 committees on child welfare regarding the establishment of a ‘deemed  
3 status’ determination that a child-caring agency has met some or all  
4 of the criteria or the full compliance requirements listed in ORS  
5 418.240. The ‘deemed status’ determination will apply when a child-  
6 caring agency has been accredited and is in good standing with a na-  
7 tional accrediting program, body or organization approved by the  
8 department.

9 “(2) The report shall include:

10 “(a) Recommendations for the process of and requirements for es-  
11 tablishing a ‘deemed status’ determination in the issuance of licenses,  
12 certifications and other authorizations to child-caring agency appli-  
13 cants.

14 “(b) Information about available accreditation programs, bodies or  
15 organizations, membership in which would qualify a child-caring  
16 agency for a ‘deemed status’ determination.

17 “(c) Recommendations regarding the criteria for determining  
18 whether an applicant child-caring agency is in good standing with a  
19 national accrediting program, body or organization.

20 “(d) Information about the potential impact that a ‘deemed status’  
21 determination would have on children’s safety and well-being in this  
22 state.

23 “(e) Information about how other states have implemented similar  
24 ‘deemed status’ determinations and the consequences of such imple-  
25 mentation.

26 “(f) Recommendations for necessary legislation and budget re-  
27 quirements to implement a ‘deemed status’ determination option for  
28 licensure, certification and authorization of child-caring agencies.

29 **“SECTION 8. Section 7 of this 2017 Act is repealed on January 2,**  
30 **2019.**

1       **“SECTION 9. (1) The amendments to sections 36 to 38, chapter 106,**  
2 **Oregon Laws 2016, by sections 1 to 3 of this 2017 Act apply to incidents**  
3 **of abuse or suspected abuse of a child in care occurring on or after the**  
4 **effective date of this 2017 Act.**

5       **“(2) The amendments to ORS 418.205 and 418.240 by sections 4 and**  
6 **6 of this 2017 Act apply to:**

7       **“(a) Child-caring agencies licensed, certified or otherwise author-**  
8 **ized on or after the effective date of this 2017 Act; and**

9       **“(b) Suspensions or revocations of licenses, certificates or other**  
10 **authorizations of child-caring agencies occurring before, on or after**  
11 **the effective date of this 2017 Act.**

12       **“(3) The amendments to ORS 418.260 by section 5 of this 2017 Act**  
13 **apply to suspected deficiencies, violations or failures to comply with**  
14 **the full compliance requirements occurring in child-caring agencies**  
15 **before, on or after the effective date of this 2017 Act.**

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

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