

Enrolled Senate Bill 93

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CHAPTER

AN ACT

Relating to the Department of Human Services; creating new provisions; amending ORS 418.259, 418.519, 418.521, 418.528, 419B.005, 419B.035, 419B.875, 443.480, 443.485, 443.490 and 443.500; and declaring an emergency.

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

SECTION 1. 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)(a) The department may interview the child in care who is the subject of suspected abuse and any witnesses, including other children, 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.

(b) When investigating an allegation of inappropriate use of restraint or involuntary seclusion, the department shall:

(A) Conduct the interviews described in paragraph (a) of this subsection;

(B) Review all relevant incident reports related to the child in care and other reports related to the restraint or involuntary seclusion of the child in care;

(C) Review any audio, video or photographic recordings of the restraint or involuntary seclusion, including the circumstances immediately before and following the incident;

(D) During an interview with the child in care who is the subject of the suspected abuse, ask the child about whether they experienced any reportable injury or pain as a result of the restraint or involuntary seclusion;

(E) Review the training records related to all of the individuals who were involved in the use of restraint or involuntary seclusion; and

(F) Make all reasonable efforts to conduct trauma-informed interviews of each child witness, including the child in care who is the subject of suspected abuse unless the investigator makes a specific determination that the interview may significantly traumatize the child and is not in the best interests of the child.

(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;]

(d) Whether the abuse resulted in a reportable injury, sexual abuse or death;

(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 418.322, in which the department has placed Oregon children.

(6) The department's quarterly report under subsection (5) of this section must also contain all of the following:

- (a) The total number of restraints used in programs that quarter;
- (b) The total number of programs that reported the use of restraints of children in care that quarter;
- (c) The total number of individual children in care who were placed in restraints by programs that quarter;
- (d) The number of reportable injuries to children in care that resulted from those restraints;
- (e) The number of incidents in which an individual who was not appropriately trained in the use of the restraint used on a child in care in a program; and
- (f) The number of incidents that were reported for potential inappropriate use of restraint.

(7) 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."

(8) As used in this section, "program," "reportable injury" and "restraint" have the meanings given those terms in ORS 418.519.

SECTION 2. ORS 418.519 is amended to read:

418.519. As used in ORS 418.519 to 418.532:

- (1) "Certified foster home" means a foster home subject to ORS 418.625 to 418.645.
- (2) "Chemical restraint" means a drug or medication that is administered to a child in care to control behavior or restrict freedom of movement.
- (3) "Child-caring agency" has the meaning given that term in ORS 418.205.
- (4) "Child in care" has the meaning given that term in ORS 418.257.
- (5) "Children's emergency safety intervention specialist" means a qualified mental health professional licensed to order, monitor and evaluate the use of seclusion and restraint in accredited and certified facilities that provide intensive mental health treatment services to individuals under 21 years of age.
- (6) "Developmental disabilities residential facility" has the meaning given that term in ORS 418.257.
- (7)(a) "Involuntary seclusion" means the confinement of a child in care alone in a room **or an enclosed space** from which the child in care is prevented from leaving by any means.
- (b) "Involuntary seclusion" does not include age-appropriate discipline, including, but not limited to, time-out if the time-out is in a setting from which the child in care is not prevented from leaving **by any means**.
- (8) "Mechanical restraint" means a device used to restrict the movement of a child in care or the movement or normal function of a portion of the body of a child in care.
- (9) "Proctor foster home" means a foster home certified by a child-caring agency under ORS 418.248.
- (10) "Program" means:
 - (a) A child-caring agency;
 - (b) A proctor foster home; or
 - (c) A developmental disabilities residential facility that is a residential training home or facility licensed under ORS 443.415 to serve children under 18 years of age.
- (11) "Prone restraint" means a restraint in which a child in care is held face down on the floor.
- (12) "Reportable injury" means any type of injury to a child in care, including but not limited to rug burns, fractures, sprains, bruising, pain, soft tissue injury, punctures, scratches, concussions, abrasions, dizziness, loss of consciousness, loss of vision, visual disturbance or death.
- (13) "Restraint" means the physical restriction of a child in care's actions or movements by holding the child in care or using pressure or other means.

(14) “Secure adolescent inpatient treatment program” means a child-caring agency that is an intensive treatment services program, as described by the Oregon Health Authority by rule, that provides inpatient psychiatric stabilization and treatment services to individuals under 21 years of age who require a secure intensive treatment setting.

(15) “Secure children’s inpatient treatment program” means a child-caring agency that is an intensive treatment services program, as described by the authority by rule, that provides inpatient psychiatric stabilization and treatment services to children under 14 years of age who require a secure intensive treatment setting.

