

# DRAFT

## SUMMARY

Modifies Oregon Promise program to extend eligibility to certain Oregon foster children who attain their highest level of education while in out-of-state placements.

Establishes school district residency of individual placed in congregate care residential setting.

Temporarily permits Department of Human Services to close at screening reports of third party child abuse not involving child care providers or schools. Directs department to report to interim committees of Legislative Assembly related to child welfare regarding reports closed at screening and to identify resources required to investigate all allegations of third party abuse. Sunsets March 31, 2021.

Directs Department of Human Services to adopt rules identifying up to two family-based group homes to provide services to certain children. Directs department to report to interim committees of Legislative Assembly related to child welfare regarding success of placements in family-based group homes. Sunsets January 1, 2024.

Prohibits placement of Oregon children in out-of-state child-caring agency unless child-caring agency is licensed by Department of Human Services. Establishes certain contract requirements and department duties regarding placements of children in out-of-state child-caring agencies.

Prohibits colocation of children and youth committed to custody of Oregon Youth Authority without court order.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to children; creating new provisions; amending ORS 339.133, 341.522, 418.258, 418.259, 419B.354 and 419B.358; and declaring an emergency.

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

## OREGON PROMISE PROGRAM

**SECTION 1.** ORS 341.522 is amended to read:

341.522. (1) The Office of Student Access and Completion shall administer the Oregon Promise program as provided by this section.

(2) Subject to subsections (7) to (10) of this section, the office shall provide a grant for community college courses to a person who meets the criteria described in subsections (3) to (6) of this section. The grant shall be limited as provided by subsections (7) to (10) of this section.

(3) A grant shall be awarded under this section to a person who meets the following criteria:

(a) Is enrolled in courses that are:

(A) Offered at a community college in this state; and

(B) Determined by the office, in accordance with rules adopted by the Higher Education Coordinating Commission, to be required for completion of:

(i) A one-year curriculum for students who plan to transfer to another post-secondary institution of education;

(ii) An associate degree; or

(iii) A program in career and technical education;

(b) **Except as provided in subsection (5) of this section**, has been a resident of this state for at least 12 months prior to enrolling in the courses described in paragraph (a) of this subsection;

(c) Attained the person's highest level of education, **except as provided in subsection (5) of this section**, in this state prior to:

(A) Receiving a diploma under ORS 329.451;

(B) Receiving a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test as provided by ORS 350.175;

(C) Completing grade 12 in compliance with the requirements of ORS 339.035; or

(D) Completing grade 12 at a private or parochial school, as described in ORS 339.030 (1)(a);

(d) Except as provided in subsections (4) and (5) of this section, attained the person's highest level of education as described in paragraph (c) of this subsection within six months from the date that the person first enrolls in courses described in paragraph (a) of this subsection for the purpose of receiving a grant under this section;

(e) Earned a cumulative grade point average of 2.5 or better in high school or otherwise demonstrated an equivalent academic ability, as determined by the office according to rules adopted by the commission;

(f) Completed and submitted the Free Application for Federal Student Aid for each academic year and accepted all state and federal aid grants available to the person, if eligible to file the application; and

(g) Has not completed either of the following:

(A) More than a total of 90 credit hours, or the equivalent, at a post-secondary institution of education; or

(B) A curriculum, degree or program, as described in paragraph (a)(B) of this subsection.

(4)(a) If a person otherwise meets the required criteria and has been awarded a grant under subsection (3) of this section, but the person enters into service with a career and technical student organization relating to agriculture or farming that is approved by the Department of Education under ORS 344.077 within six months after the person attained the person's highest level of education as described in subsection (3)(c) of this section, the person will continue to be eligible to receive the grant if the person first enrolls in courses described in subsection (3)(a) of this section within six months of finishing the person's service with the career and technical student organization.

(b) In addition to the situation described in paragraph (a) of this subsection, the commission may waive the requirement set forth in subsection (3)(d) of this section for a person who shows that the person was unable to timely enroll in courses described in subsection (3)(a) of this section due to a significant hardship. The commission may adopt rules to implement this

paragraph.

(5)(a) A member of the Oregon National Guard who has completed initial active duty training is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to receive a grant, provided that the member first enrolls in courses described in subsection (3)(a) of this section within six months after completing initial active duty training, as evidenced by an official form issued by the United States Department of Defense.

(b)(A) A person who completes the highest level of education as described in subsection (3)(c) of this section while confined in a correctional facility, either serving a sentence of incarceration or as a young person, youth or youth offender, is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to receive a grant, provided that the person first enrolls in courses described in subsection (3)(a) of this section within six months after the date on which the person is first released from a correctional facility following completion of the highest level of education described in subsection (3)(c) of this section.

(B) The eligibility requirements described in subsection (6)(a)(C) of this section may be waived by the office according to rules adopted by the commission for a person who receives a grant under this section in the manner described in subparagraph (A) of this paragraph.

(C) As used in this paragraph:

(i) "Correctional facility" means any place used for the confinement of young persons, youth or youth offenders or persons charged with or convicted of a crime or otherwise confined under a court order, including a:

(I) Youth correction facility;

(II) Detention facility;

(III) Department of Corrections institution;

(IV) Local correctional facility; or

(V) State hospital or a secure intensive community inpatient facility, with respect to persons detained therein who are youth or youth offenders, who are charged with or convicted of a crime or who are detained therein after

1 having been found guilty except for insanity of a crime under ORS 161.290  
2 to 161.373 or having been found responsible except for insanity under ORS  
3 419C.411.

4 (ii) "Department of Corrections institution" has the meaning given that  
5 term in ORS 421.005.

