Senate Bill 1566

Sponsored by Senators GELSER, MANNING JR; Senators BEYER, BURDICK, DEMBROW, FREDERICK, MONNES ANDERSON, PROZANSKI, ROBLAN, TAYLOR, WAGNER (Presession filed.)

SUMMARY

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

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 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

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.

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(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) If a person 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 having been found guilty except for insanity of a crime under ORS
      161.290 to 161.373 or having been found responsible except for insanity under ORS 419C.411.
   (ii) “Department of Corrections institution” has the meaning given that term in ORS 421.005.
   (iii) “Detention facility,” “young person,” “youth” and “youth offender” have the meanings given
   those terms in ORS 419A.004.
   (iv) “Local correctional facility” has the meaning given that term in ORS 169.005.
   (v) “Youth correction facility” has the meaning given that term in ORS 420.005.

(c)(A) If a person was a foster child:
   (i) The person shall be treated as meeting the residential criteria for eligibility under
   subsection (3)(b) of this section if, but for the person’s placement in out-of-state foster care,
   the person otherwise meets the requirements of subsection (3)(b) of this section.
   (ii) The person shall be treated as attaining the person’s highest level of education in this
   state under subsection (3)(c) of this section if the person attained the person’s highest level
   of education while placed in out-of-state foster care and the person’s highest level of educa-
   tion substantially meets the requirements under subsection (3)(c) of this section.
   (iii) The person 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 completes the highest
   level of education as described in subparagraph (A)(ii) of this paragraph while in a treatment
   program and the person first enrolls in courses described in subsection (3)(a) of this section
   within 12 months after the date on which the person is released from the treatment pro-
   gram.
   (B) As used in this paragraph:
   (i) “Foster care” means substitute care for children placed by the Department of Human
   Services or a tribal child welfare agency away from the child’s 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 facil-
   ities, child care institutions and preadoptive homes.
   (ii) “Foster child” means a child over whom the Department of Human Services retained
   jurisdiction under ORS 417.200 for the duration of the child’s placement in foster care outside
   the state of Oregon.

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

(A) Maintains at least the minimum cumulative grade point average prescribed by the commission based on federal aid grant requirements;

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

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

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

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

(7)(a) The total amount of a grant awarded under this section shall be based on each term that a person is enrolled in courses described in subsection (3)(a) of this section. Except as provided in subsections (9) and (10) of this section, after the amount of tuition for the person for the term is reduced by any amounts received by the person in state and federal aid grants, the person shall be eligible for a grant under this section in an amount that equals:

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

(i) $1,000; and

(ii) The person’s actual cost for tuition.

(B) Not more than the lesser of:

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

(ii) The average cost of tuition at a community college in this state.

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

(c)(A) If the office determines both that the person’s actual cost for tuition exceeds the amount set forth in paragraph (a)(A)(i) of this subsection and that the person’s actual cost for tuition exceeds the average cost of tuition at a community college in this state, the person shall be eligible for a grant in an amount that equals the average cost of tuition at a community college in this state.

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

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

(e) The commission may prescribe by rule whether to include fees, and any limitations related to the inclusion of fees, when determining the actual cost of tuition or the average cost of tuition.
(8) The commission may adopt by rule the priority by which grants are awarded, which may allow for preference to be given to persons enrolled in school districts or high schools that meet specified criteria.

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

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

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

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

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

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

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

(c) The commission shall promptly notify the interim committees of the Legislative Assembly responsible for higher education each time the commission 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) “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) “Person in parental relationship” means an adult who has physical custody of an indi-
vidual or resides in the same household as the individual, interacts with the individual daily, pro-
vides the individual with food, clothing, shelter and incidental necessaries 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 par-
ental relationship.
(c) “School district of origin” means the school district where an individual was a resident be-
fore:
(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 per-
sons 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 individual 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 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 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;

(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 par-
ental 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 indi-
   vidual or resides in the same household as the individual, interacts with the individual daily, pro-
   vides the individual with food, clothing, shelter and incidental necessaries 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 par-
   ental relationship.
   (c) “School district of origin” means the school district where an individual was a resident be-
   fore:
   (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 per-
   sons 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 individual 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.

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 victims in the reports that were closed at screening;
(c) The types of abuse alleged to have occurred in the reports that were closed at screening; and
(d) The resources the department requires to provide training and personnel to fully implement the investigation requirements under ORS 419B.020 beginning on April 1, 2021.

