

# DRAFT

## SUMMARY

Digest: The Act makes changes to laws about children in care and CCA regulation. (Flesch Readability Score: 69.9).

Modifies provisions regarding abuse of children in care.

Modifies provisions regarding licensing of child-caring agencies.

Modifies provisions regarding out-of-state placements of children in care.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

Relating to the welfare of young people; creating new provisions; amending ORS 329A.030, 329A.275, 418.205, 418.210, 418.215, 418.240, 418.241, 418.246, 418.248, 418.255, 418.257, 418.258, 418.259, 418.260, 418.322, 418.327, 418.330, 418.500, 418.519, 418.625, 418.992, 419B.005, 419C.620 and 704.023; and declaring an emergency.

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

## CHILDREN IN CARE

**SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS 418.257 to 418.259.**

**SECTION 2. (1) A child-caring agency, developmental disabilities residential facility, proctor foster home, certified foster home, adjudicated youth foster home, caretaker or other person with a duty of care to a child in care abuses the child in care if the child-caring agency, developmental disabilities residential facility, proctor foster home, certified foster home, adjudicated youth foster home, caretaker or**

1 other person fails to make a reasonable effort to protect the child in  
2 care from abuse as described in this section or ORS 419B.005.

3 (2) A person abuses a child in care for purposes of ORS 418.257 to  
4 418.259 if:

5 (a) The person neglects the child in care by failing to provide edu-  
6 cation, care, supervision or services that the person has a duty to  
7 provide; and

8 (b) The education, care, supervision or services are necessary to  
9 maintain the physical, developmental and mental health of the child  
10 in care.

11 (3) An individual abuses a child in care if the individual is an em-  
12 ployee, operator, contractor, agent or volunteer of a child-caring  
13 agency, developmental disabilities residential facility, proctor foster  
14 home, certified foster home or adjudicated youth foster home or is any  
15 other person who, due to the child's status as a child in care, is re-  
16 sponsible for the provision of care or services to the child in care and  
17 the individual:

18 (a) Neglects the child in care by:

19 (A) Failing to provide the care, supervision or services necessary  
20 to maintain the physical and mental health of the child in care; or

21 (B) Failing to make a reasonable effort to protect the child in care  
22 from abuse as described in this section or ORS 419B.005.

23 (b) Abandons the child in care, including deserting or willfully  
24 forsaking the child in care or withdrawing or neglecting duties and  
25 obligations owed to the child in care by the individual.

26 (4) An individual abuses a child in care if:

27 (a) The individual is at least 18 years of age;

28 (b) The individual is not a child in care;

29 (c) The individual:

30 (A) Is an employee, volunteer or contractor of a child-caring  
31 agency, a developmental disabilities residential facility, a proctor fos-

1 **ter home, a certified foster home or an adjudicated youth foster home;**

2 **(B) Is an operator of a child-caring agency, a developmental disa-**  
3 **bilities residential facility, a proctor foster home, a certified foster**  
4 **home or an adjudicated youth foster home;**

5 **(C) Resides in the same child-caring agency, developmental disabil-**  
6 **ities residential facility, proctor foster home, certified foster home or**  
7 **adjudicated youth foster home as the child in care; or**

8 **(D) Has access to the child in care due to the individual's relation-**  
9 **ship with a person described in subparagraphs (A) to (C) of this para-**  
10 **graph; and**

11 **(d) The individual does one or more of the following:**

12 **(A) Assaults the child in care or otherwise subjects the child in care**  
13 **to unreasonable, unlawful or unjustified use of force.**

14 **(B) Commits an act that causes physical injury to the child in care**  
15 **and the act is nonaccidental or the injury appears at variance with the**  
16 **individual's explanation of the act causing the injury.**

17 **(C) Imposes a restraint or involuntary seclusion on the child in care**  
18 **in violation of ORS 418.521 or 418.523.**

19 **(D) Willfully inflicts physical pain or injury upon the child in care.**

20 **(E) Commits an act involving the child in care that constitutes a**  
21 **crime under ORS 163.263, 163.264, 163.266, 163.413, 163.465, 163.467,**  
22 **163.535, 163.537, 163.547, 163.575, 163.670, 163.700 or 163.701.**

23 **(F) Verbally abuses the child in care by threatening significant**  
24 **physical or emotional harm to the child in care through any means,**  
25 **including:**

26 **(i) The use of derogatory or inappropriate names, insults, verbal**  
27 **assaults, profanity or ridicule;**

28 **(ii) Harassment, coercion, humiliation, mental cruelty or inappro-**  
29 **priate sexual comments; or**

30 **(iii) Intimidation, including compelling or deterring conduct by**  
31 **threat.**

1 (G) Engages in financial exploitation of the child in care by:

2 (i) Wrongfully taking the assets, funds or property belonging to or  
3 intended for the use of the child in care;

4 (ii) Alarming the child in care by conveying a threat to wrongfully  
5 take or appropriate moneys or property of the child in care if the child  
6 in care would reasonably believe that the threat conveyed would be  
7 carried out;

8 (iii) Misappropriating, misusing or transferring without authori-  
9 zation any moneys from any account held jointly or singly by a child  
10 in care; or

11 (iv) Failing to use the income or assets of the child in care effec-  
12 tively for the support and maintenance of the child in care.

13 (H) Engages in sexual abuse of the child in care by committing an  
14 act that constitutes:

15 (i) Sexual harassment of the child in care;

16 (ii) Inappropriate exposure of the child in care to sexually explicit  
17 material or language; or

18 (iii) Sexual contact, as defined in ORS 163.305, with the child in  
19 care, regardless of whether the sexual contact constitutes a crime  
20 under ORS chapter 163.

21 (I) Sexually exploits the child in care by any means, including:

22 (i) Allowing, permitting, encouraging or hiring the child in care to  
23 engage in prostitution as described in ORS 167.007 or a commercial sex  
24 act as defined in ORS 163.266, to purchase sex with a minor as de-  
25 scribed in ORS 163.413 or to engage in commercial sexual solicitation  
26 as described in ORS 167.008;

27 (ii) Directing or encouraging another person to engage in sexual  
28 contact, as defined in ORS 163.305, with the child in care;

29 (iii) Contributing to the sexual delinquency of the child in care, as  
30 described in ORS 163.435; or

31 (iv)(I) Engaging in other conduct that allows, employs, authorizes,

1 permits, induces or encourages the child in care to engage in a per-  
2 formance to be observed, photographed, filmed, tape recorded or oth-  
3 erwise exhibited, if the performance, in whole or in part, depicts  
4 sexual conduct or sexual contact, as those terms are defined in ORS  
5 167.002, or sexually explicit conduct as described in ORS 163.665 and  
6 163.670, or sexual abuse involving the child in care or rape of the child  
7 in care.

8 (II) As used in this sub-subparagraph, “conduct” does not include  
9 any conduct that is part of any investigation conducted pursuant to  
10 ORS 418.258, 418.259 or 419B.020, or that is designed to serve educa-  
11 tional or other legitimate purposes.

12 (5) As used in this section:

13 (a) “Financial exploitation” does not include age-appropriate disci-  
14 pline that may involve the threat to withhold, or the withholding of,  
15 privileges.

16 (b) “Intimidation” does not include age-appropriate discipline that  
17 may involve the threat to withhold privileges.

18 SECTION 3. ORS 418.257 is amended to read:

19 418.257. As used in ORS 418.257 to 418.259:

20 [(1) “Abuse” means one or more of the following:]

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

24 [(b) Neglect of a child in care.]

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

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

30 [(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,  
31 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.]

1 [(f) *Verbal abuse.*]

2 [(g) *Financial exploitation.*]

3 [(h) *Sexual abuse.*]

4 [(i) *The use of restraint or involuntary seclusion of a child in care in vio-*  
5 *lation of ORS 418.521 or 418.523.*]

6 **(1) “Abuse” means abuse as described in section 2 of this 2026 Act.**

7 **(2) “Adjudicated youth foster home” means a foster home certified**  
8 **by the Oregon Youth Authority under ORS 420.888 to 420.892.**

9 [(2) *“Certified foster home” means a foster home certified by the Department*  
10 *of Human Services and subject to ORS 418.625 to 418.645.*]

11 (3)(a) “Child in care” means a person under 21 years of age who is:

12 **(A) In the physical or legal custody of the Department of Human**  
13 **Services; or**

14 **(B) Is** residing in or receiving care or services from:

15 [(A)] **(i)** A Child-caring agency or proctor foster home subject to ORS  
16 418.205 to 418.327, **418.241**, 418.470, 418.475 or 418.950 to 418.970;

17 [(B)] **(ii)** A certified foster home; [or]

18 [(C)] **(iii)** A developmental disabilities residential facility[.]; **or**

19 **(iv) An adjudicated youth foster home.**

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

23 [(4) *“Developmental disabilities residential facility” means a residential*  
24 *facility or foster home for children who are 17 years of age or younger and*  
25 *receiving developmental disability services that is subject to ORS 443.400 to*  
26 *443.455, 443.830 and 443.835.*]

27 [(5)(a) *“Financial exploitation” means:*]

28 [(A) *Wrongfully taking the assets, funds or property belonging to or in-*  
29 *tended for the use of a child in care.*]

30 [(B) *Alarming a child in care by conveying a threat to wrongfully take or*  
31 *appropriate moneys or property of the child in care if the child would reason-*

*ably 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.]*

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

*[(7) "Involuntary seclusion" has the meaning given that term in ORS 418.519.]*

*[(8)] (4) "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.*

*[(9) "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.]*

*[(10) "Restraint" has the meaning given that term in ORS 418.519.]*

*[(11)] (5) "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.*

*[(12) "Sexual abuse" means:]*

1     *[(a) Sexual harassment, sexual exploitation or inappropriate exposure to*  
2     *sexually explicit material or language;]*

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

7     *[(c) Any sexual contact between a person and a child in care that is un-*  
8     *lawful under ORS chapter 163 and not subject to a defense under that chapter;*  
9     *or]*

10    *[(d) Any sexual contact that is achieved through force, trickery, threat or*  
11    *coercion.]*

12    *[(13) "Sexual contact" has the meaning given that term in ORS 163.305.]*

13    *[(14) "Sexual exploitation" means sexual exploitation as described in ORS*  
14    *419B.005 (1)(a)(E).]*

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

17    *[(a) Derogatory or inappropriate names, insults, verbal assaults, profanity*  
18    *or ridicule; or]*

19    *[(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty*  
20    *or inappropriate sexual comments.]*

21    **SECTION 4.** ORS 418.992 is amended to read:

22    418.992. (1) In addition to any other liability or penalty provided by law,  
23    the Director of Human Services may impose a **corrective action or** civil  
24    penalty **or both**:

25    (a) On a child-caring agency that is subject to ORS 418.205 to 418.327,  
26    **418.241, 418.519 to 418.532**, 418.470, 418.475 or 418.950 to 418.970 for any of  
27    the following:

28    (A) Violation of any of the terms or conditions of a license, certificate  
29    or other authorization issued under ORS 418.205 to 418.327, 418.470, 418.475  
30    or 418.950 to 418.970.

31    (B) Violation of any rule adopted by, or general order of, the Department



of Human Services that pertains to a child-caring agency.

(C) Violation of any final order of the director that pertains specifically to the child-caring agency.

