

A-Engrossed
Senate Bill 171

Ordered by the Senate April 18
Including Senate Amendments dated April 18

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs Department of Human Services to study and make recommendations on provisions of state law relating to children. Requires department to submit report on findings to Legislative Assembly by January 1, 2021.]

Authorizes Department of Human Services to remit payments for qualified residential treatment program services for certain children.

Prohibits department from placing child or ward in child care institution or congregate care residential setting in this state if institution or setting is not child-caring agency. Applies to placements occurring on or after September 1, 2019.

Prohibits department from placing child or ward in child-caring agency that is not qualified residential treatment program. Creates exceptions. Applies to placements occurring on or after July 1, 2020.

Permits department to place child or ward in certain out-of-state institution or setting if contract meets certain requirements, court approves placement and department complies with certain requirements. Provides certain additional requirements before department may place child or ward in out-of-state psychiatric residential treatment facility. Prohibits department from placing child or ward in certain out-of-state institution or setting. Directs department to publish certain information regarding out-of-state placements and update information each month. Applies to placements of children or wards and contracts entered into on or after September 1, 2019.

Describes qualified residential treatment program and requires certain procedures regarding department's placement of child or ward in qualified residential treatment program.

Modifies requirements for permanency hearing for children in voluntary placement.

Modifies definition of "substitute care."

Directs department and Oregon Health Authority to submit joint report regarding out-of-state placements to interim committees of Legislative Assembly relating to children no later than September 1, 2019.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to children; creating new provisions; amending ORS 418.205, 418.312, 419A.004 and 419B.443; and declaring an emergency.

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

SECTION 1. Authority to pay for qualified residential treatment programs. The Department of Human Services may engage and make reasonable payment for services of persons to make available, maintain and operate a child-caring agency, as defined in ORS 418.205, that is a qualified residential treatment program described in section 5 of this 2019 Act that provides residential care and treatment to a child, as defined in ORS 418.205, who, based on an independent assessment described in section 6 of this 2019 Act, requires specialized, evidence-based supports and services related to the effects of trauma or mental, emotional or behavioral health needs.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.** Sections 3 to 7 of this 2019 Act are added to and made a part of ORS chapter
2 **419B.**

3 **SECTION 3. Placement of child or ward in child-caring agency.** (1) As used in this sec-
4 tion and section 4 of this 2019 Act:

5 (a) “Child care institution” means a public or private child care institution that accom-
6 modates no more than 25 children or wards and is licensed by the state in which it is situated
7 or has been approved by the agency of the state in which it is situated that is responsible
8 for licensing or approval of public or private child care institutions as meeting the standards
9 established for licensing.

10 (b) “Congregate care residential setting” means any setting that cares for more than one
11 child or ward and is not a setting described in ORS 418.205 (2)(b)(A) or (E) or (9).

12 (c) “Qualified mental health professional” means an individual meeting minimum quali-
13 fication criteria prescribed by the Oregon Health Authority by rule.

14 (2) The Department of Human Services may place a child or ward in a child care insti-
15 tution or other congregate care residential setting in this state only if the institution or
16 setting is a child-caring agency, as defined in ORS 418.205.

17 **SECTION 3a.** Section 3 of this 2019 Act is amended to read:

18 **Sec. 3.** (1) As used in this section and section 4 of this 2019 Act:

19 (a) “Child care institution” means a public or private child care institution that accommodates
20 no more than 25 children or wards and is licensed by the state in which it is situated or has been
21 approved by the agency of the state in which it is situated that is responsible for licensing or ap-
22 proval of public or private child care institutions as meeting the standards established for licensing.

23 (b) “Congregate care residential setting” means any setting that cares for more than one child
24 or ward and is not a setting described in ORS 418.205 (2)(b)(A) or (E) or (9).

25 (c) “Qualified mental health professional” means an individual meeting minimum qualification
26 criteria prescribed by the Oregon Health Authority by rule.

27 (d) “Sex trafficking” means the recruitment, harboring, transportation, provision, ob-
28 taining, patronizing or soliciting of a person under 18 years of age for the purpose of a
29 commercial sex act, as defined in ORS 163.266, or the recruitment, harboring, transportation,
30 provision or obtaining of a person over 18 years of age using force, fraud or coercion for the
31 purpose of a commercial sex act, as defined in ORS 163.266.

32 (2) The Department of Human Services may place a child or ward in a child care institution or
33 other congregate care residential setting in this state only if the institution or setting is a child-
34 caring agency, as defined in ORS 418.205, and is a qualified residential treatment program.

35 (3) Notwithstanding subsection (2) of this section, the department may place a child or
36 ward in a child-caring agency that is not a qualified residential treatment program if:

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

39 (b) The child or ward is placed in an independent residence facility described in ORS
40 418.475 that is licensed by the Department of Human Services as a child-caring agency.

41 (c) The child or ward is, or is at risk of becoming, a victim of sex trafficking and the
42 child-caring agency is providing high-quality residential care and supportive services to the
43 child or ward.