6 (iii) "Detention facility," "young person," "youth" and "youth offender"  
7 have the meanings given those terms in ORS 419A.004.

8 (iv) "Local correctional facility" has the meaning given that term in ORS  
9 169.005.

10 (v) "Youth correction facility" has the meaning given that term in ORS  
11 420.005.

12 **(c)(A) If a person was a foster child:**

13 **(i) The person shall be treated as meeting the residential criteria**  
14 **for eligibility under subsection (3)(b) of this section if, but for the**  
15 **person's placement in out-of-state foster care, the person otherwise**  
16 **meets the requirements of subsection (3)(b) of this section.**

17 **(ii) The person shall be treated as attaining the person's highest**  
18 **level of education in this state under subsection (3)(c) of this section**  
19 **if the person attained the person's highest level of education while**  
20 **placed in out-of-state foster care and the person's highest level of ed-**  
21 **ucation substantially meets the requirements under subsection (3)(c)**  
22 **of this section.**

23 **(iii) The person is not required to comply with the criteria set forth**  
24 **in subsection (3)(d) of this section in order to receive a grant provided**  
25 **that the person completes the highest level of education as described**  
26 **in subparagraph (A)(ii) of this paragraph while in a treatment program**  
27 **and the person first enrolls in courses described in subsection (3)(a)**  
28 **of this section within 12 months after the date on which the person is**  
29 **released from the treatment program.**

30 **(B) As used in this paragraph:**

31 **(i) "Foster care" means substitute care for children placed by the**

1 **Department of Human Services or a tribal child welfare agency away**  
2 **from the child's parents and for whom the department or agency has**  
3 **placement and care responsibility, including placements in foster**  
4 **family homes, foster homes of relatives, group homes, emergency**  
5 **shelters, residential facilities, child care institutions and preadoptive**  
6 **homes.**

7 **(ii) "Foster child" means a child over whom the Department of**  
8 **Human Services retained jurisdiction under ORS 417.200 for the dura-**  
9 **tion of the child's placement in foster care outside the state of Oregon.**

10 (6)(a) A person continues to remain eligible to receive a grant under this  
11 section if the person, in addition to satisfying the criteria specified in sub-  
12 section (3) of this section, meets the following criteria:

13 (A) Maintains at least the minimum cumulative grade point average pre-  
14 scribed by the commission based on federal aid grant requirements;

15 (B) Makes satisfactory academic progress toward a curriculum, degree or  
16 program, as described in subsection (3)(a)(B) of this section, as prescribed  
17 by the commission based on federal aid grant requirements;

18 (C) Enrolls in courses described in subsection (3)(a) of this section for a  
19 sufficient number of credit hours to be considered at least a half-time student  
20 each term for at least three terms in each consecutive academic year; and

21 (D) Completes a first-year experience, as identified by the community  
22 college and reported by the community college to the commission.

23 (b) A person who fails to meet an eligibility requirement described in  
24 paragraph (a) of this subsection becomes ineligible to receive a grant under  
25 this section for the term after which the person fails to meet the eligibility  
26 requirement, unless the eligibility requirement is waived by the office ac-  
27 cording to rules adopted by the commission.

28 (7)(a) The total amount of a grant awarded under this section shall be  
29 based on each term that a person is enrolled in courses described in sub-  
30 section (3)(a) of this section. Except as provided in subsections (9) and (10)  
31 of this section, after the amount of tuition for the person for the term is

1 reduced by any amounts received by the person in state and federal aid  
2 grants, the person shall be eligible for a grant under this section in an  
3 amount that equals:

4 (A) Except as provided by paragraphs (b) and (c) of this subsection, not  
5 less than the greater of:

6 (i) \$1,000; and

7 (ii) The person's actual cost for tuition.

8 (B) Not more than the lesser of:

9 (i) The average cost of tuition at a community college in this state, as  
10 determined by the office; and

11 (ii) The person's actual cost for tuition.

12 (b) The amount of a grant, as calculated under paragraph (a) of this  
13 subsection, shall be reduced by \$50 for each term that the person receives a  
14 grant under this section.

15 (c)(A) If the office determines both that the person's actual cost for tui-  
16 tion exceeds the amount set forth in paragraph (a)(A)(i) of this subsection  
17 and that the person's actual cost for tuition exceeds the average cost of tu-  
18 ition at a community college in this state, the person shall be eligible for a  
19 grant in an amount that equals the average cost of tuition at a community  
20 college in this state.

21 (B) If the office determines that the person's actual cost for tuition is less  
22 than the amount set forth in paragraph (a)(A)(i) of this subsection, the per-  
23 son shall be eligible for a grant in an amount that equals the amount set  
24 forth in paragraph (a)(A)(i) of this subsection.

25 (d) The minimum amount of a grant, as calculated under paragraphs (a)  
26 to (c) of this subsection, may be prorated for a person who is enrolled in  
27 courses described in subsection (3)(a) of this section for a sufficient number  
28 of credit hours to be considered at least a half-time student but not a full-  
29 time student.

30 (e) The commission may prescribe by rule whether to include fees, and  
31 any limitations related to the inclusion of fees, when determining the actual

1 cost of tuition or the average cost of tuition under this subsection.

2 (8) The commission may adopt by rule the priority by which grants are  
3 awarded, which may allow for preference to be given to persons enrolled in  
4 school districts or high schools that meet specified criteria.