(16) “Serious bodily injury” means any significant impairment of the physical condition of an individual, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

(17) “Supine restraint” means a restraint in which a child in care is held face up on the floor.

SECTION 3. ORS 418.521 is amended to read:

418.521. (1) A child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility may not place a child in care in a restraint or involuntary seclusion as a form of discipline, punishment or retaliation or for the convenience of staff, contractors or volunteers of the child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility.

(2) Except as provided in ORS 418.523 (4), the use of the following types of restraint of a child in care are prohibited:

(a) Chemical restraint.

(b) Mechanical restraint.

(c) Prone restraint.

(d) Supine restraint.

(e) Any restraint that includes the **intentional and** nonincidental use of a solid object, including the ground, a wall or the floor, to impede a child in care’s movement.

(f) Any restraint that places, or creates a risk of placing, pressure on a child in care’s neck or throat.

(g) Any restraint that places, or creates a risk of placing, pressure on a child in care’s mouth.

(h) Any restraint that impedes, or creates a risk of impeding, a child in care’s breathing.

(i) Any restraint that involves the intentional placement of [*hands, feet, elbows, knees or*] any object **or a hand, knee, foot or elbow** on a child in care’s neck, throat, genitals or other intimate parts.

(j) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a child in care’s stomach, chest, joints, throat or back by a knee, foot or elbow.

(k) Any other [*restraint*] **action**, the primary purpose of which is to inflict pain.

SECTION 4. ORS 418.528 is amended to read:

418.528. (1) A program must prepare and submit to the Department of Human Services a quarterly report detailing the program’s use of restraint and involuntary seclusion for the preceding three-month period, including, at a minimum:

(a) The total number of incidents involving restraint.

(b) The total number of incidents involving involuntary seclusion.

(c) The total number of involuntary seclusions in a locked room.

(d) The total number of rooms available for use by the program for involuntary seclusion and a description of the dimensions and design of the rooms.

(e) The total number of children in care placed in restraint.

(f) The total number of children in care placed in involuntary seclusion.

(g) The total number of children who experienced both restraint and involuntary seclusion.

[(g)] **(h)** The total number of incidents under paragraph (a) or (b) of this subsection that resulted in reportable injuries.

[(h)] (i) The number of children in care who were placed in restraint or involuntary seclusion more than three times during the preceding three-month period and a description of the steps the program has taken to decrease the use of restraint and involuntary seclusion.

[(i)] (j) The number of incidents in which an individual who placed a child in care in a restraint or involuntary seclusion was not certified as described in ORS 418.529 or trained, as required by the department by rule, in the use of the type of restraint or involuntary seclusion used.

[(j)] (k) The demographic characteristics of the children in care who the program placed in a restraint or involuntary seclusion, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual child in care.

(L) The total number of children in care served by the program during the reporting period, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual child in care.

(2)(a) If a program provides services in more than one location, the reports under subsection (1) of this section must separate the data for each location that serves five or more children in care.

(b) If the site-specific data for a given location is not provided under paragraph (a) of this subsection because the program serves fewer than five children in care at that location, the program's report must include a notation indicating the aggregate number of children in care served by the program across all of the program's locations and the reporting requirements under paragraph (a) of this subsection continue to apply to any of the program's other locations serving five or more children in care.

(3)(a) The department shall make each quarterly report it receives under this section available to the public on the department's website.

(b) Each program that submits a report under this section shall make its quarterly report available to the public upon request at the program's main office and on the program's website if the program maintains a website.

(c) Each program shall provide notice regarding how to access the quarterly reports to the parents or guardians of children in care in the program. The program shall provide the notice upon the child in care's admission and at least two times each year thereafter.

SECTION 5. ORS 419B.005, as amended by section 8, chapter 90, Oregon Laws 2022, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only [*observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child*] **cruel or unconscionable acts or statements made, or threatened to be made, to a child if the acts, statements or threats result in severe harm to the child's psychological, cognitive, emotional or social well-being and functioning.**

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-

cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is [*under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205*] **a child in care, as defined in ORS 418.257.**

(3) "Higher education institution" means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.

(b) "Investigation" does not include screening activities conducted upon the receipt of a report.

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

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

(e) A county juvenile department.

(6) "Public or private official" means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.