44 (d) The child-caring agency is a residential care facility that is also licensed by the
45 Oregon Health Authority and accredited by a national organization to provide psychiatric

1 **treatment to children.**

2 (e) **The child-caring agency is an adolescent residential drug and alcohol treatment pro-**
3 **gram licensed or certified by the State of Oregon to provide residential care.**

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

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

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

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

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

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

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

18 (5) **The department may not place a child or ward in a homeless, runaway or transitional**
19 **living shelter described in subsection (3)(i) of this section for more than 60 consecutive or**
20 **90 cumulative days in any 12-month period.**

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

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

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

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

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

34 **SECTION 4. Out-of-state placements. (1) Notwithstanding section 3 (2) of this 2019 Act,**
35 **the Department of Human Services may place a child or ward in a child care institution or**
36 **congregate care residential setting in any other state if:**

37 (a) **The department's contract with the program meets the requirements under sub-**
38 **section (3) of this section;**

39 (b) **The placement is approved by the court;**

40 (c) **The institution or setting is:**

41 (A) **A psychiatric residential treatment facility that meets the requirements under sub-**
42 **section (5) of this section;**

43 (B) **An adolescent residential alcohol and drug treatment program licensed or certified**
44 **by the other state to provide residential care; or**

45 (C) **Licensed to provide residential care to children and wards and is designed specifically**

1 to meet the needs of children and wards with sexual harming behaviors, as described by the
2 department by rule, if such treatment was determined necessary by a valid assessment and
3 approved by the court;

4 (d) The institution or setting provides a written treatment plan for the child or ward,
5 including the expected date of discharge, prior to placement;

6 (e) The department physically accompanies the child or ward to the institution or setting
7 and during any transfers, including the child or ward's return to this state;

8 (f) The department inspects the sleeping, eating, education and recreation areas of the
9 institution or setting each time a child or ward is placed;

10 (g) The department provides the child or ward with a copy of the Oregon Foster
11 Children's Bill of Rights, adopted under ORS 418.202, in writing at the time of placement and
12 by mail each month that the child or ward is in an out-of-state institution or setting; and

13 (h) The department provides the child or ward with contact information for a specific
14 Oregon adult that the child or ward may contact at any time to report concerns about the
15 child's or ward's health, safety or any violations of the child's or ward's rights.

16 (2) Prior to placing a child or ward in an out-of-state psychiatric residential treatment
17 facility the department shall, at a minimum, ensure that:

18 (a) The child's or ward's treatment team includes a qualified mental health professional;

19 (b) The qualified mental health professional has conducted a diagnostic evaluation of the
20 child or ward, including an examination of the medical, psychological, social, behavioral and
21 developmental aspects of the child or ward, that reflects the need for psychiatric care;

22 (c) The qualified mental health professional has certified that appropriate treatment of
23 the child's or ward's psychiatric condition requires inpatient services directed by a physician;

24 (d) The treatment team documents sufficient information and documentation to support
25 a diagnosis identified in the Diagnostic and Statistical Manual of Mental Disorders published
26 by the American Psychiatric Association, requiring medically appropriate treatment in a
27 psychiatric residential treatment facility; and

28 (e) The medical necessity of the child's or ward's treatment is sufficiently documented
29 to ensure reimbursement for medically appropriate services from a private insurer or Title
30 XIX of the Social Security Act.

31 (3)(a) The department shall review each contract with an out-of-state child care institu-
32 tion or congregate care residential setting prior to placing a child or ward in the institution
33 or setting. The review shall include, but not be limited to, an assessment of the statutes and
34 state or local administrative rules governing the agency regarding:

35 (A) Mandatory reports of abuse as described in ORS 418.258;

36 (B) The process for investigation of allegations of abuse, including the evidentiary
37 standard for a substantiated or founded claim as described in ORS 418.257 to 418.259; and

38 (C) Licensing of residential programs for children and wards.

39 (b) The department may enter into a contract with an out-of-state institution or setting
40 only if:

41 (A) The state's licensing and safety standards applicable to the institution or setting are
42 substantially similar to or exceed the licensing standards for child-caring agencies in this
43 state;

44 (B) The state's child abuse definitions applicable to the institution or setting are sub-
45 stantially similar to or exceed ORS 418.257 and 419B.005;

1 (C) The contract meets the requirements under paragraph (c) of this subsection; and

2 (D) The licensing agency of the state in which the institution or setting is located has
3 not placed restrictions on admissions of children, removed children or issued a letter of in-
4 tent to revoke, suspend or restrict a license within the 24 months prior to the child's or
5 ward's placement in the institution or setting.

6 (c) The department's contract with any out-of-state placement must:

7 (A) Require the institution or setting to notify the department no later than three days
8 after the institution or setting learns of any investigation or founded allegation of abuse of
9 any child or ward in the care of the institution or setting.

10 (B) Require the institution or setting to permit immediate access to a child or ward re-
11 ceiving care or services and to any area of the premises upon which the child or ward re-
12 ceives care or services, to:

13 (i) The department or its representatives;

14 (ii) The attorney for the child or ward;

15 (iii) The court appointed special advocate for the child or ward;

16 (iv) The child's or ward's parent or guardian if the child has not been committed to the
17 custody of the department or the Oregon Youth Authority;

18 (v) Any governmental agency or unit that has a contract to provide services to the child
19 or ward; and

20 (vi) Any other person authorized by the department.

21 (C) Prohibit the institution or setting from restricting the child's or ward's contact with
22 a parent, guardian or sibling as a disciplinary measure.

23 (D) Require that the institution or setting comply with all provisions described in ORS
24 418.201 and the rules adopted under ORS 418.202.