5 (9) Prior to the start of the fall term of each academic year, the commis-  
6 sion shall determine whether there are sufficient moneys to award a grant  
7 under this section to each person who meets the criteria described in sub-  
8 sections (3) to (6) of this section. On the basis of this determination the  
9 commission may:

10 (a) Limit eligibility to receive a grant under this section to a person  
11 whose family contribution, as determined by the commission by rule, is at  
12 or below the level the commission determines is necessary to allow the  
13 commission to operate the Oregon Promise program with available moneys;  
14 or

15 (b) Reduce or eliminate any limitation on eligibility previously imposed  
16 by the commission under paragraph (a) of this subsection.

17 (10)(a) If at any time the commission determines that there are insuffi-  
18 cient moneys to provide a grant to each person who has been awarded a  
19 grant under this section, the commission may:

20 (A) Decrease the total amount of the grant awarded; or

21 (B) Increase the amount that a person must pay under subsection (7)(b)  
22 of this section for each term that the person receives a grant under this  
23 section.

24 (b) If at any time the commission determines that the amount of moneys  
25 available to operate the Oregon Promise program exceeds the amount deter-  
26 mined under subsection (9) of this section, the commission may reduce or  
27 eliminate any limitation on eligibility to receive a grant under this section  
28 that was previously imposed by the commission under subsection (9)(a) of  
29 this section.

30 (c) The commission shall promptly notify the interim committees of the  
31 Legislative Assembly responsible for higher education each time the com-



mission takes any action under paragraph (a) or (b) of this subsection.

(11) The commission shall adopt any rules necessary for the administration of this section, including any requirements related to:

(a) Specifying the form and timelines for submitting an application for a grant under this section;

(b) Determining whether a person is eligible for a grant under this section, including whether the person shall be given priority as allowed under subsection (8) of this section;

(c) Implementing programs or policies that improve the academic success or completion rates for persons who receive a grant under this section;

(d) Prescribing eligibility requirements and grant calculations for persons dually enrolled in a community college and a public university; and

(e) Evaluating the impact of the program established under this section, including any requirements for reporting data needed for evaluations.

(12) No later than December 31 of each even-numbered year, the commission shall submit to an interim legislative committee related to education a report that summarizes the commission's findings on the impact of the program established under this section. The report shall include:

(a) Student completion rates of curricula, degrees and programs described in subsection (3)(a)(B) of this section;

(b) The amount of federal aid grants received by persons who received a grant under this section;

(c) The financial impact of the program on school districts that had students receive a grant under this section;

(d) The financial impact and the enrollment impact of the program on community colleges and public universities in this state; and

(e) The overall success rate of the program and financial impact of the program.

## CONGREGATE CARE RESIDENCY

**SECTION 2.** ORS 339.133, as operative until July 1, 2020, is amended to read:

339.133. (1) As used in this section:

(a)(A) “Foster care” means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(B) “Foster care” does not mean care for children whose parent or guardian voluntarily placed the child outside the child’s home with a public or private agency and for whom the child’s parent or guardian retains legal guardianship.

(b)(A) “Person in parental relationship” means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) “Person in parental relationship” does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(c) “School district of origin” means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) “School of origin” means the school that an individual attended before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages of 4 and 18 shall be considered resident for school

purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(c) Individuals living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if:

(i) A juvenile court determines it is not in the best interest of the individual to continue attending the school of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests[.]; **or**

**(ii) The individual is placed in a congregate care residential setting, as defined in ORS 419B.354, and the individual is not provided with transportation to the school of origin or any other school in the school district of origin.**

(b) If a juvenile court makes a determination that it is not in the best interest of the individual to continue attending the school of origin, the in-

dividual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school districts shall collaborate to ensure that the provisions of this subsection are implemented.

(5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if the individual receives written consent from both of the affected district school boards as provided by policies adopted by the boards.

(b) An individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if:

(A) The legal residence of the individual had been in the district in which the individual attends school before a boundary change was made to the district;

(B) The legal residence of the individual is no longer in the district in which the individual attends school because of the boundary change; and

(C) The individual has had the same legal residence and has continuously been enrolled in a school in the district since the boundary change.

(6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) An individual may not be considered to be a foreign exchange student for more than one school year.

(B) An individual may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who would have been considered residents under the provisions of this subsection.

(C) The number of individuals who may be considered residents under the provisions of this subsection may not increase relative to the number who would have been considered residents under the provisions of this subsection for the 2010-2011 school year.

(c) As used in this subsection, “foreign exchange student” means an individual who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

**SECTION 2a.** ORS 339.133 is amended to read:

339.133. (1) As used in this section:

(a)(A) “Foster care” means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(B) “Foster care” does not mean care for children whose parent or guardian voluntarily placed the child outside the child’s home with a public or private agency and for whom the child’s parent or guardian retains legal guardianship.

(b)(A) “Person in parental relationship” means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with nec-

1   essary care, education and discipline.

2       (B) "Person in parental relationship" does not mean a person with a  
3   power of attorney or other written delegation of parental responsibilities if  
4   the person does not have other evidence of a parental relationship.

5       (c) "School district of origin" means the school district where an indi-  
6   vidual was a resident before:

7       (A) The individual was placed into foster care; or

8       (B) The foster care placement of the individual changed.

9       (d) "School of origin" means the school that an individual attended be-  
10   fore:

11       (A) The individual was placed into foster care; or

12       (B) The foster care placement of the individual changed.

13       (2)(a) Except as provided in subsections (3) to (5) of this section, individ-  
14   uals between the ages of 4 and 18 shall be considered resident for school  
15   purposes in the school district in which their parents, their guardians or  
16   persons in parental relationship to them reside.

17       (b) Nonemancipated individuals between the ages of 4 and 18 living out-  
18   side the geographic area of the school district for such reasons as attending  
19   college, military service, hospital confinement or employment away from  
20   home shall be considered resident in the district in which their parents, their  
21   guardians or persons in parental relationship to them reside.

