

Enrolled
Senate Bill 707

Sponsored by Senator GELSER; Senators PATTERSON, THATCHER, Representatives HAYDEN, NOBLE, WILDE

CHAPTER

AN ACT

Relating to notices to children placed in out-of-state residential facilities; and declaring an emergency.

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

SECTION 1. (1) As used in this section, “child’s or ward’s representatives” means:

- (a) Any attorney representing the child or ward.**
- (b) If the child or ward is under 18 years of age:**
 - (A) The child’s or ward’s parent if the parent’s parental rights have not been terminated and disclosure of the records to the parent is not otherwise prohibited by a court order; or**
 - (B) The child’s or ward’s adoptive parents.**
 - (c) The court appointed special advocate assigned to the child or ward.**
 - (d) The child’s or ward’s legal guardian.**
 - (e) Any guardian ad litem appointed for the child or ward.**
 - (f) Any other person upon the written request of the child or ward if the child or ward is at least 18 years of age.**

(2)(a) Not later than October 1, 2021, the Department of Human Services shall provide notice to each child and ward whom the department placed in an out-of-state residential facility for any duration of time between January 1, 2016, and June 30, 2020.

- (b) The notice provided under this subsection must include:**
 - (A) Notice of the right of the child or ward to seek civil remedy for negligent treatment the child or ward received while placed in the out-of-state residential facility;**
 - (B) The name and contact information of each out-of-state residential facility in which the child or ward was placed and the dates of placement;**
 - (C) The name of any parent companies associated with the facilities identified in subparagraph (B) of this paragraph;**
 - (D) A statement that the department is in the process of proactively securing the records described in this section;**
 - (E) A statement that the department will retain the records it secures under this section for 20 years;**
 - (F) Instructions for making a written request for release of the records from the department;**
 - (G) A statement that, upon request, the department will immediately release the records to the child or the child’s or ward’s representatives; and**

(H) The name, electronic mail address and telephone number of a person at the department whom the child or ward or the child's or ward's representatives may contact with any questions regarding the notice.

(3) The department shall provide a copy of the notice required under subsection (2) of this section to the child's or ward's representatives. If the department provides notice to a person the department reasonably believes is the child's or ward's court appointed special advocate or attorney, the department shall include a request that, if the person is no longer serving as the child's or ward's court appointed special advocate or attorney, the person provide the department with any contact information the person may have for the child's or ward's current court appointed special advocate or attorney.

(4) Upon written request, the department shall provide the child and the child's or ward's representatives with all of the information in the department's possession or control, including incident reports, injuries and abuse allegations, regarding the child or ward and arising from incidents that occurred during the period of time that the child or ward was placed in the out-of-state residential facility.

(5)(a) Upon the effective date of this 2021 Act, the department shall immediately request from each out-of-state residential facility in which the department placed a child or ward for any duration of time between January 1, 2016, and June 30, 2020, all records created by or in the possession of the facility relating to the child or ward, including:

(A) Records relating to the care and treatment of the child or ward, including written, video, audio or visual records, medical records, assessments, education records, reports, including incident and injury reports, and internal or external investigations related to the child and any other records to which the state is entitled under the terms of the department's contract with the facility;

(B) All documents and information regarding any injury sustained by the child or ward while placed in the facility; and

(C) All records relating to the use of any emergency intervention, including restraint, that was used on the child or ward while placed in the facility, including written, video, audio and visual records, any abuse allegation or investigation records, injury records, incident reports or seclusion reports;

(b)(A) The department shall make vigorous efforts to obtain the records described in paragraph (a)(C) of this subsection.

(B) If necessary, the department shall use all relief available under the terms of the department's contract with the facilities or other applicable law to compel the release of the records described in paragraph (a) of this subsection.

(6) The department shall retain the records obtained under this section for 20 years from the date the department provides the notice to the child or ward under subsection (2) of this section.

(7) Not later than January 1, 2022, the department shall report to the interim committees of the Legislative Assembly related to human services on the department's progress in obtaining the records described in subsection (5) of this section. The report must include the number of children who have requested release of their records, information about any facility's refusal to release the requested information and records and information about what methods the department has utilized to request and compel the release of the information and records.

SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2043.

SECTION 3. 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 Senate June 16, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 23, 2021

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Tina Kotek, Speaker of House

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