(c) School employee, including an employee of a higher education institution.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

- (i) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- (s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 329A.255.
- (z) An operator of a school-age recorded program under ORS 329A.255.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (bb) An employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to an employee of a:
 - (i) Youth group or center;
 - (ii) Scout group or camp;
 - (iii) Summer or day camp;
 - (iv) Survival camp; or
 - (v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and
 - (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
- (dd) Personal support worker, as defined in ORS 410.600.
- (ee) Home care worker, as defined in ORS 410.600.
- (ff) Animal control officer, as defined in ORS 609.500.
- (gg) Member of a school district board, an education service district board or a public charter school governing body.
- (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.
- (ii) Referral agent, as defined in ORS 418.351.
- (jj) Parole and probation officer, as defined in ORS 181A.355.**
- (kk) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or behavior analysis interventionist registered under ORS 676.815.**

SECTION 6. ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, section 16, chapter 27, Oregon Laws 2022, and section 7, chapter 90, Oregon Laws 2022, is amended to read: 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only [*observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child*] **cruel or unconscionable acts or statements made, or threatened to be made, to a child if the acts, statements or threats result in severe harm to the child's psychological, cognitive, emotional or social well-being and functioning.**

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is [*under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205*] **a child in care, as defined in ORS 418.257.**

(3) "Higher education institution" means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.

(b) "Investigation" does not include screening activities conducted upon the receipt of a report.

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

- (c) The Oregon State Police.
- (d) A police department established by a university under ORS 352.121 or 353.125.
- (e) A county juvenile department.
- (6) "Public or private official" means:
 - (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
 - (b) Dentist.
 - (c) School employee, including an employee of a higher education institution.
 - (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
 - (e) Employee of the Department of Human Services, Oregon Health Authority, Department of Early Learning and Care, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
 - (f) Peace officer.
 - (g) Psychologist.
 - (h) Member of the clergy.
 - (i) Regulated social worker.
 - (j) Optometrist.
 - (k) Chiropractor.
 - (L) Certified provider of foster care, or an employee thereof.
 - (m) Attorney.
 - (n) Licensed professional counselor.
 - (o) Licensed marriage and family therapist.
 - (p) Firefighter or emergency medical services provider.
 - (q) A court appointed special advocate, as defined in ORS 419A.004.
 - (r) A child care provider registered or certified under ORS 329A.250 to 329A.450.
 - (s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.
 - (t) Physical, speech or occupational therapist.
 - (u) Audiologist.
 - (v) Speech-language pathologist.
 - (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
 - (x) Pharmacist.
 - (y) An operator of a preschool recorded program under ORS 329A.255.
 - (z) An operator of a school-age recorded program under ORS 329A.255.
 - (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
 - (bb) An employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to an employee of a:
 - (i) Youth group or center;
 - (ii) Scout group or camp;
 - (iii) Summer or day camp;
 - (iv) Survival camp; or
 - (v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and

(B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined in ORS 410.600.

(ee) Home care worker, as defined in ORS 410.600.

(ff) Animal control officer, as defined in ORS 609.500.

(gg) Member of a school district board, an education service district board or a public charter school governing body.

(hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.

(ii) Referral agent, as defined in ORS 418.351.

(jj) Parole and probation officer, as defined in ORS 181A.355.

(kk) Behavior analyst or assistant behavior analyst licensed under ORS 676.810 or behavior analysis interventionist registered under ORS 676.815.

SECTION 7. ORS 419B.035, as amended by section 10, chapter 27, Oregon Laws 2022, and section 9, chapter 90, Oregon Laws 2022, is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Early Learning Division for the purpose of carrying out the functions of the division, including the certification, registration or regulation of child care facilities and child care providers and the administration of enrollment in the Central Background Registry;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 339.390 or 342.176 involving any child or any student;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;

(j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(c)(G) to (J);

(k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon;

(L) The Department of Education for purposes of investigations conducted under ORS 339.391; [and]

(m) An education provider for the purpose of making determinations under ORS 339.388[.]; and

(n) A national nonprofit organization designated by the Department of Human Services that provides assistance with locating, recovering or providing services to children or youth determined by the department to be missing.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect or necessary to determine a claim for crime victim compensation under ORS 147.005 to 147.367.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections, the Oregon Youth Authority or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections, the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) The Department of Corrections and the Oregon Youth Authority may disclose records made available to them under subsection (5) of this section regarding a person in the custody of the Department of Corrections or the Oregon Youth Authority to each other, to the court, to the district attorney and to the person's attorney for the purpose of the person's hearing under ORS 420A.200 to 420A.206.