22       (c) Individuals living temporarily in a school district for the primary  
23   purpose of attending a district school may not be considered resident in the  
24   district in which they are living temporarily, but shall be considered resident  
25   in the district in which they, their parents, their guardians or persons in  
26   parental relationship to them reside.

27       (3) Individuals considered legally emancipated from their parents shall be  
28   considered resident in the district in which they actually reside, irrespective  
29   of the residence of their parents, their guardians or persons in parental re-  
30   lationship.

31       (4)(a) An individual who is between the ages of 4 and 21 and who is placed

1 in foster care shall be considered a resident of:

2 (A) The school district of origin; or

3 (B) The school district where the individual resides due to placement by  
4 the Department of Human Services or a tribal child welfare agency if:

5 (i) A juvenile court determines it is not in the best interest of the indi-  
6 vidual to continue attending the school of origin or any other school in the  
7 school district of origin, based on consideration of all factors relating to the  
8 individual's best interests[.]; **or**

9 **(ii) The individual is placed in a congregate care residential setting,**  
10 **as defined in ORS 419B.354, and the individual is not provided with**  
11 **transportation to the school of origin or any other school in the school**  
12 **district of origin.**

13 (b) If a juvenile court makes a determination that it is not in the best  
14 interest of the individual to continue attending the school of origin, the in-  
15 dividual shall be immediately enrolled in a new school, even if the individual  
16 is unable to produce records normally required for enrollment.

17 (c) Individuals who are residents of their school district of origin pursu-  
18 ant to paragraph (a)(A) of this subsection shall:

19 (A) Remain in the individual's school district of origin and, if applicable,  
20 the individual's school of origin for the duration of the individual's time in  
21 foster care; and

22 (B) Be provided, free of charge, transportation between the individual's  
23 home and the individual's school district of origin or, if applicable, the  
24 individual's school of origin.

25 (d) The Department of Education, the Department of Human Services,  
26 tribal child welfare agencies and school districts shall collaborate to ensure  
27 that the provisions of this subsection are implemented.

28 (5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual  
29 whose legal residence is not within the district but who attends school in  
30 the district is considered a resident in the district in which the individual  
31 attends school if the individual receives written consent from both of the

affected district school boards as provided by policies adopted by the boards.

(b) An individual whose legal residence is not within the district but who attends school in the district is considered a resident in the district in which the individual attends school if:

(A) The legal residence of the individual had been in the district in which the individual attends school before a boundary change was made to the district;

(B) The legal residence of the individual is no longer in the district in which the individual attends school because of the boundary change; and

(C) The individual has had the same legal residence and has continuously been enrolled in a school in the district since the boundary change.

### INVESTIGATIONS OF THIRD PARTY ABUSE

**SECTION 3. (1) Notwithstanding ORS 419B.020 (1)(a), the Department of Human Services may close at screening a report of child abuse if:**

**(a) The department determines that there is no imminent risk of harm to the child;**

**(b) The alleged abuse does not involve a provider of child care, as defined in ORS 329A.250; and**

**(c) The alleged abuse did not occur in a school and was not related to a school-sponsored activity.**

**(2) The department shall, by rule, establish the procedure for closing reports of abuse at screening under subsection (1) of this section.**

**(3) No later than November 15, 2020, the department shall report to the interim committees of the Legislative Assembly related to child welfare regarding:**

**(a) The number of reports of child abuse closed at screening under subsection (1) of this section;**

**(b) The types of connections between the alleged abusers and vic-**



1    **tims in the reports that were closed at screening;**

2        **(c) The types of abuse alleged to have occurred in the reports that**  
3    **were closed at screening; and**

4        **(d) The resources the department requires to provide training and**  
5    **personnel to fully implement the investigation requirements under**  
6    **ORS 419B.020 beginning on April 1, 2021.**

7        **SECTION 4. Section 3 of this 2020 Act is repealed on March 31, 2021.**

8  
9                    **FAMILY-BASED GROUP HOME PLACEMENTS**

10  
11        **SECTION 5. (1) The Department of Human Services shall adopt**  
12    **rules identifying up to two programs that meet the following criteria**  
13    **for providing services to children in this state:**

14        **(a) The services are provided in a family home setting.**

15        **(b) The foster parents live in the house 24 hours per day, seven days**  
16    **per week.**

17        **(c) The foster parents are the primary care providers for the chil-**  
18    **dren served by the program.**

19        **(d) The program serves no more than 15 children.**

20        **(e) The program accepts children who have sexually maladaptive**  
21    **behaviors, a history of eloping from care or a history of unsuccessful**  
22    **placement in other settings.**

23        **(2)(a) Notwithstanding ORS 418.204 and 419B.354:**

24        **(i) The department may engage and make reasonable payment to**  
25    **the programs identified under subsection (1) of this section; and**

26        **(ii) A program identified under subsection (1) of this section is not**  
27    **required to be a ~~child-caring agency or~~ a qualified residential treat-**  
28    **ment program.**

29        **(b) Notwithstanding ORS 419B.360, the department is not required**  
30    **to obtain court approval of its placement of a child in a program**  
31    **identified under subsection (1) of this section.**

1 (c) The department is not required to ensure that a child the de-  
2 partment places in a program identified under subsection (1) of this  
3 section is assessed by a qualified individual under ORS 419B.358.

4 (3) No later than September 1, 2022, the department shall submit a  
5 report to the interim committees of the Legislative Assembly related  
6 to child welfare regarding the success of placements in the programs  
7 identified under subsection (1) of this section and recommendations,  
8 if any, for the continuation or expansion of placements consistent with  
9 this section.

