

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO  
SENATE BILL 85**

1 On page 1 of the printed bill, line 2, after “children;” insert “creating new  
2 provisions; and”.

3 On page 2, delete lines 6 through 45 and delete page 3.

4 On page 4, delete lines 1 through 34 and insert:

5 **“SECTION 2.** Section 7a, chapter 19, Oregon Laws 2020 (first special  
6 session), as amended by section 7b, chapter 19, Oregon Laws 2020 (first spe-  
7 cial session), is amended to read:

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

10 “(a) The out-of-state child-caring agency is licensed to provide or engage  
11 in the provision of care or services by the department under ORS 418.205 to  
12 418.327 and complies with the licensing requirements under ORS 418.215;

13 “(b) The department has a current contract with the child-caring agency;  
14 and

15 “(c) The department’s contract with the child-caring agency meets the  
16 criteria under subsection (3) of this section.

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

20 “(b) Notwithstanding paragraph (b) of Article V of the Interstate Compact  
21 on the Placement of Children and ORS 417.230, the department may not del-

1 egate the department’s licensing, visitation, inspection, investigation or  
2 supervision of an out-of-state child-caring agency licensed by the department  
3 to provide care or services to an Oregon child.

4 “(3)(a) The department shall review the department’s contract with an  
5 out-of-state child-caring agency prior to placing a child with the child-caring  
6 agency.

7 “(b) The contract must, at a minimum, meet the following criteria:

8 “(A) At the time the contract is executed, the child-caring agency must  
9 provide the department with a current list of every entity for which the  
10 child-caring agency is providing placement services.

11 “(B) No later than 15 days after accepting placement of a child from a  
12 new entity, the child-caring agency must notify the department in writing  
13 of the child-caring agency’s association with the new entity. The notice must  
14 include the name and contact information of the new entity and the name  
15 and contact information of an individual associated with the new entity.

16 “(C) The child-caring agency must make mandatory reports of child abuse,  
17 as defined in ORS 418.257 and 419B.005, involving Oregon children both to  
18 the Oregon child abuse hotline and as required under the laws of the state  
19 in which the child-caring agency is located.

20 “(D) The child-caring agency must allow the department full access to the  
21 child-caring agency’s facilities, residents, records and personnel as necessary  
22 for the department to conduct child abuse investigations and licensing ac-  
23 tivities or investigations.

24 “(E) The child-caring agency must notify the department in writing no  
25 later than three business days after any state determines that an allegation  
26 of child abuse or a license violation involving the child-caring agency is  
27 founded, regardless of whether the child abuse or violation involves an  
28 Oregon child.

29 “(F) The child-caring agency must notify the department in writing no  
30 later than three business days after the child-caring agency receives notice

1 from any other state imposing a restriction on placement of children with  
2 the child-caring agency, suspending or revoking the child-caring agency's li-  
3 cense with that state or indicating the state's intent to suspend or revoke  
4 the child-caring agency's license with that state.

5 “(G) The child-caring agency must notify the department immediately,  
6 verbally and in writing:

7 “(i) Any time a child from any state who is in the care of the child-caring  
8 agency dies, is sexually assaulted or suffers serious physical injury; or

9 “(ii) When the child-caring agency becomes aware of any criminal inves-  
10 tigation, arrest or criminal charges involving an agency staff member if the  
11 alleged offense involved a child or could have reasonably posed a risk to the  
12 health, safety or welfare of a child.

13 “(H) Except with respect to protected information described in ORS  
14 418.256 (5), the child-caring agency may not ask or require an employee or  
15 volunteer to sign a nondisclosure or other agreement prohibiting the em-  
16 ployee or volunteer from the good faith disclosure of information concerning  
17 the abuse or mistreatment of a child who is in the care of the child-caring  
18 agency, violations of licensing or certification requirements, criminal activ-  
19 ity at the child-caring agency, violations of state or federal laws or any  
20 practice that threatens the health and safety of a child in the care of the  
21 child-caring agency.

22 “(I) The child-caring agency must ensure staffing [*and direct service*  
23 *level*] **ratio and staff training and education** requirements that meet, at  
24 a minimum, the standards set by the department by rule for intensive be-  
25 havioral support services.