(C) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) Except as provided by ORS 339.389, an officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

SECTION 8. ORS 419B.875 is amended to read:

419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500 are:

(A) The child or ward;

(B) The parents or guardian of the child or ward;

(C) A putative father of the child or ward who has demonstrated a direct and significant commitment to the child or ward by assuming, or attempting to assume, responsibilities normally associated with parenthood, including but not limited to:

(i) Residing with the child or ward;

(ii) Contributing to the financial support of the child or ward; or

(iii) Establishing psychological ties with the child or ward;

(D) The state;

(E) The juvenile department;

(F) A court appointed special advocate, if appointed;

(G) The Department of Human Services or other child-caring agency if the **department has taken the child or ward into protective custody or if the department or** agency has temporary custody of the child or ward; and

(H) If the child or ward is an Indian child:

(i) The Indian child's tribe; and

(ii) The Indian child's Indian custodian.

(b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS 419B.500.

(c) If an Indian child is a member of or is eligible for membership in more than one tribe, the court may, in its discretion, permit a tribe, in addition to the Indian child's tribe, to participate in a proceeding under this chapter involving the Indian child in an advisory capacity or as a party.

(2) The rights of the parties include, but are not limited to:

(a) The right to notice of the proceeding and copies of the petitions, answers, motions and other papers;

(b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this section, to have counsel appointed as otherwise provided by law;

(c) The right to call witnesses, cross-examine witnesses and participate in hearings;

- (d) The right of appeal; and
- (e) The right to request a hearing.

(3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section shall be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C, until the court confirms his parentage or finds that he is not the legal or biological parent of the child or ward.

(4) If no appeal from the judgment or order is pending, a putative father whom a court of competent jurisdiction has found not to be the child or ward's legal or biological parent or who has filed a petition for filiation that was dismissed is not a party under subsection (1) of this section.

(5)(a) A person granted rights of limited participation under ORS 419B.116 is not a party to a proceeding under ORS 419B.100 or 419B.500 but has only those rights specified in the order granting rights of limited participation.

(b) Persons moving for or granted rights of limited participation are not entitled to appointed counsel but may appear with retained counsel.

(6) If a foster parent, preadoptive parent or relative is currently providing care for a child or ward, the Department of Human Services shall give the foster parent, preadoptive parent or relative notice of a proceeding concerning the child or ward. A foster parent, preadoptive parent or relative providing care for a child or ward has the right to be heard at the proceeding. Except when allowed to intervene, the foster parent, preadoptive parent or relative providing care for the child or ward is not considered a party to the juvenile court proceeding solely because of notice and the right to be heard at the proceeding.

(7)(a) The Department of Human Services shall make diligent efforts to identify and obtain contact information for the grandparents of a child or ward committed to the department's custody. Except as provided in paragraph (b) of this subsection, when the department knows the identity of and has contact information for a grandparent, the department shall give the grandparent notice of a hearing concerning the child or ward. Upon a showing of good cause, the court may relieve the department of its responsibility to provide notice under this paragraph.

(b) If a grandparent of a child or ward is present at a hearing concerning the child or ward, and the court informs the grandparent of the date and time of a future hearing, the department is not required to give notice of the future hearing to the grandparent.

(c) If a grandparent is present at a hearing concerning a child or ward, the court shall give the grandparent an opportunity to be heard.

(d) The court's orders or judgments entered in proceedings under ORS 419B.185, 419B.310, 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to whether the grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard.

(e) Notwithstanding the provisions of this subsection, a grandparent is not a party to the juvenile court proceeding unless the grandparent has been granted rights of intervention under ORS 419B.116.

(f) As used in this subsection, "grandparent" means the legal parent of the child's or ward's legal parent, regardless of whether the parental rights of the child's or ward's legal parent have been terminated under ORS 419B.500 to 419B.524.

(8) Interpreters for parties and persons granted rights of limited participation shall be appointed in the manner specified by ORS 45.275 and 45.285.

SECTION 9. ORS 443.480 is amended to read:

443.480. As used in ORS 443.480 to 443.500:

- (1) **"Activities of daily living" means:**
 - (a) **Bathing and personal hygiene;**
 - (b) **Dressing and grooming;**
 - (c) **Eating;**
 - (d) **Mobility;**
 - (e) **Bowel and bladder management; and**
 - (f) **Cognition.**

[1(a)] **(2)(a)** “Community-based structured housing” means congregate housing where services and support are provided by the owner or operator of the facility or staff of the facility to assist residents who have mental, emotional, behavioral or substance use disorders.

(b) “Community-based structured housing” does not include:

(A) Residential care as defined in ORS 443.400; or

(B) Publicly supported housing as defined in ORS 456.250.

[2)] **(3)** “Congregate housing” means housing in which each adult resident has a private or shared bedroom or living quarters and shares with other adult residents a dining room, recreational room and other common areas.