10 SECTION 6. Section 5 of this 2020 Act is repealed on January 1, 2024.

11  
12 **QUALIFIED RESIDENTIAL TREATMENT PROGRAMS**

13  
14 SECTION 7. (1) Subject to ORS 419B.354, the Department of Human  
15 Services may place a child in an out-of-state child-caring agency only  
16 if:

17 (a) The out-of-state child-caring agency complies with the licensing  
18 requirements under ORS 418.215;

19 (b) The department has a current contract with the child-caring  
20 agency; and

21 (c) The department's contract with the child-caring agency meets  
22 the requirements under subsection (3) of this section.

23 (2)(a) The department shall license an out-of-state child-caring  
24 agency pursuant to the same licensure requirements the department  
25 would impose if the out-of-state child-caring agency was located in  
26 this state.

27 (b) Notwithstanding paragraph (b) of Article V of the Interstate  
28 Compact on the Placement of Children and ORS 417.230, the depart-  
29 ment may not delegate the department's licensing, visitation, in-  
30 spection, investigation or supervision of an out-of-state child-caring  
31 agency licensed by the department to provide care or services to an

**Oregon child.**

**(3)(a) The department shall review the department's contract with an out-of-state child-caring agency prior to placing a child with the child-caring agency.**

**(b) The contract must, at a minimum, meet the following criteria:**

**(A) At the time the contract is executed, the child-caring agency must provide the department with a current list of every entity for which the child-caring agency is providing placement services.**

**(B) No later than 15 days after accepting placement of a child from a new entity, the child-caring agency must notify the department in writing of the child-caring agency's association with the new entity. The notice must include the name and contact information of the new entity and the name and contact information of an individual associated with the new entity.**

**(C) The child-caring agency must make mandatory reports of child abuse, as defined in ORS 418.257 and 419B.005, involving Oregon children both to the Oregon child abuse hotline and as required under the laws of the state in which the child-caring agency is located.**

**(D) The child-caring agency must allow the department full access to the child-caring agency's facilities, residents, records and personnel as necessary for the department to conduct child abuse investigations and licensing activities or investigations.**

**(E) The child-caring agency must notify the department in writing no later than three business days after any state determines that an allegation of child abuse or a license violation involving the child-caring agency is founded, regardless of whether the child abuse or violation involves an Oregon child.**

**(F) The child-caring agency must notify the department in writing no later than three business days after the child-caring agency receives notice from any other state imposing a restriction on placement of children with the child-caring agency, suspending or revoking the**

1 child-caring agency's license with that state or indicating the state's  
2 intent to suspend or revoke the child-caring agency's license with that  
3 state.

4 (G) The child-caring agency must notify the department imme-  
5 diately, verbally and in writing, upon the death of a child from any  
6 state who was placed with the child-caring agency at the time of the  
7 child's death.

8 (H) Except with respect to protected information described in ORS  
9 418.256 (5), the child-caring agency may not ask or require an employee  
10 or volunteer to sign a nondisclosure or other agreement prohibiting  
11 the employee or volunteer from the good faith disclosure of informa-  
12 tion concerning the abuse or mistreatment of a child in the child-  
13 caring agency's care, violations of licensing or certification  
14 requirements, criminal activity at the child-caring agency, violations  
15 of state or federal laws or any practice that threatens the health and  
16 safety of a child in the care of the child-caring agency.

17 (I) The child-caring agency must ensure staffing and direct service  
18 level requirements that meet, at a minimum, the standards set by the  
19 department by rule for intensive behavioral support services.

20 (J) The child-caring agency must meet all of the program, disci-  
21 pline, behavior support, supervision and child rights requirements  
22 adopted by the department by rule for behavioral rehabilitation ser-  
23 vices.

24 (K) The child-caring agency may not practice conversion therapy,  
25 as defined in ORS 675.850.

26 (L) The child-caring agency must identify a child by the child's  
27 preferred name and pronoun and may not implement a dress code that  
28 prohibits or requires clothing on the basis of biological sex.

29 (M) Genetic testing, including testing for psychopharmacological  
30 purposes, must be approved by a court and may not be included as a  
31 standing order for a child in care.

1       **(N) The child-caring agency may not use chemical or mechanical**  
2 **restraints on a child, including during secure transport.**

3       **(4) Prior to placing a child in an out-of-state child-caring agency,**  
4 **if the child has or is suspected of having a developmental disability**  
5 **or an intellectual disability, including autism, the department shall**  
6 **review the placement to ensure that all in-state resources have been**  
7 **exhausted.**

8       **(5) A department child welfare services employee must accompany**  
9 **a child in an out-of-state placement any time the child is moved to a**  
10 **new placement, including accompanying the child if the child is moved**  
11 **by secure transport.**

12       **SECTION 8.** ORS 418.258 is amended to read:

13       418.258. (1) When the Department of Human Services becomes aware of  
14 a report of suspected child abuse of a child in care, whether in the form of  
15 an allegation, complaint or formal report made under this section, and  
16 whether made directly to the Director of Human Services, the department  
17 or an employee of the department, to a hotline operated by the department,  
18 through the mandatory abuse reporting process set forth in ORS 419B.005 to  
19 419B.050 or otherwise, the department shall immediately:

20       (a) Notify appropriate personnel within the department, including but not  
21 limited to employees responsible for licensing, certifying or authorizing  
22 child-caring agencies, certified foster homes and developmental disabilities  
23 residential facilities.

24       (b) Notify any governmental agency that has a contract with the child-  
25 caring agency, certified foster home or developmental disabilities residential  
26 facility to provide care or services to the child in care.