(D) Violation of the requirement to have a license, certificate or other authorization under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

(b) On a **provider of** secure transportation services [*provider*], as defined in ORS 418.241, that violates the disclosure requirement described in ORS 418.241.

(2) The director shall impose a civil penalty not to exceed \$500, unless otherwise required by law, on any child-caring agency for falsifying records, reports, documents or financial statements or for causing another person to do so.

(3) The director shall impose a civil penalty of not less than \$250 nor more than \$500, unless otherwise required by law, on a child-caring facility **as defined in ORS 418.950** that assumes care or custody of, or provides care or services to, a child knowing that the child's care needs exceed the license, certificate or authorization classification of the child-caring agency if the assumption of care or custody, or provision of care or services, places that child's health, safety or welfare at risk.

(4) Unless the health, safety or welfare of a child is at risk, the director in every case shall prescribe a reasonable time for elimination of a violation:

(a) Not to exceed 45 days after first notice of a violation; or

(b) In cases where the violation requires more than 45 days to correct, such time as is specified in a plan of correction found acceptable by the director.

(5) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the director considers proper and consistent with the public health and safety.

(6) The department shall adopt rules establishing objective criteria for the imposition and amount of civil penalties under ORS 418.992 to 418.998 **con-**

sistent with this section.

## CHILD-CARING AGENCY REGULATION

**SECTION 5.** ORS 418.205 is amended to read:

418.205. As used in ORS 418.205 to 418.327, ~~[418.330,]~~ 418.470, 418.475, 418.950 to 418.970 and 418.992 to 418.998, unless the context requires otherwise:

**(1) “Certified foster home” means a foster home certified by the Department of Human Services and subject to ORS 418.625 to 418.645.**

~~[(1)]~~ **(2)** “Child” means an unmarried person under 21 years of age *[who resides in or receives care or services from a child-caring agency].*

~~[(2)(a)]~~ “Child-caring agency” means:]

*[(A) Any private school, private agency, private organization or county program providing:]*

*[(i) Day treatment for children with emotional disturbances;]*

*[(ii) Adoption placement services;]*

*[(iii) Residential care, including but not limited to foster care or residential treatment for children;]*

*[(iv) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;]*

*[(v) Outdoor youth programs; or]*

*[(vi) Other similar care or services for children.]*

*[(B) Any private organization or person that provides secure transportation services as defined in ORS 418.241 during any segment of a child’s trip to or from a child-caring agency, certified foster home as defined in ORS 418.241 or developmental disabilities residential facility as defined in ORS 418.241, if the route of the child’s trip begins or ends in this state.]*

*[(b) “Child-caring agency” includes the following:]*

*[(A) A shelter-care home that is not a foster home subject to ORS 418.625*

to 418.645;]

[(B) An independent residence facility as described in ORS 418.475 that meets the standards established by the Department of Human Services by rule to be considered a child-caring agency;]

[(C) A private residential boarding school;]

[(D) A child-caring facility as defined in ORS 418.950; and]

[(E) A secure nonemergency medical transportation provider, as defined in ORS 418.241.]

[(c) “Child-caring agency” does not include:]

[(A) Residential facilities or foster care homes certified or licensed by the Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services;]

[(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subparagraph, “respite services” means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent’s child;]

[(C) A youth job development organization as defined in ORS 344.415;]

[(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645;]

[(E) A foster home subject to ORS 418.625 to 418.645;]

[(F) A facility that exclusively serves individuals 18 years of age and older; or]

[(G) A facility that primarily serves both adults and children but requires that any child must be accompanied at all times by at least one custodial parent or guardian.]

**(3) “Child-caring agency” means a children’s care or services provider that is required under ORS 418.215 to be licensed, certified or otherwise authorized by the Department of Human Services under**

1 **ORS 418.240.**

2 [(3) “Child-caring facility” has the meaning given that term in ORS  
3 418.950.]

4 [(4)(a) “County program” means any county operated program that provides  
5 care or services to children:]

6 [(A) In the custody of the Department of Human Services or the Oregon  
7 Youth Authority; or]

8 [(B) Under a contract with the Oregon Health Authority.]

9 [(b) “County program” does not include any local juvenile detention facility  
10 that receives state services provided and coordinated by the Department of  
11 Corrections under ORS 169.070.]

12 **(4) “Developmental disabilities residential facility” means a resi-**  
13 **dential facility or foster home that is subject to ORS 443.400 to 443.455**  
14 **or 443.830 and 443.835 for children who are under 18 years of age and**  
15 **receiving developmental disability services.**

16 [(5)] (5) “Governmental agency” means an executive, legislative or judi-  
17 cial agency, department, board, commission, authority, institution or  
18 instrumentality of this state or of a county, municipality or other political  
19 subdivision of this state.

20 [(6) “Independent residence facility” means a facility as described in ORS  
21 418.475.]

22 **(6) “Managers” means the individuals at the highest levels of an**  
23 **organization’s leadership who have significant responsibility for the**  
24 **operations, finances or overall governance of the organization.**

25 [(7)(a) “Outdoor youth program” means a program that provides, in an  
26 outdoor living setting, services to children who have behavioral problems,  
27 mental health problems or problems with abuse of alcohol or drugs.]

28 [(b) “Outdoor youth program” does not include any program, facility or  
29 activity:]

30 [(A) Operated by a governmental entity;]

31 [(B) Operated or affiliated with the Oregon Youth Corps;]

1 [(C) *Licensed by the Department of Human Services under other authority*  
2 *of the department; or*]

3 [(D) *Operated by a youth job development organization as defined in ORS*  
4 *344.415.*]

5 [(8)] (7) “Private” means not owned, operated or administered by any  
6 governmental agency or unit.

7 [(9) “Private residential boarding school” means either of the following as  
8 the context requires:]

9 [(a) *A child-caring agency that is a private school that provides residential*  
10 *care in combination with academic education and therapeutic care, including*  
11 *but not limited to treatment for emotional, behavioral or mental health dis-*  
12 *turbances; or*]

13 [(b) *A private school providing residential care that is primarily engaged*  
14 *in educational work under ORS 418.327.*]

15 [(10)] (8) “Proctor foster home” means a foster home certified by a child-  
16 caring agency under ORS 418.248 that is [not subject to ORS 418.625 to  
17 418.645] **not a certified foster home.**

18 [(11) “Provider of care or services for children” means a person, entity or  
19 organization that provides care or services to children, regardless of whether  
20 the child is in the custody of the Department of Human Services, and that does  
21 not otherwise meet the definition of, or requirements for, a child-caring agency.  
22 “Provider of care or services for children” includes a proctor foster home cer-  
23 tified by a child-caring agency under ORS 418.248.]

24 [(12)] (9) “Qualified residential treatment program” means a program de-  
25 scribed in ORS 418.323.

26 [(13) “Shelter-care home” has the meaning given that term in ORS  
27 418.470.]

28 **SECTION 6.** ORS 418.210 is amended to read:

29 418.210. ORS 418.205 to 418.327 [shall] **and 418.241 do** not apply to:

30 (1) [Homes] **A home** established and maintained by **a** fraternal [organ-  
31 izations] **organization** wherein only members, [their] **members’** spouses and

surviving spouses in marriages and children are admitted as residents;

(2) *[Any]* **Except as specifically provided in ORS 418.257 to 418.259, a certified** foster home *[that is subject to ORS 418.625 to 418.645];*

(3) *[Any]* **A** child care facility that is subject to ORS 329A.030 and 329A.250 to 329A.450;

(4) *[Any]* **An** individual, or home of an individual, providing respite services, as defined in ORS *[418.205]* **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056;

(5) *[Any]* **A** private agency or organization facilitating the provision of respite services, as defined in ORS *[418.205]* **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056; or

*[(6) A shelter-care home that is subject to ORS 418.625 to 418.645.]*

*[(7) Any governmental entity, other than a county program, that is a provider of care or services for children, including but not limited to the Oregon Youth Authority.]*

**(6) Except as specifically provided in ORS 418.257 to 418.259, a governmental entity, including the Oregon Youth Authority, that provides care or services to children, regardless of whether the children are in the custody of the Department of Human Services, if:**

**(a) The governmental entity is not a child-caring agency; and**

**(b) The governmental entity is not a county program, as defined in ORS 418.215.**

**SECTION 7.** ORS 418.215 is amended to read:

418.215. *[(1) A child-caring agency may not provide or engage in any care or services described in ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 unless the agency is licensed, certified or otherwise authorized to provide or engage in the provision of care or services to a child by the Department of Human Services under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.]*

*[(2) A child-caring agency that provides care or services to a child may not be licensed, certified or authorized under ORS 418.205 to 418.327, 418.470,*

1 *418.475 or 418.950 to 418.970 unless the agency:]*

2 *[(a) Is duly incorporated under the corporation laws of any state; or]*

3 *[(b) Is a county program.]*

4 **(1) The following children's care or services providers must be li-**  
5 **censed, certified or otherwise authorized by the Department of Human**  
6 **Services under ORS 418.240 to provide or engage in the provision of**  
7 **care or services described in ORS 418.205 to 418.327, 418.241, 418.470,**  
8 **418.475 or 418.950 to 418.970:**

9 **(a) A private school, private agency, private organization or county**  
10 **program that is:**

11 **(A) A provider of psychiatric day treatment for children;**

12 **(B) A provider of adoption placement services;**

13 **(C) A provider of residential care, including but not limited to foster**  
14 **care or residential treatment for children;**

15 **(D) A provider of residential care in combination with academic**  
16 **education, therapeutic care and disability-related supports, including**  
17 **but not limited to treatment for emotional, behavioral or mental**  
18 **health disturbances;**

19 **(E) An outdoor youth program, as defined in ORS 418.246; or**

20 **(F) A provider of other similar care or services for children;**

21 **(b) Any private organization or person that provides secure trans-**  
22 **portation services as defined in ORS 418.241 during any segment of a**  
23 **child's trip to or from a child-caring agency, certified foster home or**  
24 **developmental disabilities residential facility, if the route of the child's**  
25 **trip begins or ends in this state;**

26 **(c) A shelter-care home, as defined in ORS 418.470, that is not a**  
27 **certified foster home;**

28 **(d) An independent residence facility as described in ORS 418.475**  
29 **that meets the standards established by the department by rule to be**  
30 **considered a provider described in this section;**

31 **(e) A private residential boarding school, as defined in ORS 418.327;**

1 and

2 (f) A child-caring facility as defined in ORS 418.950.

3 (2) The following providers of care or services to children are not  
4 required to be licensed, certified or otherwise authorized by the de-  
5 partment under ORS 418.240:

6 (a) A developmental disabilities residential facility unless the de-  
7 velopmental disabilities residential facility also serves children that  
8 are not eligible to receive developmental disability services;

9 (b) Any private agency or organization facilitating the provision of  
10 respite services for parents pursuant to a properly executed power of  
11 attorney under ORS 109.056. For purposes of this paragraph, “respite  
12 services” means the voluntary assumption of short-term care and  
13 control of a minor child without compensation or reimbursement of  
14 expenses for the purpose of providing a parent in crisis with relief  
15 from the demands of ongoing care of the parent’s child;

16 (c) A youth job development organization as defined in ORS 344.415;

17 (d) A shelter-care home, as defined in ORS 418.470, that is a certi-  
18 fied foster home;

19 (e) A certified foster home;

20 (f) A facility that exclusively serves individuals 18 years of age and  
21 older;

22 (g) A facility that primarily serves both adults and children but  
23 requires that any child must be accompanied at all times by at least  
24 one custodial parent or guardian;

25 (h) An ambulance service as defined in ORS 682.025; or

26 (i) A host home described in ORS 417.803.

