

# DRAFT

## SUMMARY

Digest: The Act makes changes to laws about long term care facilities and persons who provide I/DD services. The Act modifies laws about out-of-state placements of children in care and when DHS can find that a person abused a child in care. (Flesch Readability Score: 64.6).

Adds requirements for imposing a condition on the license of a residential care facility or long term care facility in response to a preliminary finding or substantiated finding of immediate jeopardy.

Directs the Department of Human Services to adopt a model consent form for the use of a video camera or other electronic monitoring device in a resident's room at a residential care facility.

Requires the department and the Oregon Health Authority to achieve full compliance with certain provisions of chapter 619, Oregon Laws 2025, no later than January 1, 2027.

Requires the department to adopt a differentiated rate model for providers of attendant care services who reside with their clients.

Creates exceptions to certain child placement limitations.

Modifies certain provisions regarding the use of restraints on children in care.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

Relating to services for vulnerable persons; creating new provisions; amending ORS 418.205, 418.321, 418.322, 419B.351, 427.024, 430.216 and 441.736; and declaring an emergency.

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

## RESIDENTIAL AND LONG TERM CARE

**SECTION 1.** ORS 441.736 is amended to read:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

441.736. (1) As used in this section:

(a) “Immediate jeopardy” means a situation in which the failure of a residential care facility or a long term care facility to comply with a rule of the Department of Human Services has caused or is likely to cause serious injury, serious harm, serious impairment or death to a resident.

(b) “License condition” includes but is not limited to:

(A) Restricting the total number of residents;

(B) Restricting the number and impairment level of residents based upon the capacity of the licensee and staff to meet the health and safety needs of all residents;

(C) Requiring additional staff or staff qualifications;

(D) Requiring additional training for staff;

(E) Requiring additional documentation; or

(F) Restriction of admissions.

**(c) “Preliminary finding” means an objective finding based on the available evidence at the time that the department conducts an initial investigation.**

~~[(c)]~~ **(d)** “Substantial compliance” means a level of compliance with state law and with rules of the department such that any identified deficiencies pose a risk of no more than negligible harm to the health or safety of residents of a residential care facility or a long term care facility.

~~(2)(a)(A) [The department may impose a condition on the license of a residential care facility or long term care facility in response to a substantiated finding of rule violation, including but not limited to a substantiated finding of abuse, and shall impose a condition on the license in response to a finding of immediate jeopardy, whether or not the finding of immediate jeopardy is substantiated at the time the license condition is imposed.]~~ **The department may impose a condition on the license of a residential care facility or long term care facility in response to a substantiated finding of rule violation, including but not limited to a substantiated finding of abuse.**

**(B) The department shall impose a condition on the license of a**

**residential care facility or long term care facility in response to a preliminary finding or substantiated finding of immediate jeopardy. If the department imposes a license condition based on a preliminary finding of immediate jeopardy and the preliminary finding is not substantiated within 30 days after the imposition of the license condition, the department shall immediately notify the facility and remove the license condition.**

(b) The department shall impose a license condition in a scope and manner that is specifically designed to remediate the finding that led to the license condition.

*[(c) If the department imposes a license condition in response to a finding of immediate jeopardy to residents of the facility, and the finding of immediate jeopardy to residents of the facility is not substantiated within 30 days after the imposition of the license condition, the department shall immediately remove the license condition.]*

~~[(d)(A)]~~ **(c)(A)** Except as provided in subparagraph (B) of this paragraph, the department shall provide a facility with a notice of impending imposition of license condition at least 48 hours before issuing an order imposing a license condition. The notice must:

(i) Describe the acts or omissions of the facility and the circumstances that led to the substantiated finding of rule violation or finding of immediate jeopardy supporting the imposition of the license condition;

(ii) Describe why the acts or omissions and the circumstances create a situation for which the imposition of a license condition is warranted;

(iii) Provide a brief statement identifying the nature of the license condition;

(iv) Provide a brief statement describing how the license condition is designed to remediate the circumstances that led to the license condition; and

(v) Provide a brief statement of the requirements for withdrawal of the license condition.

(B) If the threat to residents of a facility is so imminent that the de-

partment determines it is not safe or practical to give the facility advance notice, the department must provide the notice required under this paragraph within 48 hours of issuing an order imposing the license condition.

[(e)] **(d)(A)** An order imposing a license condition must include:

[(A)] **(i)** A specific description of how the scope and manner of the license condition is designed to remediate the findings that led to the license condition; and

[(B)] **(ii)** A specific description of the requirements for withdrawal of the license condition.