27       **(c) Notify the placement authorities of any other state that retains**  
28 **jurisdiction over a child in care receiving care or services from the**  
29 **child-caring agency, certified foster home or developmental disabilities**  
30 **residential facility.**

31       [(c)] **(d)** Commence an investigation to determine whether the report of

suspected abuse is substantiated, unsubstantiated or inconclusive under ORS 418.259[.] **if:**

**(A) The reported abuse occurred in this state;**

**(B) The reported abuse occurred in any other state and involves a child in care placed by the department in an out-of-state child-caring agency; or**

**(C) The reported abuse occurred in any other state and the department reasonably believes that the reported abuse poses a danger to the health, safety or wellness of a child in care placed by the department in an out-of-state child-caring agency.**

[(d)] **(e)** Report to a law enforcement agency any crime that the department has reason to believe has occurred with respect to a child in care or at a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility even if the suspected crime is not related to a report of abuse made under this section.

(2)(a) As a condition for issuance or renewal of a license, certificate or authorization to a child-caring agency, certified foster home or developmental disabilities residential facility, the department shall require and verify that the child-caring agency, certified foster home or developmental disabilities residential facility has procedures and protocols that:

(A) Require employees of the child-caring agency, a proctor foster home certified by the child-caring agency, the certified foster home or the developmental disabilities residential facility to immediately report suspected abuse of a child in care to the director, the director's designee or personnel within the department who have been specifically designated to receive reports of abuse of children in care;

(B) Mandate that the child-caring agency, certified foster home or developmental disabilities residential facility provide an annual training and written materials that include information about the child abuse reporting hotline, and that the agency, home or facility advise and educate employees of the child-caring agency and any proctor foster home certified by the

1 child-caring agency, of the certified foster home or of the developmental  
2 disabilities residential facility of the duty under this section and ORS  
3 419B.005 to 419B.050 to report abuse of a child in care; and

4 (C) Inform employees of child-caring agencies, proctor foster homes, cer-  
5 tified foster homes and developmental disabilities residential facilities that  
6 the duty to report abuse of a child in care is personal to the employee and  
7 that the duty is not fulfilled by reporting the abuse to the owner, operator  
8 or any other employee of the child-caring agency, proctor foster home, cer-  
9 tified foster home or developmental disabilities residential facility even if the  
10 owner, operator or other employee reports the abuse of a child in care to the  
11 director, the director's designee or the department.

12 (b) A child-caring agency, certified foster home or developmental disabil-  
13 ities residential facility need not develop and maintain procedures and pro-  
14 tocols or provide an annual training and written materials under paragraph  
15 (a) of this subsection if the agency, home or facility does not have any em-  
16 ployees, staff or volunteers.

17 (3) Interference or hindering an investigation of abuse of a child in care,  
18 including but not limited to the intimidation of witnesses, falsification of  
19 records or denial or limitation of interviews with the child in care who is  
20 the subject of the investigation or with witnesses, may constitute grounds  
21 for the revocation, suspension or placing of conditions on the license, cer-  
22 tificate or other authorization of a child-caring agency, proctor foster home,  
23 certified foster home or developmental disabilities residential facility.

24 (4)(a) Anyone, including but not limited to an employee of a child-caring  
25 agency, proctor foster home, certified foster home or developmental disabili-  
26 ties residential facility, who makes a report of suspected abuse of a child in  
27 care to the Governor, the Department of Justice, the Director of Human  
28 Services, the director's designee or the department under this section in good  
29 faith and who has reasonable grounds for the making of the report shall have  
30 immunity:

31 (A) From any liability, civil or criminal, that might otherwise be incurred

or imposed with respect to the making or content of such report;

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

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

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

**SECTION 9.** ORS 418.259 is amended to read:

418.259. (1) The investigation conducted by the Department of Human Services under ORS 418.258 must result in one of the following findings:

(a) That the report is substantiated. A report is substantiated when there is reasonable cause to believe that the abuse of a child in care occurred.

(b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence that the abuse of a child in care occurred.

(c) That the report is inconclusive. A report is inconclusive when there is some indication that the abuse occurred but there is insufficient evidence to conclude that there is reasonable cause to believe that the abuse occurred.

(2) When a report is received under ORS 418.258 alleging that a child in care may have been subjected to abuse, the department shall notify the case managers for the child, the attorney for the child, the child's court appointed special advocate, the parents or guardians of the child, any attorney representing a parent or guardian of the child and any governmental agency that has a contract with the child-caring agency or developmental disabilities residential facility to provide care or services to the child that a report has been received.

(3) The department may interview the child in care who is the subject of suspected abuse and witnesses without the presence of employees of the child-caring agency, proctor foster home or developmental disabilities residential facility, the provider of services at a certified foster home or de-



1 department personnel. The department shall inform the child in care that the  
2 child may have the child's parent or guardian, if the child has not been  
3 committed to the custody of the department or the Oregon Youth Authority,  
4 or attorney present when participating in an interview conducted in the  
5 course of an abuse investigation.

6 (4) The department shall notify the following when a report of abuse is  
7 substantiated:

8 (a) The Director of Human Services.

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

11 (c) The department's lead personnel in that part of the department that  
12 is responsible for child welfare generally.

13 (d) With respect to the child in care who is the subject of the abuse report  
14 and investigation, the case managers for the child, the attorney for the child,  
15 the child's court appointed special advocate, the parents or guardians of the  
16 child, any attorney representing a parent or guardian of the child and any  
17 governmental agency that has a contract with the child-caring agency to  
18 provide care or services to the child.

