

Enrolled House Bill 2738

Sponsored by Representatives LEIF, NERON, NOBLE, POST, SMITH G, STARK, Senator STEINER HAYWARD; Representatives ALONSO LEON, BYNUM, DEXTER, DRAZAN, FAHEY, GOMBERG, HOLVEY, HUDSON, KROPF, LEVY, LEWIS, MEEK, MOORE-GREEN, MORGAN, NEARMAN, OWENS, PHAM, REARDON, RESCHKE, REYNOLDS, SCHOUTEN, SMITH DB, SOLLMAN, WALLAN, WEBER, WILDE, WITT, WRIGHT, ZIKA, Senators KNOPP, PATTERSON (Presession filed.)

CHAPTER

AN ACT

Relating to court appointed special advocates; amending ORS 184.489, 184.492, 184.495 and 419A.004; and declaring an emergency.

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

SECTION 1. ORS 184.489 is amended to read:

184.489. As used in ORS 184.489 to 184.498 and 419B.112:

(1) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the **statewide coordinating entity contracted with by the** Oregon Department of Administrative Services under ORS 184.492 to recruit, train and supervise **diverse and culturally responsive** volunteers to serve as court appointed special advocates.

(2) "Court appointed special advocate" means a person in a CASA Volunteer Program who is appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

SECTION 2. ORS 184.492 is amended to read:

184.492. (1) The Oregon Department of Administrative Services shall:

[(a) Contract with all CASA Volunteer Programs in this state to recruit, train and supervise court appointed special advocates. The department may delegate authority to contract under this paragraph to the statewide coordinating entity contracted with under paragraph (b) of this subsection.]

[(b)] (a) Contract with a nongovernmental entity to serve as the statewide coordinating entity for the provision of court appointed special advocate services throughout this state. The nongovernmental entity must be a member of the National CASA Association and have a board or other membership structure that contains directors from the CASA Volunteer Programs in this state. At a minimum, the contract must include authority for the statewide coordinating entity to:

(A) Contract with CASA Volunteer Programs; **and**

(B) Disburse and expend moneys in the Court Appointed Special Advocate Fund established in ORS 184.498 to CASA Volunteer Programs in this state.]; *and]*

[(C) Execute the standards described in paragraph (c) of this subsection.]

[(c) Oversee and monitor CASA Volunteer Program standards, with assistance from the statewide coordinating entity contracted with by the department under paragraph (b) of this subsection, to recruit, train and supervise court appointed special advocates.]

[(d)] (b) Disburse and expend moneys in the Court Appointed Special Advocate Fund established under ORS 184.498 for the purposes set forth in this section and ORS 419B.112. The department [may] **shall** disburse and expend moneys from the fund to the statewide coordinating entity contracted with pursuant to paragraph [(b)] (a) of this subsection for the purposes set forth in this section and ORS 419B.112. **No moneys may be distributed to a CASA Volunteer Program until the program has submitted to the statewide coordinating entity the program's annual diversity, equity, inclusion and accountability plan.**

[(e)] (c) [With the assistance of] **Contract with** the statewide coordinating entity contracted with pursuant to paragraph [(b)] (a) of this subsection[, oversee] **for oversight of** the provision of court appointed special advocate services throughout this state in a uniform, **equitable**, consistent and cost-efficient manner [by ensuring] **and to ensure** that CASA Volunteer Programs[:] **comply with the state standards and practices and with the National CASA Association's standards and practices and perform the duties and functions under ORS 419B.112.**

[(A) Adopt policies, procedures, standards and guidelines regarding the provision of court appointed special advocate services as directed by the department; and]

[(B) Develop and provide training and education for court appointed special advocates and employees and other volunteers in CASA Volunteer Programs as directed by the department.]

[(f) Identify statewide outcome or performance measures for CASA Volunteer Programs.]

[(g) Collect, evaluate and summarize data regarding CASA Volunteer Programs and court appointed special advocate services in this state.]

[(h)] (d) **Require the statewide coordinating entity contracted with pursuant to paragraph (a) of this subsection to oversee the CASA Volunteer Programs to ensure that each program:**

(A) **Uses metrics to track volunteer demographics and develops a detailed diversity recruitment plan that reflects the demographics of children in foster care in the counties served by the program;**

(B) **Adopts a mission and values statement;**

(C) **Regularly reviews and updates its plans and policies consistent with the National CASA Association's standards, including an annual review and update of the program's diversity, equity, inclusion and accountability plans;**

(D) **Conducts an annual financial audit or review; and**

(E) **Has a sustainable growth plan, if applicable.**

(e) **Require the statewide coordinating entity contracted with pursuant to paragraph (a) of this section to develop and provide training and education for court appointed special advocates and employees and other volunteers in CASA Volunteer Programs. The training and education must be consistent with the National CASA Association's standards and include culturally specific and community-responsive training components. The training and education for each program must be tailored to the program's identified equity and outreach needs. The statewide coordinating entity shall make available additional training opportunities regarding cultural responsiveness and skill building, as needed and as resources allow.**

(f) **Adopt rules for carrying out the department's responsibilities, duties and functions under this section and ORS 419B.112.**

(2) The department may:

[(a) Delegate to a statewide coordinating entity contracted with under subsection (1)(b) of this section the responsibility to:]

[(A) Create, supervise and operate CASA Volunteer Programs throughout this state; and]

[(B) Develop and provide training for court appointed special advocates and employees and volunteers of CASA Volunteer Programs.]