27 (3) As used in this section:

28 (a) “County program” means any county-operated program that  
29 provides care or services to children:

30 (A) In the custody of the department or the Oregon Youth Au-  
31 thority; or



(B) Under a contract with the Oregon Health Authority.

(b) “County program” does not include any local juvenile detention facility that receives state services provided and coordinated by the Department of Corrections under ORS 169.070.

**SECTION 8.** ORS 418.240 is amended to read:

418.240. (1) *[All child-caring agencies shall obtain from the Department of Human Services a license, certificate or other authorization to provide]* **The Department of Human Services shall adopt rules, consistent with this section, for the licensing, certification or authorization of providers described in ORS 418.215 of care or services to children under ORS 418.205 to 418.327, 418.241, 418.470, 418.475 or 418.950 to 418.970. The rules must set forth, at a minimum, the following** criteria for issuance, renewal, suspension or revocation of, or for placing conditions on, a license, certificate or authorization under this section *[must]* **and:**

*[(a) Be set forth in rules adopted by the department;]*

**(a) Require that the child-caring agency be:**

**(A) Duly incorporated under the corporation laws of any state; or**

**(B) A county program as defined in ORS 418.215;**

(b) Include the full compliance requirements set forth in subsection (2) of this section; and

(c) Include, but *[are not]* **not be** limited to, the following:

(A) The fitness of the child-caring agency.

(B) The employment of capable, trained or experienced staff that meet minimum staffing requirements.

(C) Sufficient financial backing to ensure effective operations.

(D) The probability of permanence in the child-caring agency.

(E) The care and services provided to the children served will be in their best interests and that of society.

(F) That the child-caring agency is or will be in compliance with the standards of care and treatment established in rules adopted by the department.

1 (2)(a) The department may not issue or renew a license, certificate or  
2 other authorization to a child-caring agency unless the department finds the  
3 agency is or will be in full compliance with all of the following:

4 (A) The agency ensures child and family rights.

5 (B) The agency complies with abuse reporting and investigation require-  
6 ments.

7 (C) The agency engages in and applies appropriate behavior management  
8 techniques.

9 (D) The agency provides adequate furnishings and personal items for  
10 children.

11 (E) The agency provides appropriate food services.

12 (F) The agency ensures the safety of children.

13 (G) The agency utilizes approved procedures and protocols for use of  
14 medications for children receiving care or services from the agency.

15 (H) The agency or the agency's employees or agents have not engaged in  
16 financial mismanagement.

17 **(I) The agency provides financial statements as required under ORS**  
18 **418.255.**

19 [(I)] **(J)** The agency fully and timely corrects violations and maintains  
20 standards in accordance with any plan of correction imposed by the depart-  
21 ment.

22 [(J)] **(K)** The agency provides access as required under ORS 418.305 to a  
23 child or the agency's premises to the department or the department's em-  
24 ployees, investigators, court appointed special advocates, attorneys for a  
25 child or other authorized persons or entities.

26 [(K)] **(L)** The agency provides the department with true copies of records  
27 relating to incidents involving the restraint or involuntary seclusion of  
28 children in care as required under ORS 418.526 (2).

29 **(M) The agency complies with ORS 418.519 to 418.532 regarding the**  
30 **use of restraint and involuntary seclusion on children in care and in-**  
31 **cident reporting requirements.**

(b) The department may suspend, revoke or place conditions on a license, certificate or authorization of a child-caring agency if the department finds the agency is not in full compliance with any one or more of the full compliance requirements listed in paragraph (a) of this subsection.

(c) The department must take immediate steps to suspend or revoke the license, certificate or other authorization of a child-caring agency, if any of the following are found to exist:

(A) There has been the death of a child as a result of abuse [*or neglect*], **neglect or regulatory noncompliance** on the part of the agency or any of the agency's employees or agents.

*[(B) There has been sexual or physical abuse or neglect of a child in the agency's care or custody that was known to the agency and the agency did not take immediate steps to report the abuse or neglect and to ensure the child's safety].*

**(B) The agency failed to take reasonable action to remedy, prevent or end the abuse of any child in the agency's care or custody, despite having knowledge that sexual or physical abuse or neglect of a child in the agency's care or custody was occurring.**

(C) The [*agency*] **agency's managers or other relevant employees of the agency** failed to cooperate fully with any local, state or federal regulatory [*entity's investigation*] **authority's investigation or assessment** of the agency or **of** the agency's operations or employees.

*[(D) The agency failed to provide financial statements as required under ORS 418.255.]*

**(d) The department shall take immediate steps to place conditions on or suspend or revoke the license, certificate or other authorization of a child-caring agency, if any of the following are found to exist:**

**(A) The agency's managers or other relevant employees of the agency failed to provide financial statements as required by ORS 418.255; or**

**(B) The agency failed to provide access to a child in the agency's**

**care or custody as required by ORS 418.305.**

[(d)] (e) If any of the circumstances described in paragraph (c) **or (d)** of this subsection exists, the department may immediately place conditions on the license, certificate or authorization of the child-caring agency prior to a hearing if, consistent with ORS 183.430, the department finds there is a serious danger to the public health or safety and sets forth specific reasons for such findings.

[(e)] (f) It is grounds to deny issuance or renewal[,] **of or** suspend, revoke or place conditions on a license, certificate or other authorization if the department becomes aware that a child-caring agency, or the owner, [or operator] **operator or manager** of the agency, has been found by other state or federal entities to have engaged in financial, civil or criminal misconduct.

(3)(a) If the Director of Human Services has taken action under subsection (2)(c) of this section to suspend or revoke a license, certificate or other authorization, the notice of intent to suspend or revoke may be rescinded if the director determines that the concerns regarding the health and safety of the children in the child-caring agency's care or custody have been ameliorated and any conditions placed on the license, certificate or other authorization of the child-caring agency have been resolved.

(b) Fourteen days before rescinding a notice of intent to suspend or revoke, the Director of Human Services must provide written notice regarding the intent to rescind to the Governor **and the Children's Advocate**. The notice of intent to rescind is a public record and open for inspection by any person without order of a court. The notice of intent to rescind must include the following information:

(A) The circumstances that led to the notice of intent to suspend or revoke;

(B) The actions taken by the child-caring agency, the Department of Human Services, the Attorney General, the Oregon Youth Authority and the Oregon Health Authority in response to the circumstances leading to the notice of intent to suspend or revoke;

(C) Any penalties, fees or charges made or levied against the child-caring agency; and

(D)(i) A complete description of changes that were made at the child-caring agency and the reasons for the determination that the concerns regarding the health and safety of children in the child-caring agency's care or custody have been ameliorated or that any conditions placed on the license, certificate or other authorization of the child-caring agency have been resolved; **and**

**(ii) A description of the evidence provided by the child-caring agency that clearly demonstrates its ability to maintain regulatory compliance.**

(c) [*In making*] A decision to rescind a notice of intent to suspend or revoke under this subsection[, *the decision*] must be based solely on the health and safety of the children served by the child-caring agency. Systemwide capacity of the child welfare system may not be considered as an element of the decision.

(d) For three years after a notice of intent to suspend or revoke is rescinded under this subsection, the child-caring agency must apply for a renewal of the child-caring agency's license, certificate or other authorization on an annual basis.

(e) The department must provide the following with copies of a notice of intent to rescind within five business days of issuing the notice:

(A) The Governor; [*and*]

**(B) The Children's Advocate; and**

[(B)] (C) The committees of the Legislative Assembly relating to child welfare.

(4) The department may immediately place conditions on any license, certificate or authorization issued under this section, including but not limited to placing full or partial restrictions on admission of children, temporary suspension, limitation of operations subject to an intent to revoke and limitation of operations subject to correction of violations as specified in a

plan of correction imposed by the department. The department shall immediately notify any state or governmental agency or unit that has a contract with the child-caring agency to provide care or services to a child, and the governing board, trustees, owners, managers, operators or other appropriate authorities responsible for the child-caring agency, of conditions placed by the department on the child-caring agency's license, certificate or authorization under this section.

(5) If applicable, an applicant shall submit written proof of compliance with the notification requirements in ORS 336.575.

*[(6) The department may not charge a fee for inspections leading to decisions regarding, and issuance of, licenses, certifications or authorizations under this section, but may impose fees to cover costs of related inspections done for the department by other governmental agencies.]*

[(7)] (6) Except as provided in subsection (3) of this section, a license, certificate or authorization issued by the department **to a child-caring agency** under this section shall be valid for a period of two years, unless suspended or revoked sooner by the department. However, the department at any time may require amendments to an existing license, certificate or authorization to accommodate changes in the factors upon which the issuance was based.

[(8)] (7) When a condition exists that seriously endangers or places at risk the health, safety or welfare of a child who is receiving care or services at a child-caring agency:

(a) The director shall issue an interim emergency order without notice, or with reasonable notice under the circumstances, requiring the agency to correct the conditions and ensure the safety of children in the care of the agency. The interim emergency order shall remain in force until a final order, after a hearing, has been entered in accordance with ORS chapter 183.

(b) The director may commence an action to enjoin operation of a child-caring agency:

(A) If the agency is being operated without a valid license, certificate or

1 other authorization issued under this section; or

2 (B) If the agency fails to comply with a plan of correction imposed by the  
3 department or to correct conditions not in conformity with standards as set  
4 out in an order issued under paragraph (a) of this subsection, within the time  
5 specified in the order.

6 [(9)] **(8)** If the director, the director's designee or the department becomes  
7 aware through any means that a child-caring agency, or an owner,  
8 operator, **manager** or employee of a child-caring agency, is the subject of  
9 an investigation by another state agency, law enforcement agency or federal  
10 agency, the director or director's designee shall *[take immediate steps to cause*  
11 *an investigation to take place into the circumstances surrounding the investi-*  
12 *gation and whether there is a threat to a child, or whether a child is at risk,*  
13 *at the child-caring agency. Upon determination of the level of threat or risk*  
14 *to children at the agency, the director shall take appropriate steps to protect*  
15 *and ensure the health, safety and welfare of children as necessary under the*  
16 *circumstances. Failure to comply with the requirements of this subsection*  
17 *constitutes grounds for a charge of official misconduct in the second degree*  
18 *under ORS 162.405.]* **immediately conduct a complete and thorough as-**  
19 **essment of the circumstances surrounding the investigation and de-**  
20 **termine whether the circumstances threaten the health, safety, rights**  
21 **or welfare of any child in the agency's care or custody. If the director**  
22 **or the director's designee determines there is such a threat, the de-**  
23 **partment shall immediately take appropriate action to ensure the**  
24 **health, safety, rights and welfare of children as necessary under the**  
25 **circumstances. Failure to comply with the requirements of this sub-**  
26 **section constitutes grounds for a charge of official misconduct in the**  
27 **second degree under ORS 162.405.**

28 [(10)] **(9)** If the Department of Justice or Bureau of Labor and Industries  
29 commences an investigation of a child-caring agency or an owner, operator  
30 or employee of a child-caring agency, the Department of Justice or Bureau  
31 of Labor and Industries shall notify, inform and regularly update the direc-

tor, the director's designee or such other personnel in the Department of Human Services designated to receive such information regarding the investigation. The director and the department shall immediately undertake the responsive action required by subsection [(9)] (8) of this section upon receiving such notification. Interference with, discouragement of or impediment to the receipt of the notification, information and updates required under this subsection constitutes official misconduct in the second degree under ORS 162.405.