19 (e) The parents or guardians of the child in care who is the subject of the  
20 abuse report and investigation if the child in care has not been committed  
21 to the custody of the department or the youth authority. Notification under  
22 this paragraph may not include any details or information other than that  
23 a report of abuse has been substantiated.

24 (f) Any governmental agency that has a contract with the child-caring  
25 agency to provide care or services to a child in care.

26 (g) The local citizen review board established by the Judicial Department  
27 under ORS 419A.090.

28 (5) The department shall report on a quarterly basis to the interim legis-  
29 lative committees on child welfare for the purposes of public review and  
30 oversight of the quality and safety of child-caring agencies, certified foster  
31 homes and developmental disabilities residential facilities that are licensed,

certified or authorized by the department in this state and of proctor foster homes that are certified by the child-caring agencies. Information provided in reports under this subsection may not contain the name or any identifying information of a child in care but must contain all of the following:

(a) The name of any child-caring agency, **including an out-of-state child-caring agency**, proctor foster home or developmental disabilities residential facility, or, provided there are five or more certified foster homes in the county, the name of the county where a certified foster home is located, where the department conducted an investigation pursuant to ORS 418.258 that resulted in a finding that the report of abuse was substantiated during that quarter;

(b) The approximate date that the abuse occurred;

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

(d) Whether physical injury, sexual abuse or death resulted from the abuse; *[and]*

(e) Corrective actions taken or ordered by the department and the outcome of the corrective actions; **and**

**(f) Information the department received in that quarter regarding any substantiated allegations of child abuse made by any other state involving a congregate care residential setting, as defined in ORS 419B.354, in which the department has placed Oregon children.**

(6) In compiling records, reports and other information during an investigation under ORS 418.258 (1) and in issuing findings, letters of concern or reprimands, the Director of Human Services or the director's designee and the department may not refer to the employee, person or entity that is the subject of the investigation as an "alleged perpetrator" but must refer to the employee, person or entity as the "respondent."

**SECTION 10.** ORS 419B.354 is amended to read:

419B.354. (1) As used in this section:

(a) "Congregate care residential setting" means any setting that cares for

1 more than one child or ward and is not a setting described in ORS 418.205  
2 (2)(b)(A), (D) or (E) or (10).

3 (b) "Sex trafficking" means the recruitment, harboring, transportation,  
4 provision, obtaining, patronizing or soliciting of a person under 18 years of  
5 age for the purpose of a commercial sex act, as defined in ORS 163.266, or  
6 the recruitment, harboring, transportation, provision or obtaining of a person  
7 over 18 years of age using force, fraud or coercion for the purpose of a  
8 commercial sex act, as defined in ORS 163.266.

9 (2) The Department of Human Services may place a child or ward in a  
10 congregate care residential setting [*in this state*] only if the setting is:

11 (a) A child-caring agency, as defined in ORS 418.205, a hospital, as defined  
12 in ORS 442.015, or a rural hospital, as defined in ORS 442.470; and

13 (b) A qualified residential treatment program described in ORS 419B.356.

14 (3) Notwithstanding subsection (2) of this section, the department may  
15 place a child or ward in a child-caring agency that is not a qualified resi-  
16 dential treatment program if:

17 (a) The child-caring agency is providing prenatal, postpartum or parenting  
18 supports to the child or ward.

19 (b) The child or ward is placed in an independent residence facility de-  
20 scribed in ORS 418.475 that is licensed by the department as a child-caring  
21 agency.

22 (c) The child or ward is, or is at risk of becoming, a victim of sex traf-  
23 ficking and the child-caring agency is providing high-quality residential care  
24 and supportive services to the child or ward.

25 (d) The child-caring agency is a residential care facility that is also li-  
26 censed by the Oregon Health Authority and accredited by a national organ-  
27 ization to provide psychiatric treatment to children, **the child-caring**  
28 **agency has an active provider agreement with the Oregon Medicaid**  
29 **program and the placement has been approved by the court as med-**  
30 **ically necessary.**

31 (e) The child-caring agency is an adolescent residential drug and alcohol

treatment program licensed or certified by the State of Oregon to provide residential care, **the child-caring agency is operated by the department or a health care organization and the court has approved, or approval is pending for, the placement in the child-caring agency of each child or ward over whom the department retains jurisdiction.**

(f) The placement with the child-caring agency is for the purpose of placing the child or ward in a proctor foster home.

(g) The child-caring agency is a residential care facility licensed by the department that provides short-term assessment and stabilization services.

(h) The child-caring agency is a shelter-care home, as defined in ORS 418.470, that provides short-term assessment and stabilization services.

(i) The child-caring agency is a homeless, runaway or transitional living shelter licensed by the department that provides short-term assessment and stabilization services.

(4) The department may not place a child or ward in a residential care facility or shelter-care home described in subsection (3)(g) or (h) of this section:

(a) For more than 60 consecutive days or 90 cumulative days in a 12-month period; or

(b) If the residential care facility or shelter-care home also serves youth or youth offenders served by the county juvenile department or youth offenders committed to the custody of the Oregon Youth Authority by the court.

(5) The department may not place a child or ward in a homeless, runaway or transitional living shelter described in subsection (3)(i) of this section for more than 60 consecutive or 90 cumulative days in any 12-month period.

(6) Calculations of the number of days a child or ward is placed in a shelter-care home under subsection (3)(h) of this section or a homeless, runaway or transitional living shelter under subsection (3)(i) of this section exclude the days the child or ward is in the shelter-care home or shelter if the child or ward:

(a) Accessed the shelter-care home or shelter without the support or direction of the department; and

(b) Is homeless or a runaway, as defined by the department by rule.

