

Enrolled
Senate Bill 181

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CHAPTER

AN ACT

Relating to child-caring agencies that are county programs; amending ORS 418.205, 418.210, 419C.620, 419C.623 and 419C.626; and declaring an emergency.

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

SECTION 1. ORS 418.205 is amended to read:

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

(1) "Child" means an unmarried person under 21 years of age who resides in or receives care or services from a child-caring agency.

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

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

- (i) Day treatment for children with emotional disturbances;
- (ii) Adoption placement services;
- (iii) Residential care, including but not limited to foster care or residential treatment for children;
- (iv) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;
- (v) Outdoor youth programs; or
- (vi) Other similar care or services for children.

(B) Includes the following:

- (i) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;
- (ii) An independent residence facility as described in ORS 418.475;
- (iii) A private residential boarding school; and
- (iv) A child-caring facility as defined in ORS 418.950.

(b) "Child-caring agency" does not include:

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

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subparagraph, "respite services" means the voluntary assumption of short-term care and control of a

minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;

(C) A youth job development organization as defined in ORS 344.415;

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

(E) A foster home subject to ORS 418.625 to 418.645;

(F) A facility that exclusively serves individuals 18 years of age and older; or

(G) A facility that primarily serves both adults and children but requires that any child must be accompanied at all times by at least one custodial parent or guardian.

(3) "Child-caring facility" has the meaning given that term in ORS 418.950.

(4)(a) "County program" means any county operated program that provides care or services to children in the custody of the Department of Human Services or the Oregon Youth Authority.

(b) "County program" does not include any local juvenile detention facility that receives state services provided and coordinated by the Department of Corrections under ORS 169.070.

[(4)] (5) "Governmental agency" means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of this state or of a county, municipality or other political subdivision of this state.

[(5)] (6) "Independent residence facility" means a facility established or certified under ORS 418.475.

[(6)(a)] (7)(a) "Outdoor youth program" means a program that provides, in an outdoor living setting, services to children who have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.

(b) "Outdoor youth program" does not include any program, facility or activity:

(A) Operated by a governmental entity;

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

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

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

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

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

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

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

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

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

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

SECTION 2. ORS 418.210 is amended to read:

418.210. ORS 418.205 to 418.327 shall not apply to:

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

(2) Any foster home that is subject to ORS 418.625 to 418.645;

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

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

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

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

(7) Any governmental entity, **other than a county program**, that is a provider of care or services for children, including but not limited to the Oregon Youth Authority.

SECTION 3. ORS 419C.620 is amended to read:

419C.620. (1) When required by the court, the Oregon Youth Authority or a private agency having guardianship or legal custody of a youth offender pursuant to court order shall file reports on the youth offender with the juvenile court that entered the original order concerning the youth offender.

(2) A county juvenile department shall file a report with the juvenile court under this section if a youth offender remains under juvenile department care for six consecutive months from the date of initial placement and:

(a) The county juvenile department is a county program, as defined in ORS 418.205;

(b) The county juvenile department is participating in programs related to Title IV-E of the Social Security Act;

(c) The county juvenile department has responsibility for the care and placement of the youth offender; and

(d) The placement is not a detention facility.

SECTION 4. ORS 419C.623 is amended to read:

419C.623. (1) The Oregon Youth Authority, **a county juvenile department** or a private agency shall file the reports required by ORS 419C.620 at times required by the court, required by the youth offender's reformation plan or case plan and as determined necessary by the youth authority or agency. The youth authority or agency shall file reports more frequently if the court so orders. The reports shall include, but need not be limited to:

(a) A description of the offenses that necessitated the placement of the youth offender with the youth authority, **juvenile department** or agency;

(b) A description of the youth offender's risk to reoffend and an analysis of the need for services and assistance; and

(c) A proposed reformation plan or case plan, or proposed continuation or modification of an existing reformation plan or case plan, including, where applicable, a description of services to be provided in furtherance of the youth offender's reformation and safe return to the community.