(4) “Disability” means a physical or mental impairment that constitutes or results in a functional limitation on one or more activities of daily living.

(5) “Elderly” means an individual who is 65 years of age or older.

[3)] **(6)** “Services and support” means living accommodations and services, *[other than treatment,]* such as housekeeping, laundry, medication monitoring, transportation or recreational opportunities, **excluding treatment and assistance with activities of daily living.**

[4)] **(7)** “Treatment” has the meaning given that term in ORS 443.400.

SECTION 10. ORS 443.485 is amended to read:

443.485. (1) Subject to ORS 443.490, a person that owns or operates a community-based structured housing facility offered to the general public **that is not licensed or registered under any other law of this state or under a city or county ordinance or regulation** shall register *[with the Oregon Health Authority]* the name and address of the owner or operator if the facility **with:**

(a) **The Oregon Health Authority if the facility** provides services and support to two or more adult residents, not related to the person by blood or marriage, who have mental, emotional, behavioral or substance use disorders; *[and]* **or**

(b) *[Is not licensed or registered under any other law of this state or city or county ordinance or regulation]* **The Department of Human Services if the facility provides services and support to two or more adult residents, not related to the resident by blood or marriage, who are elderly or who have disabilities.**

(2) The registration fee is \$20 annually.

(3) The authority **or the department** shall establish by rule reasonable and appropriate standards for the operation of facilities subject to ORS 443.480 to 443.500 **that fall within their respective jurisdictions.** The standards must be consistent with the residential nature of the facilities and must address, at a minimum, the:

(a) Physical properties of a facility;

(b) Storage, preparation and serving of food at a facility that provides prepared meals;

(c) Storage, preparation and dispensing of medications and the assistance provided by staff to adult residents in taking medications; and

(d) Number, experience and training of the staff of a facility.

(4) The authority **or the department** shall provide evidence of the registration to the person. The evidence shall be posted in a facility.

(5) The authority **or the department** may impose a civil penalty not to exceed \$5,000 for:

(a) Operating without registration as required under this section; or

(b) A violation of ORS 443.880 or 443.881.

(6) The authority **or the department** may suspend or revoke registration or deny the issuance of registration for violation of any statute, rule, ordinance or regulation relating to the facility.

(7) Rules adopted under subsection (3) of this section must avoid imposing on facilities regulated by federal agencies any reporting requirements or review processes that duplicate the reporting requirements or review processes imposed by the federal agency.

(8) A facility is not required to register with both the authority and the department under this section. If a facility is subject to registration by both the authority and the department, the Director of the Oregon Health Authority and the Director of Human Services shall jointly determine with which agency the facility must register.

SECTION 11. ORS 443.490 is amended to read:

443.490. If the Oregon Health Authority **or the Department of Human Services** finds that another governmental entity’s standards for the operation of a facility subject to ORS 443.480 to 443.500 are substantially similar or superior to those under ORS 443.485 (3), the authority **or the department** may waive the requirements of ORS 443.485.

SECTION 12. ORS 443.500 is amended to read:

443.500. (1) The **staff of the Oregon Health Authority [staff] or the Department of Human Services** shall be permitted access to enter and investigate complaints of abuse in all facilities registered under ORS 443.480 to 443.500 and to ascertain a facility’s compliance with applicable rules, statutes, ordinances and regulations. If the authority has reasonable cause to believe any facility is operating without registration or is in violation of ORS 443.480 to 443.500, the authority **or the department** may apply to the circuit court for a search warrant.

(2) Upon complaint of any person:

(a) The state or local fire inspectors shall be permitted access to enter and inspect facilities registered under ORS 443.480 to 443.500 regarding fire safety.

(b) The state or local health officers shall be permitted access to enter and inspect facilities registered under ORS 443.480 to 443.500 regarding health and sanitation.

(3) The owner or operator of a facility may not retaliate against any individual who files a complaint or any witness or employee of a facility interviewed about the complaint, including but not limited to retaliation by restriction of a resident’s otherwise lawful access to the facility and, with respect to an employee, retaliation by dismissal or harassment.

SECTION 13. The amendments to ORS 418.259, 418.519, 418.521, 418.528, 419B.005 and 419B.035 by sections 1 to 7 of this 2023 Act become operative on September 1, 2023.

SECTION 14. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate April 17, 2023

Received by Governor:

Repassed by Senate June 15, 2023

.....M.,....., 2023

Approved:

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Lori L. Brocker, Secretary of Senate

.....M.,....., 2023

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Rob Wagner, President of Senate

.....
Tina Kotek, Governor

Passed by House May 31, 2023

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Dan Rayfield, Speaker of House

.....
Secretary of State