25 (4) The department shall:

26 (a) If the licensing agency in the state in which the child care institution or congregate
27 care residential setting is located initiates a licensing action or removal of children in an
28 institution or setting in any other state in which the department has placed a child or ward,
29 immediately develop a plan to move the child or ward to a safe and appropriate placement
30 as soon as practicable;

31 (b) Review all substantiated allegations of abuse of children or young adults of any child
32 in an out-of-state institution or setting in which the department has placed a child or ward
33 from this state, in compliance with ORS 418.257 to 418.259 unless prohibited by law in the
34 state in which the institution or setting is located;

35 (c) Review the records and reports of abuse of an Oregon child or ward that was inves-
36 tigated but not substantiated in an out-of-state institution or setting, in compliance with
37 ORS 418.257 to 418.259;

38 (d) Include any substantiated allegations of abuse suffered by a child or ward placed by
39 the department in an institution or setting in another state in the quarterly report to the
40 Legislative Assembly of substantiated allegations of abuse of children in care under ORS
41 418.259; and

42 (e) Include children or wards placed in out-of-state institutions or settings in the
43 department's calculations of foster children in this state in an institutional placement in any
44 reports about placement of children or wards in the child welfare system.

45 (5) A child care institution or congregate care residential setting is a psychiatric resi-

1 **dential treatment facility under this section if:**

2 (a) **The institution or setting is licensed and in good standing with the state in which it**
3 **is located;**

4 (b) **The institution or setting is eligible for reimbursement under Title XIX of the Social**
5 **Security Act; and**

6 (c) **The institution or setting provides active treatment that is:**

7 (A) **Physician-directed;**

8 (B) **Designed to achieve discharge at the earliest possible date;**

9 (C) **Based on an individualized treatment plan developed and implemented no later than**
10 **14 days following admission; and**

11 (D) **Reviewed by a qualified mental health professional no less than once every 30 days.**

12 (6) **The department may not place a child or ward in a child care institution or congre-**
13 **gate care residential setting in any other state if:**

14 (a) **The institution or setting is an intermediate care facility or other institution for**
15 **children with intellectual or developmental disabilities; or**

16 (b)(A) **The child or ward has autism, an intellectual disability or a developmental disa-**
17 **bility; and**

18 (B) **The institution or setting predominantly services children with autism, intellectual**
19 **disabilities or developmental disabilities or has programs or facilities that segregate children**
20 **or wards with autism, intellectual disabilities or developmental disabilities from other chil-**
21 **dren or wards in housing, recreation, treatment or education.**

22 (7) **The department shall provide the following information regarding out-of-state place-**
23 **ments on a website maintained by the department and updated monthly:**

24 (a) **The name of each out-of-state facility in which children or wards placed by the de-**
25 **partment are currently receiving services;**

26 (b) **The city and state in which each facility is located;**

27 (c) **The name of any parent organization for each facility, including its nonprofit, for-**
28 **profit or public agency status;**

29 (d) **The name of each facility's accreditation agency;**

30 (e) **The number of children or wards placed by the department currently receiving ser-**
31 **vices from each facility;**

32 (f) **The number of children or wards currently receiving services from each facility;**

33 (g) **The daily rate charged by each facility for each child or ward;**

34 (h) **The date of the department's most recent visit to each facility;**

35 (i) **The name of the face-to-face contracting agency, including the city and state in which**
36 **it is located;**

37 (j) **Whether a facility is locked;**

38 (k) **Whether the child or ward receives education services within a facility or at a local**
39 **public school;**

40 (L) **Whether a facility services youth offenders or the resident state's equivalent of youth**
41 **offenders;**

42 (m) **Demographic information about all children or wards the department currently has**
43 **placed in out-of-state facilities, including but not limited to age, gender or gender identity,**
44 **race, ethnicity, tribal status and, if known, sexual orientation;**

45 (n) **The number of children or wards the department currently has placed in out-of-state**

1 facilities who have autism, intellectual disabilities or developmental disabilities;

2 (o) The number of children or wards the department currently has placed in out-of-state
3 facilities who are receiving services for sexual harming behavior, as described by the de-
4 partment by rule;

5 (p) A description of efforts to facilitate face-to-face visits between children and their
6 siblings and parents, including the number of visits that occurred that month and the cost
7 of facilitating the visits; and

8 (q) Aggregate travel costs for the department to support out-of-state placements during
9 the previous month.

10 **SECTION 5. Qualified residential treatment program.** A program is a qualified residential
11 treatment program if it:

12 (1) Provides residential care and treatment to a child who, based on an independent as-
13 sessment described in section 6 of this 2019 Act, requires specialized, evidence-based, as de-
14 fined by the Department of Human Services by rule, supports and services related to the
15 effects of trauma or mental, emotional or behavioral health needs.

16 (2) Uses a trauma-informed treatment model that is designed to address the needs, in-
17 cluding clinical needs as appropriate, of the child.

18 (3) Ensures that the staff at the agency's facility includes licensed or registered nurses
19 licensed under ORS chapter 678 and other licensed clinical staff who:

20 (a) Provide care within their licensed scope of practice;

21 (b) Are on site according to the treatment model identified in subsection (2) of this sec-
22 tion; and

23 (c) Are available 24 hours per day and seven days per week.