[(11)] (10) The Department of Human Services shall adopt rules to implement the provisions of this section.

**SECTION 9.** ORS 418.248 is amended to read:

418.248. (1) A child-caring agency may certify a proctor foster home as a provider of care or services for children, **regardless of whether the children are in the custody of the Department of Human Services, provided the proctor foster home is not required to be licensed by the department under ORS 418.215.** The child-caring agency may not certify a proctor foster home under this section unless the child-caring agency determines that the proctor foster home meets minimum standards as established by rules adopted by the Department of Human Services or the Oregon Youth Authority, as applicable. The determination that a proctor foster home meets minimum standards and the certification by the child-caring agency must take place before placement of a child in the proctor foster home.

(2)(a) Prior to certification as a proctor foster home, an applicant shall provide the department or the youth authority, as applicable, and the child-caring agency with a release of information or other authorization sufficient to enable the department or the youth authority to release to the child-caring agency information about whether there is an ongoing investigation involving the applicant, or a finding of substantiated allegations of abuse or neglect by the applicant, related to a vulnerable person, including but not limited to a child, elderly person, person with a disability or person residing in a long term care facility as defined in ORS 442.015, a residential facility



as defined in ORS 443.400, including but not limited to an assisted living facility, or an adult foster home as defined in ORS 443.705. Within 30 days of receipt of a release or authorization under this paragraph, the department or the youth authority shall provide the child-caring agency with information regarding ongoing investigations involving, or substantiated allegations of abuse or neglect against, the applicant.

(b) In addition to the requirements of paragraph (a) of this subsection, an applicant must disclose in writing to the department or the youth authority, as applicable, and the child-caring agency any criminal conviction, imposition of a restraining or protective order against the applicant or abuse or neglect investigation of the applicant related to a vulnerable person as described in paragraph (a) of this subsection.

(3) If a decision is made not to certify a proctor foster home under this section for reasons related to an ongoing investigation involving the applicant, or findings of substantiated allegations of abuse or neglect by an applicant, the child-caring agency shall disclose to the applicant the reasons for the denial of certification.

(4) The department and the youth authority shall adopt rules to implement the provisions of this section.

**SECTION 10.** ORS 418.255 is amended to read:

418.255. (1) The Department of Human Services shall inspect and supervise all child-caring agencies subject to ORS 418.205 to 418.327, **418.241**, 418.470, 418.475 or 418.950 to 418.970 as provided in this section.

(2) Inspections of the premises of a child-caring agency shall occur no less frequently than once per year and shall be made at unexpected times, with irregular intervals between inspections and without previous notice to the agency. Inspections under this subsection shall be limited to premises where children reside and receive care or services from employees or staff who do not reside on the premises.

(3)(a)(A) Except as provided in paragraph (c) of this subsection, a child-caring agency subject to ORS 418.205 to 418.327, **418.241**, 418.470, 418.475 or

1 418.950 to 418.970 that has annual [*revenues*] **combined revenues generated**  
2 **in this state and any other state** in excess of \$1 million shall provide the  
3 Department of Human Services[, *at such times as the department specifies by*  
4 *rule,*] with annual financial statements that have been audited by an inde-  
5 pendent certified public accountant and a tax compliance certificate issued  
6 by the Department of Revenue.

7 **(B) The financial statements and tax compliance certificates de-**  
8 **scribed in this paragraph must be provided when the child-caring**  
9 **agency applies for a license and subsequently at such times as the**  
10 **department specifies by rule but in no case less often than once per**  
11 **year.**

12 (b) Except as provided in paragraph (c) of this subsection, a child-caring  
13 agency subject to ORS 418.205 to 418.327, **418.241**, 418.470, 418.475 or 418.950  
14 to 418.970 that has annual **combined** revenues of \$1 million or less shall  
15 provide the Department of Human Services, upon request or at such times  
16 as the department specifies by rule, with financial statements that have been  
17 reviewed by an independent certified public accountant and a tax compliance  
18 certificate issued by the Department of Revenue.

19 (c) A child-caring agency subject to ORS 418.205 to 418.327, **418.241**,  
20 418.470, 418.475 or 418.950 to 418.970 that provides adoption placement ser-  
21 vices but does not provide care to a child and does not receive public funds  
22 shall provide the Department of Human Services, upon request or at such  
23 times as the department specifies by rule, with a tax compliance certificate  
24 issued by the Department of Revenue.

25 (d) Information in financial statements and tax compliance certificates  
26 submitted to the Department of Human Services under this subsection is a  
27 public record and open for inspection by any person without order of a court.

28 (e) The Department of Revenue shall adopt rules to implement the pro-  
29 visions of this subsection pertaining to tax compliance certificates.

30 (4) The Department of Human Services may conduct an audit, including  
31 a forensic audit, of any child-caring agency subject to ORS 418.205 to 418.327,

1 **418.241**, 418.470, 418.475 or 418.950 to 418.970 to determine compliance with  
2 ORS 418.205 to 418.327, **418.241**, 418.470, 418.475 or 418.950 to 418.970. The  
3 department may, upon request at any time, inspect and audit the books and  
4 records, including but not limited to financial records, of the agency. An  
5 audit or inspection under this subsection shall be at the expense of the de-  
6 partment.

7 (5) Failure to permit an inspection, whether of the premises or of the  
8 books and records of the child-caring agency, or failure to provide the fi-  
9 nancial statements, as required by this section is grounds for the immediate  
10 suspension or revocation of a license, certificate or authorization under ORS  
11 418.240 and for the denial of issuance of a license, certificate or other au-  
12 thorization by the Department of Human Services.

13 (6) The Department of Human Services may advise the operators, owners  
14 and employees of child-caring agencies subject to ORS 418.205 to 418.327,  
15 **418.241**, 418.470, 418.475 or 418.950 to 418.970 in regard to approved methods  
16 of child care, recommended housing and equipment and appropriate methods  
17 to maintain adequate records of operations.

18 (7) In addition to advice provided under subsection (6) of this section, the  
19 Department of Human Services shall provide training regarding appropriate  
20 ethnic hair and skin care for children of African-American, Hispanic, Native  
21 American, Asian-American or multiracial descent to:

22 (a) Child-caring agencies;

23 (b) Persons providing treatment, care or services under the supervision  
24 of a child-caring agency; and

25 (c) Prospective adoptive parents of a child in foster care.

26 (8) The Department of Human Services shall adopt rules to implement the  
27 provisions of this section.

28 **SECTION 11.** ORS 418.258 is amended to read:

29 418.258. *[(1) When the Department of Human Services becomes aware of a*  
30 *report of suspected child abuse of a child in care, whether in the form of an*  
31 *allegation, complaint or formal report made under this section, and whether*

made directly to the Director of Human Services, the department or an employee of the department, to the centralized child abuse reporting system described in ORS 418.190, through the mandatory abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall immediately:]

(1)(a) For purposes of this subsection, the Department of Human Services becomes aware of allegations or concerns of suspected abuse when the department learns of the allegations or concerns through any means, including but not limited to the centralized child abuse reporting system described in ORS 418.190, through a report made directly to the Director of Human Services or any employee of the department or during a public meeting.

(b) When the department becomes aware of allegations or concerns of suspected abuse of a child in care, the department shall immediately:

[(a)] (A) Notify appropriate personnel within the department **or the Oregon Youth Authority**, including but not limited to employees responsible for licensing, certifying or authorizing child-caring agencies, **adjudicated youth foster homes**, certified foster homes and developmental disabilities residential facilities.

[(b)] (B) Notify any governmental agency that has a contract with the child-caring agency, **adjudicated youth foster home**, certified foster home or developmental disabilities residential facility to provide care or services to the child in care.

[(c)] (C) Notify the placement authorities of any other state that retains jurisdiction over a child in care receiving care or services from the child-caring agency, **adjudicated youth foster home**, certified foster home or developmental disabilities residential facility.

[(d)] (D) Commence an investigation to determine whether the report of suspected abuse is substantiated, unsubstantiated or inconclusive under ORS 418.259 if:

1 [(A)] (i) The reported abuse occurred in this state;

2 [(B)] (ii) The reported abuse occurred in any other state and involves a  
3 child in care placed by the department in an out-of-state child-caring agency;  
4 or

5 [(C)] (iii) The reported abuse occurred in any other state and the depart-  
6 ment reasonably believes that the reported abuse poses a danger to the  
7 health, safety or wellness of a child in care placed by the department in an  
8 out-of-state child-caring agency.

9 [(e)] (E) Report to a law enforcement agency any crime that the depart-  
10 ment has reason to believe has occurred with respect to a child in care or  
11 at a child-caring agency, proctor foster home, **adjudicated youth foster**  
12 **home**, certified foster home or developmental disabilities residential facility  
13 even if the suspected crime is not related to a report of abuse made under  
14 this section.

15 (2)(a) As a condition for issuance or renewal of a license, certificate or  
16 authorization to a child-caring agency, **adjudicated youth foster home**,  
17 certified foster home or developmental disabilities residential facility, the  
18 department **or the Oregon Youth Authority** shall require and verify that  
19 the child-caring agency, **adjudicated youth foster home**, certified foster  
20 home or developmental disabilities residential facility has **adopted, follows**  
21 **and enforces** procedures and protocols that:

22 (A) Require employees of the child-caring agency, a proctor foster home  
23 certified by the child-caring agency, **the adjudicated youth foster home**,  
24 the certified foster home or the developmental disabilities residential facility  
25 to immediately report suspected abuse of a child in care to the [*director, the*  
26 *director's designee or personnel within the department who have been specif-*  
27 *ically designated to receive reports of abuse of children in care*] **centralized**  
28 **child abuse reporting system described in ORS 418.190;**

29 (B) Mandate that the child-caring agency, **adjudicated youth foster**  
30 **home**, certified foster home or developmental disabilities residential facility  
31 provide an annual training and written materials that include information

1 about the centralized child abuse reporting system described in ORS 418.190,  
2 and that the agency, home or facility advise and educate employees of the  
3 child-caring agency and any proctor foster home certified by the child-caring  
4 agency, of the certified foster home or of the developmental disabilities res-  
5 idential facility of the duty under this section and ORS 419B.005 to 419B.050  
6 to report abuse of a child in care; and

7 (C) Inform employees of child-caring agencies, proctor foster homes, **ad-**  
8 **judicated youth foster homes**, certified foster homes and developmental  
9 disabilities residential facilities that the duty to report abuse of a child in  
10 care is personal to the employee and that the duty is not fulfilled by re-  
11 porting the abuse to the owner, operator or any other employee of the  
12 child-caring agency, proctor foster home, **adjudicated youth foster home**,  
13 certified foster home or developmental disabilities residential facility even  
14 if the owner, operator or other employee reports the abuse of a child in care  
15 to the director, the director's designee or the department.