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

FAMILY-BASED GROUP HOME PLACEMENTS

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

(a) The services are provided in a family home setting.
(b) The foster parents live in the house 24 hours per day, seven days per week.
(c) The foster parents are the primary care providers for the children served by the program.
(d) The program serves no more than 15 children.
(e) The program accepts children who have sexually maladaptive behaviors, a history of eloping from care or a history of unsuccessful placement in other settings.
(2)(a) Notwithstanding ORS 418.204 and 419B.354:
(i) The department may engage and make reasonable payment to the programs identified under subsection (1) of this section; and
(ii) A program identified under subsection (1) of this section is not required to be a child-caring agency or a qualified residential treatment program.
(b) Notwithstanding ORS 419B.360, the department is not required to obtain court approval of its placement of a child in a program identified under subsection (1) of this section.
(c) The department is not required to ensure that a child the department places in a program identified under subsection (1) of this section is assessed by a qualified individual under ORS 419B.358.
(3) No later than September 1, 2022, the department shall submit a report to the interim committees of the Legislative Assembly related to child welfare regarding the success of placements in the programs identified under subsection (1) of this section and recommendations, if any, for the continuation or expansion of placements consistent with this section.

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

QUALIFIED RESIDENTIAL TREATMENT PROGRAMS

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

(a) The out-of-state child-caring agency complies with the licensing requirements under ORS 418.215;
(b) The department has a current contract with the child-caring agency; and
(c) The department’s contract with the child-caring agency meets the requirements under subsection (3) of this section.

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

(b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Placement of Children and ORS 417.230, the department may not delegate the department’s licensing, visitation, inspection, investigation or supervision of an out-of-state child-caring 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 child-caring agency’s license with that state or indicating the state's intent to suspend or revoke the child-caring agency's license with that state.

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

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

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

(J) The child-caring agency must meet all of the program, discipline, behavior support, supervision and child rights requirements adopted by the department by rule for behavioral rehabilitation services.

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

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

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

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

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

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

SECTION 8. ORS 418.258 is amended to read:

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

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

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

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

(4)[(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 be-
lieves 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 be-
lieve 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 de-
partment shall require and verify that the child-caring agency, certified foster home or develop-
mental 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 im-
mediately 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 employ-
ees of the child-caring agency and any proctor foster home certified by the child-caring agency, of
the certified foster home or of the developmental disabilities residential facility of the duty under
this section and ORS 419B.005 to 419B.050 to report abuse of a child in care; and

(C) Inform employees of child-caring agencies, proctor foster homes, certified foster homes and
developmental disabilities residential facilities that the duty to report abuse of a child in care is
personal to the employee and that the duty is not fulfilled by reporting the abuse to the owner, op-
erator or any other employee of the child-caring agency, proctor foster home, certified foster home
or developmental disabilities residential facility even if the owner, operator or other employee re-
ports the abuse of a child in care to the director, the director's designee or the department.

(b) A child-caring agency, certified foster home or developmental disabilities residential facility
need not develop and maintain procedures and protocols or provide an annual training and written
materials under paragraph (a) of this subsection if the agency, home or facility does not have any
employees, staff or volunteers.

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

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

(A) From any liability, civil or criminal, that might otherwise be incurred or imposed with re-
spect 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 department personnel. The department shall inform the child in care that the child may have the child’s parent or guardian, if the child has not been committed to the custody of the department or the Oregon Youth Authority, or attorney present when participating in an interview conducted in the course of an abuse investigation.

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

(a) The Director of Human Services.

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

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

(d) With respect to the child in care who is the subject of the abuse report and investigation, 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 to provide care or services to the child.

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

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

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

(5) The department shall report on a quarterly basis to the interim legislative committees on child welfare for the purposes of public review and oversight of the quality and safety of child-caring agencies, certified foster 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 more than one child or ward and is not a setting described in ORS 418.205 (2)(b)(A), (D) or (E) or (10).

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

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

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

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

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

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

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

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

(d) The child-caring agency is a residential care facility that is also licensed by the Oregon Health Authority and accredited by a national organization to provide psychiatric treatment to children, the child-caring agency has an active provider agreement with the Oregon Medicaid program and the placement has been approved by the court as medically necessary.

(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)] (e) 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
counties 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 with the short-term and long-term goals of the child or ward, as specified in the permanency plan for the child or ward; and

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

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

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

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

(C) Clergy; or

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

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

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

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

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

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

(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 restric-
tive 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 op-
erative 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 de-
partment 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 conven-
ience 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 declared to exist, and this 2020 Act takes effect
on its passage.