24 (4) Facilitates the involvement of the child's family, as defined in ORS 418.575, in the
25 child's treatment program, to the extent appropriate and in the child's best interests.

26 (5) Facilitates outreach to the child's family, as defined in ORS 418.575, documents how
27 outreach is made and maintains contact information for any known biological relatives or
28 fictive kin, as defined by the department by rule.

29 (6) Documents how the program integrates family into the child's treatment process,
30 including after discharge, and how sibling connections are maintained.

31 (7) Provides discharge planning and family-based after-care support for at least six
32 months following the child's discharge from the program.

33 (8) Is licensed and accredited in accordance with requirements adopted by the depart-
34 ment by rule, consistent with federal licensure and accreditation requirements for qualified
35 residential treatment programs.

36 **SECTION 6. Independent assessment.** (1) The Department of Human Services shall en-
37 sure that an independent, qualified individual assesses the strengths and needs of each child
38 or ward the department places in a qualified residential treatment program.

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

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

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

45 (b) Determine whether the needs of the child or ward can be met with family members

1 or through placement in a foster family home or, if not, which setting would provide the
2 most effective and appropriate level of care for the child or ward in the least restrictive en-
3 vironment and be consistent with the short-term and long-term goals for the child or ward,
4 as specified in the permanency plan for the child or ward; and

5 (c) Develop a list of individualized, specific short-term and long-term mental and behav-
6 ioral health goals.

7 (4)(a) The qualified individual conducting the assessment shall work in conjunction with
8 the child's or ward's family and permanency team, including:

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

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

12 (C) Clergy; or

13 (D) If the child or ward has attained the age of 14 years, individuals selected by the child
14 or ward.

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

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

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

22 (C) Evidence that meetings of the family and permanency team, including meetings re-
23 lated to the required assessment, are held at a time and place convenient for the child's or
24 ward's family.

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

28 (E) Evidence that the assessment is determined in conjunction with the family and
29 permanency team.

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

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

44 (6) As used in this section:

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

1 (b) Unless the department receives a federal waiver, “qualified individual” means an in-
2 dividual who is:

3 (A) A trained professional or licensed clinician;

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

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

7 **SECTION 7. Court approval of placement.** (1) If the Department of Human Services has
8 placed, or will place, a child or ward in a child-caring agency, as defined in ORS 418.205, that
9 is a qualified residential treatment program, the department shall move the court for ap-
10 proval of the placement no later than 30 days following the date of placement.

11 (2) The motion for approval of the placement must include, at a minimum:

12 (a) The date of the placement;

13 (b) A copy of the child’s or ward’s independent assessment described in section 6 of this
14 2019 Act; and

15 (c) To the extent practicable, the parties’ placement preferences.

16 (3) The department shall provide an exact copy of the motion to each of the parties listed
17 in ORS 419B.875.

18 (4)(a) Upon receipt of a motion under this section, the court shall schedule a hearing to
19 occur no later than 60 days following the date the child or ward is placed in the qualified
20 residential treatment program.

21 (b) Notwithstanding paragraph (a) of this subsection, the court is not required to hold a
22 hearing under this section if all of the parties to the proceeding waive the hearing.

23 (5)(a) The court shall enter an order approving or disapproving the placement and make
24 specific determinations regarding the following:

25 (A) Whether the needs of the child or ward can be met through placement in a foster
26 family home or in a proctor foster home.

27 (B) If the court determines that the needs of the child or ward cannot be met through
28 placement in a foster home or proctor foster home:

29 (i) Whether placement of the child or ward in the qualified residential treatment program
30 provides the least restrictive setting to provide the most effective and appropriate level of
31 care for the child or ward; and

32 (ii) Whether placement in a qualified residential treatment program is consistent with
33 the child’s or ward’s case plan.

34 (b) The court may receive testimony, reports or other material relating to the child’s or
35 ward’s mental, physical and social history and prognosis without regard to the competency
36 or relevancy of the testimony, reports or other material under the rules of evidence.

37 (6) The court shall enter an order under subsection (5) of this section no later than 60
38 days following the date the child or ward is placed in the qualified residential treatment
39 program.

40 (7) If the court enters an order disapproving the child’s or ward’s placement, the de-
41 partment shall move the child or ward to a placement consistent with the court’s order no
42 later than 30 days following the date the court enters the order.

43 **SECTION 8.** ORS 418.205 is amended to read:

44 418.205. As used in ORS 418.205 to 418.327, 418.470, 418.475, 418.950 to 418.970 and 418.992 to
45 418.998, unless the context requires otherwise:

- 1 (1) "Child" means an unmarried person under 21 years of age who resides in or receives care
2 or services from a child-caring agency.
- 3 (2)(a) "Child-caring agency":
- 4 (A) Means any private school, private agency or private organization providing:
- 5 (i) Day treatment for children with emotional disturbances;
- 6 (ii) Adoption placement services;
- 7 (iii) Residential care, including but not limited to foster care or residential treatment for chil-
8 dren;
- 9 (iv) Residential care in combination with academic education and therapeutic care, including but
10 not limited to treatment for emotional, behavioral or mental health disturbances;
- 11 (v) Outdoor youth programs; or
- 12 (vi) Other similar care or services for children.
- 13 (B) Includes the following:
- 14 (i) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;
- 15 (ii) An independent residence facility as described in ORS 418.475;
- 16 (iii) A private residential boarding school; and
- 17 (iv) A child-caring facility as defined in ORS 418.950.
- 18 (b) "Child-caring agency" does not include:
- 19 (A) Residential facilities or foster care homes certified or licensed by the Department of Human
20 Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental
21 disability services;
- 22 (B) Any private agency or organization facilitating the provision of respite services for parents
23 pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subpar-
24 agraph, "respite services" means the voluntary assumption of short-term care and control of a minor
25 child without compensation or reimbursement of expenses for the purpose of providing a parent in
26 crisis with relief from the demands of ongoing care of the parent's child;
- 27 (C) A youth job development organization as defined in ORS 344.415;
- 28 (D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645;
- 29 (E) A foster home subject to ORS 418.625 to 418.645;
- 30 (F) A facility that exclusively serves individuals 18 years of age and older; or
- 31 (G) A facility that primarily serves both adults and children but requires that any child must
32 be accompanied at all times by at least one custodial parent or guardian.
- 33 (3) "Child-caring facility" has the meaning given that term in ORS 418.950.
- 34 (4) "Governmental agency" means an executive, legislative or judicial agency, department,
35 board, commission, authority, institution or instrumentality of this state or of a county, municipality
36 or other political subdivision of this state.
- 37 (5) "Independent residence facility" means a facility established or certified under ORS 418.475.
- 38 (6)(a) "Outdoor youth program" means a program that provides, in an outdoor living setting,
39 services to children who have behavioral problems, mental health problems or problems with abuse
40 of alcohol or drugs.
- 41 (b) "Outdoor youth program" does not include any program, facility or activity:
- 42 (A) Operated by a governmental entity;
- 43 (B) Operated or affiliated with the Oregon Youth Conservation Corps;
- 44 (C) Licensed by the Department of Human Services under other authority of the department; or
- 45 (D) Operated by a youth job development organization as defined in ORS 344.415.

1 (7) "Private" means not owned, operated or administered by any governmental agency or unit.

2 (8) "Private residential boarding school" means either of the following as the context requires:

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

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

8 (9) "Proctor foster home" means a foster home certified by a child-caring agency under ORS
9 418.248 that is not subject to ORS 418.625 to 418.645.

10 (10) "Provider of care or services for children" means a person, entity or organization that
11 provides care or services to children, regardless of whether the child is in the custody of the De-
12 partment of Human Services, and that does not otherwise meet the definition of, or requirements for,
13 a child-caring agency. "Provider of care or services for children" includes a proctor foster home
14 certified by a child-caring agency under ORS 418.248.

15 **(11) "Qualified residential treatment program" means a program described in section 5**
16 **of this 2019 Act.**

17 ~~[(11)]~~ (12) "Shelter-care home" has the meaning given that term in ORS 418.470.

18 **SECTION 9.** ORS 418.312 is amended to read:

19 418.312. (1) The Department of Human Services may not require any parent or legal guardian
20 to transfer legal custody of a child in order to have the child placed in a child-caring agency under
21 ORS 418.205 to 418.327, 418.470, 418.475, 418.480 to 418.500, 418.950 to 418.970 and 418.992 to 418.998
22 in a foster home, group home or institutional child care setting, when the sole reason for the
23 placement is the need to obtain services for the child's emotional, behavioral or mental disorder or
24 developmental or physical disability. In all such cases, the child shall be placed pursuant to a vol-
25 untary placement agreement. When a child is placed pursuant to a voluntary placement agreement,
26 the department shall have responsibility for the child's placement and care.

27 **(2) If a child is placed pursuant to a voluntary placement agreement in a qualified resi-**
28 **dential treatment program described in section 5 of this 2019 Act, the placement is subject**
29 **to judicial approval under section 7 of this 2019 Act.**

30 **(3)(a)** ~~[When]~~ **If** a child remains in voluntary placement for more than 180 days, the juvenile
31 court shall make a judicial determination, within the first 180 days of the placement, that the
32 placement is in the best interests of the child.

33 **(b) If a child remains in voluntary placement for more than 12 months,** ~~[In addition,]~~ the
34 juvenile court shall hold a permanency hearing as provided in ORS 419B.476 no later than 14 months
35 after the child's original voluntary placement, and not less frequently than once every 12 months
36 thereafter during the continuation of the child's original voluntary placement, to determine the fu-
37 ture status of the child.

38 ~~[(2)]~~ (4) As used in this section, "voluntary placement agreement" means a binding, written
39 agreement between the department and the parent or legal guardian of a minor child that does not
40 transfer legal custody to the department but that specifies, at a minimum, the legal status of the
41 child and the rights and obligations of the parent or legal guardian, the child and the department
42 while the child is in placement.

43 **NOTE:** Section 10 was deleted by amendment. Subsequent sections were not renumbered.

44 **SECTION 11.** ORS 419A.004 is amended to read:

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

1 otherwise:

2 (1) “Age-appropriate or developmentally appropriate activities” means:

3 (a) Activities or items that are generally accepted as suitable for children of the same chrono-
4 logical age or level of maturity or that are determined to be developmentally appropriate for a child,
5 based on the development of cognitive, emotional, physical and behavioral capacities that are typical
6 for an age or age group; and

7 (b) In the case of a specific child, activities or items that are suitable for the child based on the
8 developmental stages attained by the child with respect to the cognitive, emotional, physical and
9 behavioral capacities of the child.