16 (b) A child-caring agency, **adjudicated youth foster home**, certified  
17 foster home or developmental disabilities residential facility need not develop  
18 and maintain procedures and protocols or provide an annual training and  
19 written materials under paragraph (a) of this subsection if the agency, home  
20 or facility does not have any employees, staff or volunteers.

21 (3) Interference or hindering an investigation of abuse of a child in care,  
22 including but not limited to the intimidation of witnesses, falsification of  
23 records or denial or limitation of interviews with the child in care who is  
24 the subject of the investigation or with witnesses, may constitute grounds  
25 for the revocation, suspension or placing of conditions on the license, cer-  
26 tificate or other authorization of a child-caring agency, proctor foster home,  
27 **adjudicated youth foster home**, certified foster home or developmental  
28 disabilities residential facility.

29 (4)(a) Anyone, including but not limited to **a child in care or** an em-  
30 ployee of a child-caring agency, proctor foster home, **adjudicated youth**  
31 **foster home**, certified foster home or developmental disabilities residential

facility, who makes a report of suspected abuse of a child in care [*to the Governor, the Department of Justice, the Director of Human Services, the director's designee or the department*] under this section **to the centralized child abuse reporting system described in ORS 418.190 or expresses concern about situations involving abuse or the department's response to allegations of abuse** in good faith and who has reasonable grounds for the making of the report shall have immunity:

(A) From any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report **or expression of concern**;

(B) From disciplinary action taken by the person's employer; and

(C) With respect to participating in any judicial proceeding resulting from or involving the report **or expression of concern**.

(b) A person making a report under this section may include references to otherwise confidential information for the sole purpose of making the report, and any such disclosure must be protected from further disclosure to other persons or entities for any other purpose not related to the making of the report.

**SECTION 12.** 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*

1 *special advocate, the parents or guardians of the child,]* **immediately notify**  
2 **the child's case managers, attorney, court appointed special advocate,**  
3 **developmental disabilities coordinator, parents or guardians,** any at-  
4 torney representing a parent or guardian of the child and any governmental  
5 agency that has a contract with the child-caring agency or developmental  
6 disabilities residential facility to provide care or services to the child that  
7 a report has been received.

8 (3)(a) The department [*may*] **shall** interview the child in care who is the  
9 subject of suspected abuse and any witnesses, including other children,  
10 without the presence of employees of the child-caring agency, proctor foster  
11 home or developmental disabilities residential facility, the provider of ser-  
12 vices at a certified foster home **or adjudicated youth foster home** or de-  
13 partment personnel. The department shall inform the child in care that the  
14 child may have the child's parent or guardian, if the child has not been  
15 committed to the custody of the department or the Oregon Youth Authority,  
16 [*or*] attorney **or court appointed special advocate** present when partic-  
17 ipating in an interview conducted in the course of an abuse investigation.

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

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

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

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

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

30 (E) Review the training records related to all of the individuals who were  
31 involved in the use of restraint or involuntary seclusion **to determine**



**whether each individual that imposed the restraint was currently certified in a program approved by the department; [and]**

(F) Make all reasonable efforts to conduct *[trauma-informed]* **trauma-responsive** 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.]; and*

(G) **If a child who experienced or witnessed the suspected abuse is not interviewed, make a specific note about the reason why the interview was not conducted and what reasonable efforts were made to interview the child.**

(c) **The department may not substantiate an allegation of abuse by an individual who was involved in the use of a restraint solely because the individual did not possess a current certification to impose the restraint.**

(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.

**(h) The Children's Advocate.**

(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, **adjudicated youth foster homes**, 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~~].~~, **of out-of-state child-caring agencies in which the department has placed any children and of any location that the department has placed a child on a temporary basis.** 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) If the department conducted an investigation pursuant to ORS 418.258 that resulted in a finding during that quarter that a report of abuse was substantiated:**

**(A) If the investigation involved a proctor foster home, developmental disabilities residential facility or child-caring agency, including an out-of-state child-caring agency, the name of the proctor foster home, developmental disabilities residential facility or child-caring agency;**

**(B) If the investigation involved a child whom the department had placed on a temporary basis in a commercial location, identifying information regarding the commercial location;**

*[(a)] (C) [The name of any child-caring agency, including an out-of-state*

*child-caring agency, proctor foster home or developmental disabilities residential facility, or,] If the investigation involved a certified foster home, 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]; and*

**(D) If the investigation involved an adjudicated youth foster home, provided there are five or more adjudicated youth foster homes in the county, the name of the county where an adjudicated youth foster home is located;**

(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 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, **including incidents occurring in out-of-state facilities:**

(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 **at least one** individual who **restrained a child in care in a program** was not appropriately trained in the *[use of the restraint used on a child in care in a program; and]* **type of restraint used;**

*[(f) The number of incidents that were reported for potential inappropriate use of restraint.]*

(f) The total number of individuals who restrained children in care in the incidents described in paragraph (e) of this subsection who were not appropriately trained in the types of restraint used;

(g) The number of incidents that were reported for inappropriate use of restraint of a child in care to the centralized child abuse reporting system described in ORS 418.190;

(h) The number of incidents in which a restraint prohibited under ORS 418.521 was used;

(i) A description of the actions taken by the division of the department responsible for licensure or certification in response to regulatory violations related to the use of restraint or involuntary seclusion, including the number of licensing complaint investigations initiated and any conditions, required trainings or civil penalties that were imposed as a result of failure to be in compliance with regulations related to the use of restraint or involuntary seclusion;

(j) The total number of allegations of abuse of children in care that had an inconclusive finding in that quarter, disaggregated by setting;

(k) The total number of restraints imposed on Oregon children in care at out-of-state congregate care facilities in that quarter, including the number of children in care that experienced a reportable injury as a result of a physical restraint, disaggregated by facility; and

(L) The total number of children in care that experienced restraint at an out-of-state congregate care facility in that quarter, including the number of children in care that experienced a reportable injury as a result of a physical restraint, disaggregated by facility.

(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.]

**(8) As used in this section:**

**(a) "Developmental disabilities foster home" means a foster home that is subject to ORS 443.400 to 443.455 or 443.830 and 443.835 for children who are under 18 years of age and receiving developmental disability services.**

**(b) "Involuntary seclusion" has the meaning given that term in ORS 418.519.**

**(c) "Program" has the meaning given that term in ORS 418.519.**

**(d) "Reportable injury" has the meaning given that term in ORS 418.519.**

**(e) "Restraint" has the meaning given that term in ORS 418.519.**

**SECTION 13.** ORS 418.260 is amended to read:

418.260. [(1) If the Department of Human Services receives a report or otherwise becomes aware that any suspected or founded abuses, deficiencies, violations or failures to comply with the full compliance requirements described in ORS 418.240 are occurring in a child-caring agency, whether as a part of the inspections undertaken pursuant to ORS 418.255 or otherwise, the department shall immediately notify appropriate personnel within the department, including but not limited to employees responsible for licensing, certifying or authorizing child-caring agencies, who shall investigate and take appropriate action without undue delay, with primary concern given to the health, safety and welfare of the children for whom the child-caring agency is responsible. The department may notify law enforcement agencies as necessary to coordinate

1 *and assist in the investigation and enforcement of corrective actions under-*  
2 *taken by the department. If the child-caring agency is known or found to serve*  
3 *children also served by the Oregon Youth Authority, county juvenile depart-*  
4 *ments or developmental disabilities services within the department, the de-*  
5 *partment shall notify those entities of the report or suspected or founded*  
6 *abuses, deficiencies, violations or failures.]*

7 *[(2) If the department finds, after investigation by the department or law*  
8 *enforcement agencies, that the abuses, deficiencies, violations or failures to*  
9 *comply are founded, the department may suspend, revoke or place conditions*  
10 *on the license, certificate or other authorization of the child-caring agency. The*  
11 *conditions placed on a license, certificate or authorization may include, but*  
12 *are not limited to, placing full or partial restrictions on admission of children,*  
13 *temporary suspension, limitation of operations subject to an intent to revoke*  
14 *or limitation of operations subject to correction of violations as specified in a*  
15 *plan of correction. If the department imposes a plan of correction, and the*  
16 *corrections are not made within 45 days from the effective date of the plan of*  
17 *correction, the department may immediately suspend or revoke the license,*  
18 *certificate or authorization of the child-caring agency. The department shall*  
19 *immediately notify any governmental agency that has a contract with the*  
20 *child-caring agency to provide care or services to a child of any suspension or*  
21 *revocation of, or conditions placed on, the license, certificate or other authori-*  
22 *zation of the child-caring agency.]*

23 **(1) The Department of Human Services shall:**

24 **(a) Conduct a complete and detailed review of each application for**  
25 **an initial or renewed child-caring agency license, certification or other**  
26 **authorization; and**

27 **(b) Monitor the ongoing regulatory compliance of a child-caring**  
28 **agency by, at a minimum, responding to and assessing reports or**  
29 **allegations of noncompliance.**

30 **(2) If the department becomes aware by any means of an actual or**  
31 **suspected failure of a child-caring agency to maintain substantial**

**regulatory compliance or full compliance with requirements related to the health, safety, welfare or rights of children in care, the department shall immediately:**

**(a) Ensure that the individuals with the department responsible for monitoring the child-caring agency are notified; and**

**(b) Ensure that the individuals notified under paragraph (a) of this subsection conduct a complete and detailed assessment to determine whether the child-caring agency is in compliance.**

**(3) If the department finds that the child-caring agency is not in compliance, the department shall take immediate and appropriate action to ensure that the child-caring agency comes into compliance. The action may include, but need not be limited to, one or more of the following:**

**(a) Revoking or temporarily suspending a license, certificate or other authorization;**

**(b) Placing conditions on the license, certificate or other authorization, including but not limited to placing a full or partial restriction on the admission of children;**

**(c) Imposing a limitation of operations subject to an intent to revoke;**

**(d) Imposing a limitation of operations subject to a correction of the violations as specified in a plan of correction;**

**(e) Subjecting the child-caring agency to enhanced oversight, including on-site supervision by the department;**

**(f) Requiring additional training for the employees or agents of the child-caring agency; or**

**(g) Imposing fines or civil penalties.**

**(4) When determining the action to take in response to noncompliance of a child-caring agency, the department shall:**

**(a) Ensure all necessary actions are taken to protect the health, safety, rights and welfare of children in care and the general public;**

1       **(b) Consider whether the violation is temporary or systemic;**

2       **(c) Consider whether this is a repeat violation or part of a pattern**  
3 **of frequent or ongoing violations;**

4       **(d) Consider the timeliness and thoroughness of the child-caring**  
5 **agency's cooperation with the department in its thorough assessment**  
6 **of the concerns; and**

7       **(e) Consider any unique circumstances, other than system capacity,**  
8 **that impact the noncompliance.**

9       **(5) If the department imposes a plan of correction, and the cor-**  
10 **rections are not made within 45 days from the effective date of the**  
11 **plan of correction, the department may immediately take appropriate**  
12 **action on the child-caring agency's license, certificate or other au-**  
13 **thorization.**

14       **(6) The department may not take action to suspend or revoke a**  
15 **child-caring agency's license, certification or authorization unless:**

16       **(a) The violation or violations pose an imminent risk to the health,**  
17 **safety, rights or welfare of children in care, the general public or staff**  
18 **of the facility;**

19       **(b) The violation or violations are part of a pattern of frequent or**  
20 **repeated noncompliance;**

21       **(c) The department first took less punitive actions and the child-**  
22 **caring agency failed to comply or failed to maintain compliance; or**

23       **(d) The suspension or revocation is otherwise authorized or required**  
24 **by state or federal law.**

25       [(3)] **(7) If the department determines at any time during or after an in-**  
26 **vestigation that the abuses, deficiencies, violations or failures to comply are**  
27 **or threaten a serious danger to any child or to the public, or place a child**  
28 **at risk with respect to the child's health, safety or welfare, the department**  
29 **may immediately suspend or revoke the child-caring agency's license, certif-**  
30 **icate or authorization, subject to the provisions of ORS chapter 183.**

31       **(8) The department shall immediately notify the parents or guardians**



1 **privately obtaining services or care for their children from the child-**  
2 **caring agency and** any governmental agency that has a contract with the  
3 child-caring agency to provide care or services to a child of any suspension  
4 or revocation of the license, certificate or other authorization of the child-  
5 caring agency under [*this*] subsection **(7) of this section** and of any condi-  
6 tions placed on the child-caring agency's license, certificate or authorization  
7 pursuant to ORS 418.240. The department shall immediately report the al-  
8 leged deficiencies or violations to the governmental agency and the govern-  
9 ing board responsible for the oversight of the child-caring agency.