26 “(J) The child-caring agency must meet all of the program, discipline,  
27 behavior support, supervision and child rights requirements adopted by the  
28 department by rule for behavioral rehabilitation services provided in this  
29 state.

30 “(K) The child-caring agency may not practice conversion therapy, as de-

1 fined in ORS 675.850.

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

5 “(M) Genetic testing, including testing for [*psychopharmacological*]  
6 **psychopharmacological** purposes, must be approved by a court and may not  
7 be included as a standing order for a child in care.

8 “(N) Neither the child-caring agency nor its contractors or volunteers  
9 may use chemical or mechanical restraints on a child, including during se-  
10 cure transport.

11 “(O) The child-caring agency must ensure that the use of any psychotropic  
12 medications for a child placed with the child-caring agency by the depart-  
13 ment is in compliance with ORS 418.517 and any rules regarding psychotropic  
14 medications adopted by the department.

15 “(4) The department shall develop rules outlining a process for review of  
16 the out-of-state placement of a child who is identified as a child with an in-  
17 tellectual or developmental disability or who is suspected of having an in-  
18 tellectual or developmental disability. At a minimum, the rules must:

19 “(a) Identify a process for expediting review of the child’s eligibility for  
20 developmental disability services.

21 “(b) Require that a multidisciplinary review team, including administra-  
22 tors in the developmental disability services program, review the placement  
23 before the child is placed out-of-state.

24 “(c) Require that a multidisciplinary team, including administrators in  
25 the developmental disability services program, monitor the progress of the  
26 child in the out-of-state placement.

27 “(d) Require that contracts for placement of the child ensure that the  
28 child has the same rights and protections that the child would have if the  
29 child was placed in this state.

30 “(5)(a) A department child welfare services employee must accompany a

1 child who is placed in an out-of-state child-caring agency any time the child  
2 is transported to an initial out-of-state placement, any time the child is  
3 moved to a new placement and any time the child is moved by secure trans-  
4 port.

5 **“(b) Notwithstanding paragraph (a) of this subsection, if a child**  
6 **placed in an out-of-state child-caring agency requires secure transport**  
7 **from the out-of-state placement due to an emergency, a department**  
8 **child welfare services employee is not required to accompany the child**  
9 **if the time it would take for the employee to travel to the child’s**  
10 **out-of-state location would pose a risk to the health, safety or welfare**  
11 **of the child. If a department child welfare services employee does not**  
12 **accompany a child transported to an alternate out-of-state placement,**  
13 **as provided in this paragraph, the child welfare services employee**  
14 **must immediately travel to meet the child at the new out-of-state fa-**  
15 **cility.**

16 “(6)(a) As used in this subsection, ‘juvenile offender’ means a person un-  
17 der 18 years of age who has or is alleged to have committed an act that is  
18 a violation, or, if done by an adult, would constitute a violation, of a law  
19 or ordinance of the United States or a [state,] county or city in this state.

20 “(b) Except as provided in paragraph (c) of this subsection, the depart-  
21 ment may not place a child in an out-of-state child-caring agency if the  
22 child-caring agency provides care to juvenile offenders.

23 “(c) The department may place a child in an out-of-state [child caring]  
24 **child-caring** agency that provides care to juvenile offenders if:

25 “[A] *The child being placed is a juvenile offender; or*]

26 “[B] *The child being placed is not a juvenile offender and the out-of-state*  
27 *child caring agency:]*

28 “[i] *Operates distinct programs for children and juvenile offenders;]*

29 “[ii] *Prohibits the commingling of children and juvenile offenders;]*

30 “[iii] *Prohibits the commingling of the staff from the child and juvenile*

1 *offender programs;*

2 “[*iv*] *Has separate handbooks and policies for the child and juvenile*  
3 *offender programs;*]

4 “[*v*] *Has a facility that is large enough to ensure that the nature and cul-*  
5 *ture of the child and juvenile offender programs are separate and distinct;*  
6 *and]*

7 “[*vi*] *Is a qualified residential treatment program.*]

8 **“(A) The child-caring agency is a qualified residential treatment**  
9 **program licensed by the department;**