10 (2) “Another planned permanent living arrangement” means an out-of-home placement for a ward
11 16 years of age or older that is consistent with the case plan and in the best interests of the ward
12 other than placement:

13 (a) By adoption;

14 (b) With a legal guardian; or

15 (c) With a fit and willing relative.

16 (3) “CASA Volunteer Program” means a program that is approved or sanctioned by a juvenile
17 court, has received accreditation from the National CASA Association and has entered into a con-
18 tract with the Oregon Department of Administrative Services under ORS 184.492 to recruit, train
19 and supervise volunteers to serve as court appointed special advocates.

20 (4) “Child care center” means a residential facility for wards or youth offenders that is licensed,
21 certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

22 (5) “Community service” has the meaning given that term in ORS 137.126.

23 (6) “Conflict of interest” means a person appointed to a local citizen review board who has a
24 personal or pecuniary interest in a case being reviewed by that board.

25 (7) “Counselor” means a juvenile department counselor or a county juvenile probation officer.

26 (8) “Court” means the juvenile court.

27 (9) “Court appointed special advocate” means a person in a CASA Volunteer Program who is
28 appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

29 (10) “Court facility” has the meaning given that term in ORS 166.360.

30 (11) “Current caretaker” means a foster parent:

31 (a) Who is currently caring for a ward who is in the legal custody of the Department of Human
32 Services and who has a permanency plan or concurrent permanent plan of adoption; and

33 (b) Who has cared for the ward, or at least one sibling of the ward, for at least 12 cumulative
34 months or for one-half of the ward’s or sibling’s life where the ward or sibling is younger than two
35 years of age, calculated cumulatively.

36 (12) “Department” means the Department of Human Services.

37 (13) “Detention” or “detention facility” means a facility established under ORS 419A.010 to
38 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
39 pursuant to a judicial commitment or order.

40 (14) “Director” means the director of a juvenile department established under ORS 419A.010 to
41 419A.020 and 419A.050 to 419A.063.

42 (15) “Guardian” means guardian of the person and not guardian of the estate.

43 (16) “Indian child” means any unmarried person less than 18 years of age who is:

44 (a) A member of an Indian tribe; or

45 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-

1 dian tribe.

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

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

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

7 (a) A person who has adopted the child, ward, youth or youth offender or whose parentage has
8 been established or declared under ORS 109.065 or 416.400 to 416.465 or by a juvenile court; and

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

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

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

16 **(22) "Proctor foster home" has the meaning given that term in ORS 418.205.**

17 **(23) "Qualified residential treatment program" means a program described in section 5**
18 **of this 2019 Act.**

19 [(22)] **(24)** "Reasonable and prudent parent standard" means the standard, characterized by
20 careful and sensible parental decisions that maintain the health, safety and best interests of a child
21 or ward while encouraging the emotional and developmental growth of the child or ward, that a
22 substitute care provider shall use when determining whether to allow a child or ward in substitute
23 care to participate in extracurricular, enrichment, cultural and social activities.

24 [(23)] **(25)** "Reasonable time" means a period of time that is reasonable given a child or ward's
25 emotional and developmental needs and ability to form and maintain lasting attachments.

26 [(24)] **(26)** "Records" means any information in written form, pictures, photographs, charts,
27 graphs, recordings or documents pertaining to a case.

28 [(25)] **(27)** "Resides" or "residence," when used in reference to the residence of a child, ward,
29 youth or youth offender, means the place where the child, ward, youth or youth offender is actually
30 living or the jurisdiction in which wardship or jurisdiction has been established.

31 [(26)] **(28)** "Restitution" has the meaning given that term in ORS 137.103.

32 [(27)] **(29)** "Serious physical injury" means:

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

34 (b) A physical injury that:

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

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

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

38 [(28)] **(30)** "Shelter care" means a home or other facility suitable for the safekeeping of a child,
39 ward, youth or youth offender who is taken into temporary custody pending investigation and dis-
40 position.

41 [(29)] **(31)** "Short-term detention facility" means a facility established under ORS 419A.050 (3) for
42 holding children, youths and youth offenders pending further placement.

43 [(30)] **(32)** "Sibling" means one of two or more children or wards related:

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

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

1 [(31)] (33)(a) “Substitute care” means an out-of-home placement directly supervised by the de-
2 partment or other agency, including placement in a foster family home, group home, child-caring
3 agency as defined in ORS 418.205 or other child caring institution or facility.

4 (b) “Substitute care” does not include care in:

5 [(a)] (A) A detention facility, forestry camp or youth correction facility;

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

9 [(c)] (C) In-home placement subject to conditions or limitations[.];

10 (D) **A facility or other entity that houses or provides services only to youth offenders**
11 **committed to the custody of the Oregon Youth Authority by the juvenile court; or**

12 (E) **A youth offender foster home as that term is defined in ORS 420.888.**

13 [(32)] (34) “Surrogate” means a person appointed by the court to protect the right of the child,
14 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
15 appropriate public education.

16 [(33)] (35) “Tribal court” means a court with jurisdiction over child custody proceedings and
17 that is either a Court of Indian Offenses, a court established and operated under the code of custom
18 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
19 custody proceedings.