10 [(4)] **(9)** If the department determines that the abuses, deficiencies, vio-  
11 lations or failures to comply are founded and the department imposes a plan  
12 of correction that the child-caring agency does not comply with in the time  
13 allotted for correction, the department shall immediately **post notice of the**  
14 **failure to comply on the department's website and** notify the following  
15 of the failure of the child-caring agency to comply with the plan of cor-  
16 rection:

17 [(a)] *The Legislative Assembly or the interim committees of the Legislative*  
18 *Assembly relating to child welfare.]*

19 [(b)] **(a)** Members of the governing board responsible for the child-caring  
20 agency.

21 [(c)] **(b)** Any governmental agency that has a contract with the child-  
22 caring agency to provide care or services to a child.

23 **(c) The parents or guardians of any child in care that is privately**  
24 **placed in the child-caring agency by the parents or guardians.**

25 [(5)] **(10)** Any employee of the department that has reasonable cause to  
26 believe that a child-caring agency has [*committed an abuse or*] incurred a  
27 deficiency or violation, or that grounds for immediate suspension or revoca-  
28 tion of a license, certificate or authorization exist under ORS 418.240, and  
29 that such abuse, deficiency, violation or grounds are or threaten a danger  
30 to any child at the child-caring agency or to the public, or place a child at  
31 risk with respect to the child's health, safety or welfare, [*is required to*] **shall**

1 immediately inform the Director of Human Services, the director's designee  
2 or such other personnel in the department designated to receive such infor-  
3 mation. Upon receipt of an employee report under this subsection, the di-  
4 rector and department personnel shall immediately [*commence an*  
5 *investigation and*] **conduct a complete and detailed assessment or an**  
6 **investigation and** take all reasonably prudent and necessary actions to en-  
7 sure the health, safety and welfare of children at the child-caring agency.  
8 Failure to commence an investigation [*and*] **or** take actions as required by  
9 this subsection constitutes official misconduct in the second degree under  
10 ORS 162.405.

11 **(11) An employee's duty to report under this section is in addition**  
12 **to, and not in lieu of, the employee's duty to report suspected abuse**  
13 **under ORS 419B.010.**

14 **(12) The department shall post a notice of any actions taken under**  
15 **subsection (3) of this section on its website that provides information**  
16 **to the public about the licensure of regulated entities. The notice must**  
17 **remain posted for not less than 24 months.**

18 **(13) If the noncompliance involved the use of restraint or seclusion**  
19 **or the sufficiency of an emergency preparedness plan at a nonhospital**  
20 **facility providing psychiatric inpatient services for individuals under**  
21 **21 years of age, the department shall immediately notify the individual**  
22 **at the Oregon Health Authority responsible for conducting health care**  
23 **regulation surveys for the Centers for Medicare and Medicaid Services.**

24 **SECTION 14.** ORS 418.327 is amended to read:

25 418.327. (1) Upon finding that the facilities and operation of a private  
26 residential boarding school meet the standards of the Department **of Human**  
27 **Services** for the physical health, care and safety of the children, the de-  
28 partment shall issue a license to operate the school. The license shall be  
29 valid for a period of two years, unless sooner suspended or revoked by the  
30 department pursuant to the provisions of ORS 418.240. However, the depart-  
31 ment at any time may require amendments to an existing license to accom-

1 modate changes in the factors upon which the issuance was based.

2 (2) The department may not charge a fee for inspections leading to deci-  
3 sions regarding, and issuance of, licenses under this section, but may charge  
4 fees to cover costs of inspections done by other governmental agencies for  
5 the department.

6 (3) The department may place conditions on any license issued under this  
7 section in accordance with the provisions of ORS 418.240, including but not  
8 limited to placing full or partial restrictions on admission of children, tem-  
9 porary suspension, limitation of operations subject to an intent to revoke and  
10 limitation of operations subject to correction of violations as specified in a  
11 plan of correction imposed by the department.

12 (4) No person or organization shall operate a private residential boarding  
13 school without having a current, valid license issued by the department.

14 (5) Any person, including the Director of Human Services, may file a  
15 complaint with the department alleging that children attending a private  
16 residential boarding school, or that children within the control of any other  
17 organization that provides boarding or residential programs, are not receiv-  
18 ing shelter, food, guidance, training or education necessary to the health,  
19 safety, welfare or social growth of the children or necessary to serve the best  
20 interests of society.

21 (6) The department shall immediately investigate complaints made under  
22 subsection (5) of this section in the manner provided under ORS 418.205 to  
23 418.327.

24 (7) The Superintendent of Public Instruction shall cooperate with the de-  
25 partment upon request by advising the department as to whether or not the  
26 educational program conducted at the private residential boarding school  
27 meets minimum standards required of public educational institutions.

28 (8) Nothing in this section applies to public or private institutions of  
29 higher education, community colleges, common or union high school districts  
30 that provide board and room in lieu of transportation or any other child-  
31 caring program already subject to state licensing procedures by any agency

of this state.

**(9) As used in this section, “private residential boarding school” means:**

**(a) A private school providing residential care in combination with academic therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances; or**

**(b) A private school providing residential care that is primarily engaged in educational work.**

## OUT-OF-STATE PLACEMENTS OF CHILDREN

**SECTION 15.** ORS 418.322 is amended to read:

418.322. (1) As used in this section:

(a) “Congregate care residential setting” means any setting that cares for more than one child or ward and is not a setting described in [ORS 418.205 (2)(c)(A), (D), (E) or (F) or (10)] **ORS 418.205 (8) or 418.215 (2)(a), (c), (d), (e), (f) or (g).**

(b) “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person under 18 years of age for the purpose of a commercial sex act, as defined in ORS 163.266, or the recruitment, harboring, transportation, provision or obtaining of a person over 18 years of age using force, fraud or coercion for the purpose of a commercial sex act, as defined in ORS 163.266.

(2) The Department of Human Services may place a child or ward in a congregate care residential setting only if the setting is:

(a) A child-caring agency[, *as defined in ORS 418.205,*] a hospital, as defined in ORS 442.015, or a rural hospital, as defined in ORS 442.470; and

(b) A qualified residential treatment program [*described in ORS 418.323*].

(3) Notwithstanding subsection (2) of this section, the department may place a child or ward in a child-caring agency that is not a qualified residential treatment program if:

(a) The child-caring agency is providing prenatal, postpartum or parenting supports to the child or ward[.];

(b) The child or ward is placed in an independent residence facility described in ORS 418.475 that is licensed by the department as a child-caring agency[.];

(c) The child or ward is, or is at risk of becoming, a victim of sex trafficking and the child-caring agency is providing high-quality residential care and supportive services to the child or ward[.];

(d) The Oregon Health Authority has approved the [*placement as medically necessary*] **services and treatment as medically necessary and medically appropriate** and the child-caring agency:

(A) Is a [*residential care facility*;] **psychiatric residential treatment facility that meets the requirements prescribed by the authority by rule, consistent with all federal requirements for certification as a facility providing inpatient psychiatric services for persons under 21 years of age;**

(B) Is licensed by the authority and maintains site-specific accreditation from a nationally recognized organization to provide psychiatric treatment to children; and

(C) Has an active provider agreement with the Oregon Medicaid program[.];

(e) The child-caring agency is an adolescent residential drug and alcohol treatment program licensed or certified by the State of Oregon to provide residential care, and the court has approved, or approval is pending for, the placement in the child-caring agency of each child or ward over whom the department retains jurisdiction[.];

(f) The placement with the child-caring agency is for the purpose of placing the child or ward in a proctor foster home[.];

(g) The child-caring agency is a residential care facility licensed by the department that provides short-term assessment and stabilization services[.];

(h) The child-caring agency is a shelter-care home, as defined in ORS

418.470, that provides short-term assessment and stabilization services[.];

(i) The child-caring agency is a homeless, runaway or transitional living shelter licensed by the department that provides short-term assessment and stabilization services[.]; **or**

(j) The ward is 18 years of age or older and the child-caring agency is a residential treatment facility or a residential home licensed or certified by the department or the Oregon Health Authority.

**(4) Notwithstanding subsection (2) or (3) of this section, the department may place a child or ward in a congregate care residential setting that is not a child-caring agency or a qualified residential treatment program if:**

**(a) The child or ward is 16 years of age or older;**

**(b) A licensed health care provider who is acting within the health care provider's scope of practice and who is not an employee of the authority has personally assessed the child or ward and has determined that the child or ward requires residential treatment for a substance use disorder;**

**(c) The congregate care residential setting is licensed, certified or otherwise approved by the Oregon Health Authority to provide substance use disorder treatment;**

**(d) The congregate care residential setting primarily serves individuals who are 18 years of age or older; and**

**(e) The admission is medically necessary and medically appropriate.**

**[(4)] (5) The department may not place a child or ward in a residential care facility or shelter-care home described in subsection (3)(g) or (h) of this section:**

**(a) For more than 60 consecutive days or 90 cumulative days in a 12-month period; or**

**(b) If the residential care facility or shelter-care home also serves youths or adjudicated youths served by the county juvenile department or adjudicated youths committed to the custody of the Oregon Youth Authority by the**

1 court.

2 [(5)] **(6)** The department may not place a child or ward in a homeless,  
3 runaway or transitional living shelter described in subsection (3)(i) of this  
4 section for more than 60 consecutive or 90 cumulative days in any 12-month  
5 period.

6 **(7)(a) Notwithstanding subsections (5)(a) and (6) of this section, the**  
7 **department may extend the placement of a child or ward that is at**  
8 **least 16 years of age if:**

9 **(A) The child's attorney affirms in writing that, after consultation**  
10 **with the attorney, the child or ward does not object to the extension;**  
11 **and**

12 **(B) The court approves the extension.**

13 **(b) An extension under this subsection may last up to 90 cumulative**  
14 **days, and further extensions may be granted by the court if the child**  
15 **or ward, after consultation with the attorney of the child or ward, does**  
16 **not object and the child or ward maintains regular attendance at the**  
17 **local public school.**

18 [(6)] **(8)** Calculations of the number of days a child or ward is placed in  
19 a shelter-care home under subsection (3)(h) of this section or a homeless,  
20 runaway or transitional living shelter under subsection (3)(i) of this section  
21 exclude the days the child or ward is in the shelter-care home or shelter if  
22 the child or ward:

23 (a) Accessed the shelter-care home or shelter without the support or di-  
24 rection of the department; and

25 (b) Is homeless or a runaway, as defined by the department by rule.