[(b)] (a) Consult with [public agencies or private nonprofit organizations] **the statewide coordinating entity contracted with under subsection (1)(a) of this section** for the purpose of developing:

(A) **An allocation formula for the disbursement of moneys to CASA Volunteer Programs in this state; and**

(B) Policies, procedures, standards and guidelines regarding the provision of court appointed special advocate services in this state **taking into consideration the National CASA Association's standards.**

[(c)] **(b)** Apply for and receive funds from state, federal and private sources for CASA Volunteer Programs and the provision of court appointed special advocate services in this state.

(3) The statewide coordinating entity with which the department has contracted under subsection *[(1)(b)]* **(1)(a)** of this section~~, or to which the department has delegated responsibilities under subsection (2)(a) of this section,~~ shall provide biannual reports to the department regarding:

(a) The fulfillment of responsibilities that have been contracted for or delegated; and

(b) *[When applicable to responsibilities contracted for or delegated,]* The achievement of the objectives in subsection *[(1)(d) to (g)]* **(1)(b) and (c)** of this section.

[(4) The department shall report annually to committees of the Legislative Assembly related to the provision of court appointed special advocate services regarding the disbursement of moneys in the Court Appointed Special Advocate Fund established under ORS 184.498. The report must summarize the extent to which the statewide outcome or performance measures identified by the department under this section are being met and include an analysis of the effectiveness of court appointed special advocate services provided in this state.]

SECTION 3. ORS 184.495 is amended to read:

184.495. Each CASA Volunteer Program *[shall]* **may** report biannually to committees of the Legislative Assembly related to the provision of court appointed special advocate services. **The report may include information regarding the program's efforts to improve culturally specific and equitable services, partnerships with community-based organizations, volunteer recruitment efforts, percentage of need for CASA Volunteer Program services met by the program and demographic information relative to volunteers and children in foster care.** The statewide coordinating entity contracted with by the Oregon Department of Administrative Services under ORS 184.492 may present the biannual reports required under this section on behalf of the CASA Volunteer Programs in this state. *[The report must include each program's status with respect to the statewide outcome or performance measures identified by the department under ORS 184.492.]*

SECTION 4. ORS 419A.004, as amended by section 26, chapter 14, Oregon Laws 2020 (first special session), and sections 17a and 17b, chapter 19, Oregon Laws 2020 (first special session), is amended to read:

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

(1) "Age-appropriate or developmentally appropriate activities" means:

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

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

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

(a) By adoption;

(b) With a legal guardian; or

(c) With a fit and willing relative.

(3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the **statewide coordinating entity contracted with by the** Oregon Department of Administrative Services under ORS 184.492 to recruit, train and supervise **diverse and culturally responsive** volunteers to serve as court appointed special advocates.

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

(5) "Community service" has the meaning given that term in ORS 137.126.

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

(7) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

(8) "Court" means the juvenile court.

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

(10) "Court facility" has the meaning given that term in ORS 166.360.

(11) "Current caretaker" means a foster parent:

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

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

(12) "Department" means the Department of Human Services.

(13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of youths or youth offenders pursuant to a judicial commitment or order.

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

(15) "Guardian" means guardian of the person and not guardian of the estate.

(16) "Indian child" has the meaning given that term in section 2, chapter 14, Oregon Laws 2020 (first special session).

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

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

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

(a) A person who has adopted the child, ward, youth or youth offender or whose parentage has been established or declared under ORS 25.501 to 25.556 or 109.065 or by a juvenile court; and

(b) If the child is an Indian child, a man whose parentage has been established as described in section 4, chapter 14, Oregon Laws 2020 (first special session).

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

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

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

(23) "Qualified residential treatment program" means a program described in section 12b, chapter 19, Oregon Laws 2020 (first special session).

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

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

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

(27) “Resides” or “residence,” when used in reference to the residence of a child, ward, youth or youth offender, means the place where the child, ward, youth or youth offender is actually living or the jurisdiction in which wardship or jurisdiction has been established.

(28) “Restitution” has the meaning given that term in ORS 137.103.

(29) “Serious physical injury” means:

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

(b) A physical injury that:

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

(B) Results in substantial and recurring pain; or

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

(30) “Shelter care” means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.

(31) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for holding youths and youth offenders pending further placement.

(32) “Sibling” means one of two or more children or wards related:

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

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

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

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

(A) A detention facility, forestry camp or youth correction facility;

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

(C) In-home placement subject to conditions or limitations;

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

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

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

(35) “Tribal court” has the meaning given that term in section 2, chapter 14, Oregon Laws 2020 (first special session).

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

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

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

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

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

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

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

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

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

SECTION 5. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House June 17, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 22, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State