20 [(34)] (36) “Victim” means any person determined by the district attorney, the juvenile depart-
21 ment or the court to have suffered direct financial, psychological or physical harm as a result of the
22 act that has brought the youth or youth offender before the juvenile court. When the victim is a
23 minor, “victim” includes the legal guardian of the minor. The youth or youth offender may not be
24 considered the victim. When the victim of the crime cannot be determined, the people of Oregon,
25 as represented by the district attorney, are considered the victims.

26 [(35)] (37) “Violent felony” means any offense that, if committed by an adult, would constitute
27 a felony and:

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

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

31 [(36)] (38) “Ward” means a person within the jurisdiction of the juvenile court under ORS
32 419B.100.

33 [(37)] (39) “Young person” means a person who has been found responsible except for insanity
34 under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

35 [(38)] (40) “Youth” means a person under 18 years of age who is alleged to have committed an
36 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
37 of the United States or a state, county or city.

38 [(39)] (41) “Youth care center” has the meaning given that term in ORS 420.855.

39 [(40)] (42) “Youth offender” means a person who has been found to be within the jurisdiction
40 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
41 of age.

42 **NOTE:** Section 12 was deleted by amendment. Subsequent sections were not renumbered.

43 **SECTION 13.** ORS 419B.443 is amended to read:

44 419B.443. (1) An agency described in ORS 419B.440 shall file the reports required by ORS
45 419B.440 (1)(b) at the end of the initial six-month period and no less frequently than each six months

1 thereafter. The agency shall file reports more frequently if the court so orders. The reports *[shall]*
2 **must** include, but not be limited to:

3 (a) A description of the problems or offenses that necessitated the placement of the child or
4 ward with the agency;

5 (b) A description of the type and an analysis of the effectiveness of the care, treatment and
6 supervision that the agency has provided for the child or ward;

7 (c) A list of all placements made since the child or ward has been in the guardianship or legal
8 custody of an agency and the length of time the child or ward has spent in each placement;

9 (d) For a child or ward in substitute care, a list of all schools the child or ward has attended
10 since the child or ward has been in the guardianship or legal custody of the agency, the length of
11 time the child or ward has spent in each school and, for a child or ward 14 years of age or older,
12 the number of high school credits the child or ward has earned;

13 (e) A list of dates of face-to-face contacts the assigned case worker has had with the child or
14 ward since the child or ward has been in the guardianship or legal custody of the agency and, for
15 a child or ward in substitute care, the place of each contact;

16 (f) For a child or ward in substitute care, a list of the visits the child or ward has had with the
17 child's or ward's parents or siblings since the child or ward has been in the guardianship or legal
18 custody of the agency and the place and date of each visit;

19 (g) For a child or ward in substitute care, the steps the Department of Human Services is taking
20 to ensure that:

21 (A) The child's or ward's substitute care provider is following the reasonable and prudent parent
22 standard; and

23 (B) The child or ward has regular, ongoing opportunities to engage in age-appropriate or de-
24 velopmentally appropriate activities, including consultation with the child or ward in an age-
25 appropriate manner about the opportunities the child or ward has to participate in the activities;

26 (h) A description of agency efforts to return the child or ward to the parental home or find
27 permanent placement for the child or ward, including, when applicable, efforts to assist the parents
28 in remedying factors which contributed to the removal of the child or ward from the home;

29 (i) A proposed treatment plan or proposed continuation or modification of an existing treatment
30 plan, including a proposed visitation plan or proposed continuation or modification of an existing
31 visitation plan and a description of efforts expected of the child or ward and the parents to remedy
32 factors that have prevented the child or ward from safely returning home within a reasonable time;

33 (j) If continued substitute care is recommended, a proposed timetable for the child's or ward's
34 return home or other permanent placement or a justification of why extended substitute care is
35 necessary; *[and]*

36 (k) If the child or ward has been placed in foster care outside the state, whether the child or
37 ward has been visited not less frequently than every six months by a state or private agency[.]; **and**

38 **(L) If the child or ward is placed in a qualified residential treatment program:**

39 **(A) A determination that the strengths and needs of the child or ward cannot be met**
40 **through placement in a foster home, that the placement in a qualified residential treatment**
41 **program provides the least restrictive setting to provide the most effective and appropriate**
42 **level of care for the child or ward, and that the placement is consistent with the short-term**
43 **and long-term goals for the child or ward, as specified in the permanency plan for the child**
44 **or ward;**

45 **(B) Documentation of the specific treatment or service needs that will be met for the**

1 **child or ward in the placement and the length of time the child or ward is expected to need**
2 **the treatment or services; and**

3 **(C) Documentation of the efforts made by the agency to prepare the child or ward to**
4 **return home or be placed with a fit and willing relative, a legal guardian, an adoptive parent**
5 **or in a less restrictive foster home setting.**

6 (2) In addition to the information required in a report made under subsection (1) of this section,
7 for a ward who is in the legal custody of the department pursuant to ORS 419B.337 but who will
8 be or recently has been placed in the physical custody of a parent or a person who was appointed
9 the ward's legal guardian prior to placement of the ward in the legal custody of the department, a
10 report required under ORS 419B.440 (1)(a) shall include:

11 (a) A recommended timetable for dismissal of the department's legal custody of the ward and
12 termination of the wardship; and

13 (b) A description of the services that the department will provide to the ward and the ward's
14 physical custodian to eliminate the need for the department to continue legal custody.