26 [(7)(a)] **(9)(a)** Nothing in this section prohibits the Oregon Youth Au-  
27 thority from placing an adjudicated youth committed to its custody in a  
28 placement that is not a qualified residential treatment program.

29 (b) Nothing in this section prohibits the Oregon Youth Authority or a  
30 county juvenile department from placing an adjudicated youth or a youth  
31 served by the Oregon Youth Authority or the county juvenile department in

shelter care or detention under ORS chapter 419C.

**(10) All approvals of the extensions described in subsection (7) of this section must be made by the director of the division of the department that administers the state child welfare program.**

**SECTION 16.** ORS 418.500 is amended to read:

**418.500. (1) Except as provided in subsection (2) of this section and** subject to ORS 418.322, if the Department of Human Services determines that need exists for care and treatment of a child who is eligible for such care and treatment that is not available through any public or private agency or facility in this state, it may enter into an agreement with a public or private agency outside this state for the purchase of care for the child. Such agreements shall contain the matter described in ORS 418.321 and 418.495 and shall apply to children described therein.

**(2)(a) As used in this subsection:**

**(A) “Institution for mental disease” means a hospital, nursing facility or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services.**

**(B) “Institution for mental disease” does not include a psychiatric residential treatment facility described in ORS 418.322 (3)(d)(A).**

**(b) The department may not place a child or ward in an out-of-state institution for mental disease.**

## CONFORMING AMENDMENTS

**SECTION 17.** ORS 329A.030 is amended to read:

**329A.030. (1)** The Department of Early Learning and Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

**(2)(a)** A subject individual described in subsection (11)(a), (c) or (d) of this



section shall apply to and must be enrolled in the Central Background Registry prior to the provision of care.

(b) An individual who has been the subject of a founded or substantiated report of child abuse shall apply to and must be enrolled in the Central Background Registry prior to providing any of the types of care identified in ORS 329A.250 (4)(b)(A), (E) or (F) if:

(A) The child abuse occurred on or after January 1, 2017, and involved a child who died or suffered serious physical injury, as defined in ORS 161.015; or

(B) The child abuse occurred on or after September 1, 2019, and involved any child for whom the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS 329A.250 (4)(b)(A), (C), (E), (F) or (G).

(c) Notwithstanding paragraph (a) of this subsection, an individual described in paragraph (b)(B) of this subsection is not required to enroll in the Central Background Registry if more than seven years has elapsed since the date of the child abuse determination.

(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the department shall complete:

(A) A criminal records check under ORS 181A.195;

(B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;

(C) A child abuse and neglect records check in accordance with rules adopted by the council; and

(D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the department is required to check under paragraph (a) of this subsection, the department may consider any other information obtained by the department that the department, based on rules adopted by the Early Learning Council, determines is relevant to enrollment in the Central Background Registry.

(4) The department shall enroll the individual in the Central Background Registry if the individual:

(a) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history, or to have dealt with the issues and provided adequate evidence of suitability for the registry;

(b) Has paid the applicable fee established pursuant to ORS 329A.275; and

(c) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

(5)(a) Notwithstanding subsections (3) and (4) of this section, the department may not enroll an individual in the Central Background Registry if:

(A) The individual has a disqualifying condition as defined in rules adopted by the council; or

(B) The individual is an exempt prohibited individual, as provided by ORS 329A.252, unless the individual qualifies for limited enrollment pursuant to rules adopted by the Early Learning Council.

(b) If an individual prohibited from enrolling in the registry as provided by this subsection is enrolled in the registry, the department shall remove the individual from the registry.

(6)(a) The department may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has successfully completed the criminal records check and the child abuse and neglect records check in this state and in the state of the individual's residence, if other than Oregon.

(b) The department may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) The department may grant limited enrollment in the Central Background Registry to a subject individual who is a relative caretaker of a child for whom care is provided in a subsidized care facility, regardless of whether the individual was previously denied enrollment in the Central Background

1 Registry, if the individual otherwise meets the criteria established in rule  
2 by the Early Learning Council.

3 (8) An enrollment in the Central Background Registry may be renewed  
4 upon application to the department, payment of the fee established pursuant  
5 to ORS 329A.275 and compliance with rules adopted by the Early Learning  
6 Council pursuant to this section. However, an individual who is determined  
7 to be ineligible for enrollment in the registry after the date of initial en-  
8 rollment shall be removed or suspended from the registry by the department.

9 (9)(a) A child care facility, preschool recorded program or school-age re-  
10 corded program may not hire or employ an individual if the individual is not  
11 enrolled in the Central Background Registry.

12 (b) Notwithstanding paragraph (a) of this subsection, a child care facility,  
13 preschool recorded program or school-age recorded program may employ on  
14 a probationary basis an individual who is conditionally enrolled in the Cen-  
15 tral Background Registry.

16 (10) The Early Learning Council may adopt any rules necessary to carry  
17 out the purposes of this section, including but not limited to rules regarding  
18 expiration and renewal periods and limitations related to the subject  
19 individual's enrollment in the Central Background Registry.

20 (11) As used in this section, "subject individual" means:

21 (a) A subject individual as defined by the Early Learning Council by rule;

22 (b) An individual subject to subsection (2)(b) of this section;

23 (c) A person who applies to be:

24 (A) The operator or an employee of a child care or treatment program;

25 (B) The operator or an employee of a provider under the Oregon Prenatal  
26 to Kindergarten Program under ORS 329.172 to 329.200;

27 (C) The operator or an employee of a federal Head Start program regu-  
28 lated by the United States Department of Health and Human Services;

29 (D) An individual in a child care facility, preschool recorded program or  
30 school-age recorded program who may have unsupervised contact with chil-  
31 dren, as determined by the council by rule;

(E) A contractor or an employee of the contractor who:

(i) Provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; and

(ii) Is not subject to the criminal records check requirements of ORS 326.603 or 342.223;

(F) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;

(G) A contractor, employee or volunteer of a metropolitan service district organized under ORS chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;

(H) A provider of respite services, as defined in ORS [418.205] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services;

(I) The operator or an employee of an early learning program as defined in rules adopted by the council; or

(J) The operator or an employee of a preschool recorded program or a school-age recorded program; or

(d)(A) An individual who operates a subsidized care facility;

(B) An individual who has attained 18 years of age and resides in a subsidized care facility; or

(C) An individual in a subsidized care facility who has attained 18 years of age and who may have unsupervised contact with children, as determined by the council by rule.

(12)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (11)(c)(G) of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the department from participation in the agreement. Any mon-

eys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.273.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS [418.205] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection (11)(c)(H) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the department from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.273.

(c) Information provided to a private agency or organization about the enrollment status of the persons described in subsection (11)(c)(I) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the department from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.273.

**SECTION 18.** ORS 329A.275 is amended to read:

329A.275. (1) The Early Learning Council shall adopt rules establishing fees for certification, registration and recording under ORS 329A.250 to 329A.450.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Legislative Assembly prior to adopting the fees and charges, the fees and charges established under ORS 181A.195, 329A.030 and 329A.250 to 329A.450 may not exceed the cost of administering the program of the Department of Early Learning and Care pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the Department of Early Learning and Care.

(3) Notwithstanding subsection (2) of this section and any other provision

of this chapter, the following fees established by the Early Learning Council under ORS 329A.030 and 329A.250 to 329A.450 may not exceed:

- (a) For Certified Family Child Care Home Initial Certification, \$25;
- (b) For Certified Family Child Care Home Annual Fee Per Certified Space, \$2;
- (c) For Child Care Center Initial Certification, \$100;
- (d) For Child Care Center Annual Fee Per Certified Space, \$2;
- (e) For Registered Family Child Care Home Registration, \$30;
- (f) For Preschool Recorded Program Recording, \$20;
- (g) For School-Age Recorded Program Recording, \$20;
- (h) For administering a class on child care abuse and neglect issues, \$10;

and

(i) For enrollment in the Central Background Registry, the cost of administering the program, including fees for:

- (A) Duplicate enrollment in the Central Background Registry;
- (B) Law Enforcement Data System criminal records check; and
- (C) Federal Bureau of Investigation fingerprint check.

(4) The Early Learning Council, by rule, shall waive the fees described in subsection (3)(i) of this section for an employee of or volunteer with a private agency or organization that facilitates the provision of respite services, as defined in ORS [418.205 (2)(c)(B)] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056.

**SECTION 19.** ORS 418.241 is amended to read:

418.241. (1) As used in this section:

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

(b) “Child-caring agency” has the meaning given that term under ORS 418.205.

(c) “Developmental disabilities residential facility” means a residential facility or foster home for children who are 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.

(d) “Secure escort” means escort services for a child who poses a risk of elopement or where restraint or seclusion may be utilized if the child poses a risk of injury to self or others, and as further defined by the department by rule.

(e) “Secure nonemergency medical transportation provider” means a private organization or person that provides nonemergency medical secure transportation services subject to rules adopted by the Oregon Health Authority.

(f) “Secure transportation” means the transport of a child in a vehicle specifically equipped to prevent a passenger from exiting, eloping or interfering with the operator of the vehicle, and as further defined by the department by rule.

(g) “Secure transportation services” means the secure transportation or secure escort of children.

(2) The department shall adopt rules consistent with this section for the issuance, under ORS 418.215 and 418.240, of licenses to provide secure transportation services to providers that are child-caring agencies solely as the result of providing secure transportation services as described in ORS [418.205 (2)(a)(B)] **418.215 (1)(b)** and for the issuance of supplemental licenses to child-caring agencies described in ORS [418.205 (2)(a)(A)] **418.215 (1)(a)** that also provide secure transportation services as described in ORS [418.205 (2)(a)(B)] **418.215 (1)(b)**.

(3)(a) The following secure transportation services providers are exempt from the requirements under ORS 418.215 and 418.240 to obtain from the department a license or a supplemental license to provide secure transportation services:

(A) A secure nonemergency medical transportation provider.

(B) A child-caring agency that is licensed, certified or otherwise authorized by the department to provide or engage in the provision of care or services to children if:

(i) The agency is not primarily engaged in the provision of secure transportation services;

(ii) The child being transported or escorted resides in or is otherwise receiving services from the agency; and

(iii) The transportation or escort is provided consistent with the rules adopted by the department under this section.

(C) An ambulance service, as defined in ORS 682.025, that is transporting a child in an ambulance for the purpose of obtaining medical care for the child.

(D) A developmental disabilities residential facility if:

(i) The facility is not primarily engaged in the provision of secure transportation services;

(ii) The child being transported or escorted resides in or is otherwise receiving services from the facility; and

(iii) The transportation or escort is provided consistent with the rules adopted by the department under this section.

(b) The licensing exemptions under paragraph (a)(B) and (D) of this subsection do not apply if the child-caring agency or developmental disabilities residential facility is transporting the child for the purposes of placing the child in a facility that is not licensed by the department or in a hospital that is not licensed by the authority.