**(7)(a) Unless the placement is specifically authorized by the court, the department may not place a child or ward over whom the department exercises jurisdiction in a child-caring agency that provides care primarily to youth offenders committed to the custody of the Oregon Youth Authority or the custody of equivalent state authority in the state in which the child-caring agency is located.**

**(b)** Nothing in this section prohibits the Oregon Youth Authority from placing a youth offender committed to its custody in a placement that is not a qualified residential treatment program.

**[(b)] (c)** Nothing in this section prohibits the Oregon Youth Authority or a county juvenile department from placing a youth offender or a youth served by the Oregon Youth Authority or the county juvenile department in shelter care or detention under ORS chapter 419C.

**SECTION 11.** ORS 419B.358 is amended to read:

419B.358. (1) The Department of Human Services shall ensure that an independent, qualified individual assesses the strengths and needs of each child or ward the department places in a qualified residential treatment program described in ORS 419B.356.

(2) The assessment described in this section may occur prior to the child's or ward's placement in the program, but shall occur no later than 30 days following the date of placement.

(3) The assessment described in this section must, at a minimum:

(a) Assess the strengths and needs of the child or ward using an age-appropriate, evidence-based, validated, functional assessment tool;

(b) Determine whether the needs of the child or ward can be met with family members or through placement in a foster family home or, if not, which setting would provide the most effective and appropriate level of care for the child or ward in the least restrictive environment and be consistent

1 with the short-term and long-term goals for the child or ward, as specified  
2 in the permanency plan for the child or ward; and

3 (c) Develop a list of individualized, specific short-term and long-term  
4 mental and behavioral health goals.

5 (4)(a) The qualified individual conducting the assessment shall work in  
6 conjunction with the child's or ward's family and permanency team, includ-  
7 ing:

8 (A) Appropriate biological family members, relatives and fictive kin of the  
9 child or ward;

10 (B) Appropriate professionals who are a resource to the family of the  
11 child or ward, including teachers and medical or mental health providers  
12 who have treated the child or ward;

13 (C) Clergy; or

14 (D) If the child or ward has attained the age of 14 years, individuals se-  
15 lected by the child or ward.

16 (b) The department shall document the following in the child's or ward's  
17 case plan:

18 (A) The reasonable and good faith efforts of the department to identify  
19 and include all of the individuals identified in paragraph (a) of this sub-  
20 section on the child's or ward's family and permanency team.

21 (B) Contact information for members of the child's or ward's family and  
22 permanency team and for any of the child's or ward's family members or  
23 fictive kin who are not part of the child's or ward's family and permanency  
24 team.

25 (C) Evidence that meetings of the family and permanency team, including  
26 meetings related to the required assessment, are held at a time and place  
27 convenient for the child's or ward's family.

28 (D) If reunification is the goal, evidence demonstrating that the parent  
29 from whom the child or ward was removed provided input on the members  
30 of the family and permanency team.

31 (E) Evidence that the assessment is determined in conjunction with the

family and permanency team.

(F) If the setting recommended by the qualified individual conducting the assessment is different than the placement preferences of the family and permanency team and of the child or ward, the reasons why the preferences of the team and of the child or ward were not recommended.

(5) If the qualified individual conducting the assessment determines the child or ward should not be placed in a foster family home, the qualified individual shall specify in writing the reasons why the needs of the child or ward cannot be met by the family of the child or ward or in a foster family home. A shortage or lack of foster family homes is not a valid reason for not placing a child or ward in a foster family home under this subsection. The qualified individual shall specify in writing why the recommended placement in a qualified residential treatment program is the setting that will provide the child or ward with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short-term and long-term goals for the child or ward, as specified in the child's or ward's permanency plan.

(6) As used in this section:

(a) "Fictive kin" has the meaning given that term by the department by rule.

(b) [*Unless the department receives a federal waiver,*] "Qualified individual" means an individual who is:

(A) A trained professional or licensed clinician;

(B) Not an employee of the department or of the Oregon Health Authority; and

(C) Not connected to, or affiliated with, any placement setting in which children or wards are placed by the department.

## MISCELLANEOUS

**SECTION 12. Sections 5 and 7 of this 2020 Act are added to and**

made a part of ORS 418.205 to 418.327.

**SECTION 13.** (1) The amendments to ORS 341.522 by section 1 of this 2020 Act apply to a foster child who attained or attains the foster child's highest level of education before, on or after the effective date of this 2020 Act.

(2) Section 3 of this 2020 Act applies to reports of abuse received by the Department of Human Services before, on or after the effective date of this 2020 Act.

(3) Sections 5 and 7 of this 2020 Act and the amendments to ORS 418.258, 418.259, 419B.354 and 419B.358 by sections 8 to 11 of this 2020 Act apply to:

(a) Oregon children or wards placed in any other state on or after the effective date of this 2020 Act; and

(b) Children or wards placed in this state on or after July 1, 2020.

**SECTION 14.** (1) Sections 5 and 7 of this 2020 Act and the amendments to ORS 339.133, 418.258, 418.259, 419B.354 and 419B.358 by sections 2a and 8 to 11 of this 2020 Act become operative on July 1, 2020.

(2) The Department of Human Services and the Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary for the department or the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department or the authority by sections 5 and 7 of this 2020 Act and the amendments to ORS 418.258, 418.259, 419B.354 and 419B.358 by sections 8 to 11 of this 2020 Act.

**SECTION 15.** The unit captions used in this 2020 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2020 Act.

**SECTION 16.** This 2020 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is



1 **declared to exist, and this 2020 Act takes effect on its passage.**

2

---