15 (3) In addition to the information required in a report made under subsection (1) of this section,
16 if the report is made by the department under ORS 419B.440 (1)(b)(C), the report shall include:

17 (a) A recommended timetable for dismissal of the department's legal custody of the ward and
18 termination of the wardship; and

19 (b) A description of the services that the department has provided to the ward and the ward's
20 physical custodian to eliminate the need for the department to continue legal custody.

21 (4) Notwithstanding the requirements of subsection (1) of this section, reports need not contain
22 information contained in prior reports.

23 **SECTION 14. Report. No later than September 1, 2019, the Department of Human Ser-**
24 **VICES and the Oregon Health Authority shall submit a joint report, to the interim committees**
25 **of the Legislative Assembly relating to children, summarizing the department's plan to de-**
26 **velop appropriate in-state placements for Oregon children and wards and to minimize out-**
27 **of-state placements of children and wards. At a minimum, the report must include:**

28 (1) A description of the types of programs and services needed to serve children and
29 wards in Oregon.

30 (2) A description of the barriers to implementing programs and services in this state.

31 (3) A proposed plan and timeline for safely returning to Oregon children and wards who
32 the department or the authority have placed in out-of-state placements.

33 (4) A proposed plane and timeline for terminating new out-of-state placements.

34 (5) If the joint report includes a recommendation to continue out-of-state placements:

35 (a) Recommendations for additional staffing levels and budgetary requirements, including
36 travel costs for staff, children and wards and family members, to safely manage the out-of-
37 state program and provide adequate oversight for Oregon children and wards;

38 (b) Recommendations for procedures to authorize an out-of-state placement; and

39 (c) Recommendations to ensure out-of-state placements do not disproportionately impact
40 children and wards based on characteristics such as race, gender, cultural differences or
41 disabilities.

42 (6) Identify any barriers to health care and mental health services for foster children and
43 wards served by coordinated care organizations that may increase the number of children
44 and wards leaving the state or otherwise put children and wards at risk of crisis.

45 (7) Identify and present proposals for reducing and barriers to care imposed by coordi-

1 nated care organizations.

2 (8) The annual cost of out-of-state placements for each fiscal year from 2013 through
3 2018, including:

4 (a) Licensing costs;

5 (b) Safety monitoring;

6 (c) Travel costs;

7 (d) Family travel costs to maintain contact with children and wards;

8 (e) Out-of-pocket costs for medical care or other services; and

9 (f) Contracting expenses.

10 (9) A list of the name, location and parent company of each out-of-state placement in
11 which the department placed an Oregon child or ward during the time period from January
12 1, 2013, through July 1, 2019.

13 (10) Recommendations about the needs of Oregon providers to successfully implement the
14 federal qualified residential treatment program model, including but not limited to:

15 (a) Any rate adjustments that are necessary to fund newly required nursing services,
16 clinical services and after-care services; and

17 (b) Costs for financing vacancies needed within Oregon's residential care system to en-
18 sure availability of placements that are suitable for the needs identified for children and
19 wards, and to ensure adequate options for appropriate crisis placements.

20 SECTION 15. Website information. The Department of Human Services shall make the
21 information described in section 4 of this 2019 Act first available on the department's website
22 no later than September 1, 2019.

23 SECTION 16. Sections 14 and 15 of this 2019 Act are repealed on January 2, 2020.

24 SECTION 17. (1) Section 3 of this 2019 Act applies to placements occurring on or after
25 September 1, 2019.

26 (2) Section 4 of this 2019 Act applies to contracts entered into and out-of-state place-
27 ments occurring on or after September 1, 2019.

28 (3) Sections 1, 5, 6 and 7 of this 2019 Act, the amendments to section 3 of this 2019 Act
29 by section 3a of this 2019 Act and the amendments to ORS 418.205, 418.312, 419A.004 and
30 419B.443 by sections 8 to 13 of this 2019 Act apply to placements occurring on or after July
31 1, 2020.

32 SECTION 18. (1) Sections 3 and 4 of this 2019 Act become operative on September 1, 2019.

33 (2) Sections 1, 5, 6 and 7 of this 2019 Act, the amendments to section 3 of this 2019 Act
34 by section 3a of this 2019 Act and the amendments to ORS 418.205, 418.312, 419A.004 and
35 419B.443 by sections 8 to 13 of this 2019 Act become operative on July 1, 2020.

36 (3) The Department of Human Services and the Oregon Health Authority may take any
37 action before the operative dates specified in subsections (1) and (2) of this section that is
38 necessary for the department or the authority to exercise, on and after the operative dates
39 specified in subsections (1) and (2) of this section, all of the duties, functions and powers
40 conferred on the department or the authority by sections 1 to 7 of this 2019 Act and the
41 amendments to ORS 418.205, 418.312, 419A.004, and 419B.443 by sections 8 to 13 of this 2019
42 Act.

43 SECTION 19. The section captions used in this 2019 Act are provided only for the con-
44 venience of the reader and do not become part of the statutory law of this state or express
45 any legislative intent in the enactment of this 2019 Act.

1 **SECTION 20. This 2019 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
3 **on its passage.**

4