10 **“(B) The child-caring agency maintains site-specific accreditation**  
11 **from a nationally recognized organization;**

12 **“(C) The child being placed is a juvenile offender; and**

13 **“(D) Prior to the hearing to approve the placement, the court and**  
14 **all parties to the dependency case have been informed of the nature**  
15 **of the services offered by the program and of the population served**  
16 **by the program, and the court, having considered the nature of the**  
17 **services and composition of the facility population and the report of**  
18 **the qualified individual, has found that placement in the facility is the**  
19 **least restrictive setting available to appropriately meet the child’s**  
20 **treatment needs.”.**

21 In line 39, delete “or (E)” and insert “, (E) or (F)”.

22 On page 5, line 37, restore the bracketed material and delete the boldfaced  
23 material.

24 On page 6, delete lines 12 through 40 and insert:

25 **“SECTION 4.** Section 12b, chapter 19, Oregon Laws 2020 (first special  
26 session), is amended to read:

27 **“Sec. 12b.** A program is a qualified residential treatment program if it:

28 **“(1)** Provides residential care and treatment to a child who, based on an  
29 independent assessment described in section 13b [*of this 2020 special session*  
30 *Act*], **chapter 19, Oregon Laws 2020 (first special session)**, requires spe-

1 cialized, evidence-based, as defined by the Department of Human Services by  
2 rule, supports and services related to the effects of trauma or mental, emo-  
3 tional or behavioral health needs.

4 “(2) Uses a trauma-informed treatment model that is designed to address  
5 the needs, including clinical needs as appropriate, of the child.

6 “(3) Ensures that the staff at the facility includes licensed or registered  
7 nurses licensed under ORS chapter 678, **or the equivalent statute in the**  
8 **state in which the facility is located**, and other licensed clinical staff who:

9 “(a) **Are licensed or registered in good standing under the laws and**  
10 **regulations of the state in which the facility is located and** provide care  
11 within their licensed scope of practice;

12 “(b) Are on site according to the treatment model identified in subsection  
13 (2) of this section; and

14 “(c) Are available 24 hours per day and seven days per week.

15 “(4) Facilitates the involvement of the child’s family, as defined in ORS  
16 418.575, in the child’s treatment program, to the extent appropriate and in  
17 the child’s best interests.

18 “(5) Facilitates outreach to the child’s family, as defined in ORS 418.575,  
19 documents how outreach is made and maintains contact information for any  
20 known biological relatives or fictive kin, as defined by the department by  
21 rule.

22 “(6) Documents how the program integrates family into the child’s treat-  
23 ment process, including after discharge, and how sibling connections are  
24 maintained.

25 “(7) Provides discharge planning and family-based after-care support for  
26 at least six months following the child’s discharge from the program.

27 “(8) Is licensed and accredited in accordance with requirements adopted  
28 by the department by rule. The rules adopted by the department under this  
29 subsection must be consistent with federal licensure and accreditation re-  
30 quirements for qualified residential treatment programs and require that the

1 qualified residential treatment program maintain site-specific accreditation  
2 from a nationally recognized organization.”.

3 On page 7, after line 19 insert:

4 **“SECTION 6. (1) The Department of Human Services shall submit**  
5 **reports to the interim committees of the Legislative Assembly related**  
6 **to human services no later than November 1, 2021, and November 1,**  
7 **2022, regarding children or wards placed in temporary lodgings by the**  
8 **department in the preceding 12-month period who were required to**  
9 **leave their placement at a residential care facility or shelter-care**  
10 **home solely due to the expiration of the limits on the duration of**  
11 **placements described in ORS 419B.354 (4)(a).**

12 **“(2) For each child or ward accounted for in a report under this**  
13 **section, the department shall include the month the temporary lodging**  
14 **occurred, the number of nights the child or ward remained in the**  
15 **temporary lodging, the type of placement the child or ward was placed**  
16 **in at the end of the temporary lodging and the number of times the**  
17 **child or ward was placed in temporary lodging due to the expiration**  
18 **of the placement time limits during the reporting period.**

19 **“SECTION 7. Section 6 of this 2021 Act is repealed on January 1,**  
20 **2023.”.**

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