(2) A report under ORS 419C.620 (2) by a county juvenile department must also include:

(a) A description of the efforts to return the youth offender to the parental home, including, when applicable, efforts to assist the parents in remedying factors that contributed to the removal of the youth offender from the home.

(b) A description of the care, treatment and supervision that have been provided for the youth offender, including:

(A) The safety of the placement;

(B) A description of whether the placement is the least restrictive and most appropriate setting available and in close proximity to the youth offender's home, and is consistent with the best interest and the special needs of the youth offender; and

(C) An analysis of the effectiveness of the care, treatment and supervision.

(c) A description of the progress that has been made toward alleviating or mitigating the causes necessitating the youth offender's placement.

(d) If continued substitute care is recommended, a proposed timetable for the youth offender's return home or other permanent placement or a justification of why continued substitute care is necessary.

[2] **(3)** Notwithstanding the requirements of [subsection (1)] **subsections (1) and (2)** of this section, reports following the first report that is required by [subsection (1) of] this section need not contain information contained in prior reports.

[3] (4) Notwithstanding the requirements under ORS 419C.620 that reports be filed with the court, any report after the first report that is required by [subsection (1)] **subsections (1) and (2)** of this section on a youth offender whose case is being regularly reviewed by a local citizen review board shall be filed with that local citizen review board rather than with the court.

SECTION 5. ORS 419C.626 is amended to read:

419C.626. (1) Upon receiving a report required by ORS 419C.620:

(a) The court may hold a hearing to review the youth offender's condition and circumstances and to determine if the court should continue jurisdiction over the youth offender or order modifications in the custody, placement and supervision of the youth offender.

(b) And if requested by the youth offender, the attorney for the youth offender, if any, the parents of the youth offender if parental rights have not been terminated, a court appointed special advocate, a local citizen review board, the Oregon Youth Authority, **a county juvenile department**, a district attorney or a private agency having guardianship or legal custody of the youth offender, the court shall hold a hearing within 30 days of receipt of the request.

(2) The court, on its own motion, may hold a review hearing at any time. Unless good cause otherwise is shown, the court shall hold a review hearing at any time upon the request of the youth offender, the attorney for the youth offender, if any, the parents of the youth offender if parental rights have not been terminated, a court appointed special advocate, a local citizen review board, the youth authority, **a county juvenile department**, a district attorney or a private agency having guardianship or legal custody of the youth offender.

(3) A hearing under subsection (1) or (2) of this section shall be conducted in the manner provided in ORS 419C.400 (1), 419C.405 and 419C.408, except that the court may receive testimony and reports as provided in ORS 419C.400 (4). At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the youth offender in an out-of-home placement in the legal custody of the youth authority, **a county juvenile department** or a private agency. The findings shall specifically state:

(a) Why continued out-of-home placement is necessary as opposed to returning the youth offender to the youth offender's home or promptly securing another placement;

(b) The expected timetable for return home; and

(c) Whether the youth offender's reformation plan or case plan should be modified.

(4) After receiving a report required by ORS 419C.620 (2), if requested by the county juvenile department, the court's findings under subsection (3) of this section must specifically state:

(a) Whether the county juvenile department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the youth offender to safely return home. In making this finding, the court shall consider the youth offender's health and safety the paramount concerns.

(b) The appropriateness of the youth offender's placement.

(c) The extent of compliance with the youth offender's case plan.

(d) The extent of progress that has been made toward alleviating or mitigating the causes necessitating the youth offender's placement in substitute care.

[(4)] (5) The court may direct the local citizen review board to review the status of the youth offender prior to the court's next review under ORS 419A.106, 419A.108, 419A.110, 419A.112, 419A.116 and 419A.118.

[(5)] (6) Any final decision of the court made pursuant to a hearing under subsection (1) or (2) of this section is appealable under ORS 419A.200.

SECTION 6. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by Senate June 10, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 18, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State