(4)(a) A secure transportation services provider, including a provider that is described in subsection (3) of this section, must display the disclosure described in ORS 418.359 (2) in a conspicuous location in any advertisements or promotional materials for its secure transportation services and in each vehicle it uses to provide its secure transportation services if:

(A) The provider is not licensed by the department under ORS 418.215 or 418.240 to provide secure transportation services; and

(B) The provider holds itself out as being an Oregon provider of secure transportation services, including by registering in this state the vehicles it uses in the provision of its secure transportation services or representing or



otherwise indicating in advertisements or promotional materials that the provider is based in this state, maintains a mailing address in this state or is licensed, certified or otherwise authorized by the department or the authority to provide secure transportation services or similar services in this state.

(b) The disclosure under paragraph (a) of this subsection must also indicate that the secure transportation services provider is not licensed by the department under ORS 418.215 or 418.240 to provide secure transportation services and, if applicable, the reason for the provider's licensing exemption under subsection (3) of this section.

(c) If a provider that is required to make a disclosure under this subsection is authorized by the authority to provide secure transportation services, the provider's disclosure under this subsection may, consistent with rules adopted by the authority, also include a statement that the provider is authorized by the authority to provide secure transportation services.

(5) The department and the authority may adopt rules for the provision of secure transportation services consistent with this section and ORS 418.205 to 418.327, 418.359 and 418.519 to 418.532.

**SECTION 20.** ORS 418.246 is amended to read:

418.246. (1) In addition to any requirements for licensure established by the Department of Human Services, each outdoor youth program that is applying for licensure as a child-caring agency shall file with the department a bond in the amount of \$50,000 or 50 percent of the program's yearly budget, whichever amount is less. The bond shall be issued by a surety company or an insured institution, as defined in ORS 706.008, authorized to do business in this state.

(2) The bond required under subsection (1) of this section shall be continuous until canceled and shall remain in full force and unimpaired at all times to comply with this section. The surety or insured institution shall give the department at least 30 days' written notice before it cancels or terminates its liability under the bond.

(3) An action on the bond may be brought by any person aggrieved by the misconduct of an outdoor youth program required to be licensed under ORS 418.205 to 418.327.

**(4) As used in this section:**

**(a) “Outdoor youth program” means a program that provides, in an outdoor living setting, services to children who have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.**

**(b) “Outdoor youth program” does not include any program, facility or activity:**

**(A) Operated by a governmental entity;**

**(B) Operated by or affiliated with the Oregon Youth Corps;**

**(C) Licensed by the Department of Human Services under the authority of the department other than ORS 418.205 to 418.327; or**

**(D) Operated by a youth job development organization, as defined in ORS 344.415.**

**SECTION 21.** ORS 418.330 is amended to read:

418.330. (1) As used in this section:

(a) “Child” means:

(A) A person under 18 years of age;

(B) A person under 21 years of age if the Department of Human Services determines that the person has a mental or physical disability that warrants the continuation of assistance; or

(C) A person who has attained 18 years of age and:

(i) On whose behalf payments under this section were received prior to the person attaining 18 years of age, provided the person was at least 16 years of age at the time the payments commenced;

(ii) Has not attained 21 years of age; and

(iii)(I) Is completing secondary education or a program leading to an equivalent credential;

(II) Is enrolled in an institution or program that provides post-secondary

or vocational education;

(III) Is participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) Is employed for at least 80 hours per month; or

(V) Is incapable of doing any of the activities described in sub-subparagraphs (I) to (IV) of this sub-subparagraph due to a medical condition, which incapability is supported by regularly updated documentation.

(b) “Nonrecurring adoption or guardianship expenses” means reasonable and necessary adoption or guardianship fees, court costs, attorney fees and other expenses that are directly related to the adoption of, or establishment of a guardianship for, a child with special needs and that are not incurred in violation of state or federal law.

(2) The department may make payments to adoptive parents or guardians on behalf of a child placed for adoption or establishment of a guardianship by the department, or placed for adoption by an approved child-caring agency, **as defined in ORS 418.205**, when the department determines:

(a) The child has special needs because of an impediment to adoptive placement or establishment of a guardianship by reason of the child’s physical or mental condition, race, age, or membership in a sibling group; or

(b) The adoptive family or guardian is capable of providing the permanent family relationships needed by the child in all respects other than financial, and the needs of the child are beyond the economic ability and resources of the family.

(3) Payments to subsidize adoptions or guardianships made under subsection (2) of this section:

(a) Shall include payment of nonrecurring adoption or guardianship expenses incurred by or on behalf of adoptive parents or guardians in connection with the adoption of, or establishment of a guardianship for, a child with special needs;

(b) May include, but are not limited to, the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and

education of the child;

(c) May not exceed the cost of providing comparable assistance in foster care; and

(d) May not be made:

(A) For a child who has not attained 18 years of age, when the adoptive parents or guardians are no longer legally responsible for the support of the child; or

(B) When the child is no longer receiving any support from the adoptive parents or guardians.

(4) Adoptive parents or guardians receiving payments under subsection (2) of this section shall inform the department of circumstances that would make the adoptive parents or guardians:

(a) Ineligible to receive the payments; or

(b) Eligible to receive the payments in a different amount.

**SECTION 22.** 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] **418.205**.

(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 pre-

1 vented from leaving by any means.

2 (b) "Involuntary seclusion" does not include age-appropriate discipline,  
3 including, but not limited to, time-out if the time-out is in a setting from  
4 which the child in care is not prevented from leaving by any means.

5 (8) "Mechanical restraint" means a device used to restrict the movement  
6 of a child in care or the movement or normal function of a portion of the  
7 body of a child in care.

8 (9) "Proctor foster home" means a foster home certified by a child-caring  
9 agency under ORS 418.248.

10 (10) "Program" means:

11 (a) A child-caring agency;

12 (b) A proctor foster home; or

13 (c) A developmental disabilities residential facility that is a residential  
14 training home or facility licensed under ORS 443.415 to serve children under  
15 18 years of age.

16 (11) "Prone restraint" means a restraint in which a child in care is held  
17 face down on the floor.

18 (12) "Reportable injury" means any type of injury to a child in care, in-  
19 cluding but not limited to rug burns, fractures, sprains, bruising, pain, soft  
20 tissue injury, punctures, scratches, concussions, abrasions, dizziness, loss of  
21 consciousness, loss of vision, visual disturbance or death.

22 (13) "Restraint" means the physical restriction of a child in care's actions  
23 or movements by holding the child in care or using pressure or other means.

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

29 (15) "Secure children's inpatient treatment program" means a child-caring  
30 agency that is an intensive treatment services program, as described by the  
31 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 23.** ORS 418.625 is amended to read:

418.625. As used in ORS 418.625 to 418.645:

(1) “Certificate” means a written approval to operate a foster home issued by the Department of Human Services on a form prescribed by the department that states the name of the foster parent, the address of the premises to which the certificate applies and the maximum number of children to be maintained or boarded in the foster home at any one time.

(2) “Department” means the Department of Human Services.

(3)(a) “Foster home” means any home maintained by a person who has under the care of the person in the home any child under the age of 21 years unattended by the child’s parent or guardian, for the purpose of providing the child with care, food and lodging[, *but does not include:*].

**(b) “Foster home” does not include:**

[(a)] (A) Any boarding school that is essentially and primarily engaged in educational work;

[(b)] (B) Any home in which a child is provided board and room by a school board;

[(c)] (C) Any foster home under the direct supervision of a child-caring agency or institution certified by the department;

[(d)] (D) Any home under the direct supervision of a custodial parent for the purpose of providing respite care as defined by rule;

[(e)] (E) Any developmental disability child foster home as defined in ORS 443.830; or

[(f)] (F) Any home of a provider of respite services, as defined in ORS

[418.205] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056.

**SECTION 24.** ORS 419B.005 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 that has been caused by other than accidental means, including any injury that appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only 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) 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;**

**[(i)] (ii) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163[, and]; or**

**(iii)(I) Any other conduct that 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 that] a performance to be observed, photographed, filmed, tape recorded or otherwise exhibited, if the performance, 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*].

**(II) As used in this sub-subparagraph, “conduct” does not include** any conduct that is part of any investigation conducted pursuant to ORS 419B.020 or that 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.

(K) The restraint or seclusion of a child in violation of ORS 339.285, 339.288, 339.291, 339.303 or 339.308.

(L) The infliction of corporal punishment on a child in violation of ORS 339.250 (9).

(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 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 associate 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, 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) Court appointed special advocate, as defined in ORS 419A.004.

(r) Child care provider registered or certified under ORS 329A.250 to 329A.450.

(s) 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) Operator of a preschool recorded program under ORS 329A.255.

(z) 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] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) 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) 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) Individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized 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 by the Health Licensing Office under ORS 676.815.

(LL) Massage therapist, as defined in ORS 687.011.

**SECTION 25.** ORS 419B.005, as amended by section 6, chapter 581, Oregon Laws 2023, section 65, chapter 73, Oregon Laws 2024, and section 10, chapter 308, Oregon Laws 2025, 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 that has been caused by other than accidental means, including any injury that appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only 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) 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;**

**[(i)] (ii) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163[, and]; or**

**(iii)(I) Any other conduct that 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 that] a performance to be observed, photographed, filmed, tape recorded or otherwise exhibited, if the performance, 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].**

(II) As used in this sub-subparagraph, “conduct” does not include any conduct that is part of any investigation conducted pursuant to ORS 419B.020 or that 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.

(K) The infliction of corporal punishment on a child in violation of ORS 339.250 (9).

(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 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 associate 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, 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) Court appointed special advocate, as defined in ORS 419A.004.

(r) Child care provider registered or certified under ORS 329A.250 to 329A.450.

(s) 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) Operator of a preschool recorded program under ORS 329A.255.

(z) 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] **418.215 (2)(b)**, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) 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) 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) Individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized 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 by the Health Licensing Office under ORS 676.815.

(LL) Massage therapist, as defined in ORS 687.011.

**SECTION 26.** ORS 419C.620 is amended to read:

419C.620. (1) When required by the court, the Oregon Youth Authority or a private agency having guardianship or legal custody of an adjudicated youth pursuant to court order shall file reports on the adjudicated youth with the juvenile court that entered the original order concerning the adjudicated youth.

(2) A county juvenile department shall file a report with the juvenile court under this section if an adjudicated youth remains under juvenile de-



partment care for six consecutive months from the date of initial placement and:

(a) The county juvenile department is a county program, as defined in ORS [418.205] **418.215**;

(b) The county juvenile department is participating in programs related to Title IV-E of the Social Security Act;

(c) The county juvenile department has responsibility for the care and placement of the adjudicated youth; and

(d) The placement is not a detention facility.

**SECTION 27.** ORS 704.023 is amended to read:

704.023. In addition to meeting the requirements in ORS 704.020, any person who provides outfitting and guiding services for outdoor youth programs, as defined in ORS [418.205] **418.246**, shall furnish proof of a current child-caring agency license for outdoor youth programs from the Department of Human Services prior to being registered as an outfitter and guide.

## MISCELLANEOUS

**SECTION 28.** The unit captions used in this 2026 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2026 Act.

**SECTION 29.** This 2026 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect on its passage.