

Enrolled
Senate Bill 89

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown)

CHAPTER

AN ACT

Relating to developmental disabilities residential facilities; amending ORS 418.257.

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

SECTION 1. ORS 418.257 is amended to read:

418.257. As used in ORS 418.257 to 418.259:

(1) "Abuse" means one or more of the following:

(a) Any physical injury to a child in care caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(b) Neglect of a child in care.

(c) Abandonment, including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker, certified foster home, developmental disabilities residential facility or other person.

(d) Willful infliction of physical pain or injury upon a child in care.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(f) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of a child in care for the convenience of a child-caring agency, caretaker, certified foster home or developmental disabilities residential facility or to discipline the child in care.

(j) A wrongful use of a physical or chemical restraint of a child in care, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(2) "Certified foster home" means a foster home certified by the Department of Human Services and subject to ORS 418.625 to 418.645.

(3)(a) "Child in care" means a person under 21 years of age who is residing in or receiving care or services from:

(A) A child-caring agency or proctor foster home subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970;

(B) A certified foster home; or

(C) A developmental disabilities residential facility.

(b) "Child in care" does not include a person under 21 years of age who is residing in any of the entities listed in paragraph (a) of this subsection when the care provided is in the home of the child by the child's parent.

(4) "Child-caring agency" has the meaning given that term in ORS 418.205.

(5) "Developmental disabilities residential facility" means a residential facility or foster home for children who are [18] 17 years of age or younger and receiving developmental disability services that is subject to ORS 443.400 to 443.455, 443.830 and 443.835.

(6) "Involuntary seclusion" means the confinement of a child in care alone in a room from which the child in care is physically prevented from leaving. "Involuntary seclusion" does not include age-appropriate discipline, including but not limited to a time-out.

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

(8)(a) "Financial exploitation" means:

(A) Wrongfully taking the assets, funds or property belonging to or intended for the use of a child in care.

(B) Alarming a child in care by conveying a threat to wrongfully take or appropriate moneys or property of the child in care if the child would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a child in care.

(D) Failing to use the income or assets of a child in care effectively for the support and maintenance of the child in care.

(b) "Financial exploitation" does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of, privileges.

(9) "Intimidation" means compelling or deterring conduct by threat. "Intimidation" does not include age-appropriate discipline that may involve the threat to withhold privileges.

(10) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(e) A police department established by a university under ORS 352.121 or 353.125.

(11) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a child in care; or

(b) The failure of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person to make a reasonable effort to protect a child in care from abuse.

(12) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of a child in care.

(13) "Sexual abuse" means:

(a) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(b) Any sexual contact between a child in care and an employee of a child-caring agency, proctor foster home, certified foster home, developmental disabilities residential facility, caretaker or other person responsible for the provision of care or services to a child in care;

(c) Any sexual contact between a person and a child in care that is unlawful under ORS chapter 163 and not subject to a defense under that chapter; or

(d) Any sexual contact that is achieved through force, trickery, threat or coercion.

(14) "Sexual contact" has the meaning given that term in ORS 163.305.

(15) "Sexual exploitation" means sexual exploitation as described in ORS 419B.005 (1)(a)(E).

(16) "Verbal abuse" means to threaten significant physical or emotional harm to a child in care through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

Passed by Senate March 4, 2021

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 2, 2021

.....
Tina Kotek, Speaker of House

Received by Governor:

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

Approved:

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

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

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

.....
Shemia Fagan, Secretary of State