**(B) For a license condition that is imposed in response to a preliminary finding or substantiated finding of immediate jeopardy, the order must also include a summary of the evidence demonstrating that:**

**(i) The facility has failed to meet, or based on an initial investigation is reasonably likely to be found not to have met, one or more health, safety or quality rules or regulations;**

**(ii) As a result of the facility's noncompliance with one or more health, safety or quality rules or regulations, serious injury, serious harm, serious impairment or death has occurred or is likely to occur if the noncompliance is not corrected; and**

**(iii) Immediate corrective action by the facility is necessary to prevent serious injury, serious harm, serious impairment or death from occurring or recurring.**

(3) The department may impose a license condition that includes a restriction on admissions to the facility only if the department makes a finding of immediate jeopardy that is likely to present an immediate jeopardy to future residents upon admission.

(4)(a) Following the imposition of a license condition on a facility, the department shall:

(A) Within 15 business days of receipt of the facility's written assertion of substantial compliance with the requirements set forth by the department

for withdrawal of the license condition, reinspect or reevaluate the facility to determine whether the facility has achieved substantial compliance with the requirements;

(B) Notify the facility by telephone or electronic means of the findings of the reinspection or reevaluation within five business days after completion of the reinspection or reevaluation; and

(C) Issue a written report to the facility within 30 days after the reinspection or reevaluation notifying the facility of the department's determinations regarding substantial compliance with the requirements necessary for withdrawal of the license condition.

(b) If the department finds that the facility has achieved substantial compliance regarding the violation for which the license condition was imposed, and finds that systems are in place to ensure similar deficiencies do not reoccur, the department shall withdraw the license condition.

(c) If after reinspection or reevaluation the department determines that the violation for which the license condition was imposed continues to exist, the department may not withdraw the license condition, and the department is not obligated to reinspect or reevaluate the facility again for 45 days after the first reinspection or reevaluation. The department shall provide the decision not to withdraw the license condition to the facility in writing and inform the facility of the right to a contested case hearing pursuant to ORS chapter 183. Nothing in this paragraph limits the department's authority to visit or inspect the facility at any time.

(d) If the department does not meet the requirements of this subsection, a license condition is automatically removed on the date the department failed to meet the requirements of this subsection, unless the Director of Human Services extends the applicable period for no more than 15 business days. The director may not delegate the power to make a determination regarding an extension under this paragraph.

**SECTION 2. (1) As used in this section, "residential care facility" means a residential care facility as defined in ORS 443.400, including**

an assisted living facility and a facility with a memory care endorsement under ORS 443.886.

(2) The Department of Human Services shall adopt by rule a model consent form for the use of a video camera or other electronic monitoring device in a resident's room at a residential care facility.

**SECTION 3.** (1) Notwithstanding ORS 443.415, 443.416, 443.436, 443.441, 443.443, 443.735, 443.755 and 443.886, the Department of Human Services and the Oregon Health Authority may take reasonable steps to achieve substantial compliance with the terms of ORS 443.415, 443.416, 443.436, 443.441, 443.443, 443.735, 443.755 and 443.886, as those sections are amended by sections 1, 7, 8, 10 to 13 and 15, chapter 619, Oregon Laws 2025, on or before January 1, 2027.

(2) The department and the authority shall comply fully with the terms of ORS 443.415, 443.416, 443.436, 443.441, 443.443, 443.735, 443.755 and 443.886, as those sections are amended by sections 1, 7, 8, 10 to 13 and 15, chapter 619, Oregon Laws 2025, no later than January 1, 2027.

## DEVELOPMENTAL DISABILITIES SERVICES

**SECTION 4.** ORS 430.216 is amended to read:

430.216. (1) The Department of Human Services shall report to each odd-numbered year regular session of the Legislative Assembly:

(a) On the safety of individuals receiving developmental disability services including, but not limited to:

*[(A) The average turnover of direct care workers in service settings.]*

*[(B) A summary of the training provided by the department or its contractors to direct care workers in service settings.]*

*[(C) A summary of the core competencies required of direct care workers in service settings by the state for licensing or certification.]*

*[(D) A summary of the average wages of direct care workers in service settings, presented by type of services provided.]*

1 [(E)] (A) The number of complaints of abuse filed as required by ORS  
2 430.765 and received by the department under ORS 430.743, reported by type  
3 of allegation.

4 [(F)] (B) The number of direct care workers in service settings who were  
5 subject to criminal or civil action involving an individual with a develop-  
6 mental disability.

7 [(G)] (C) The number of deaths, serious injuries, sexual assaults and rapes  
8 alleged to have occurred in service settings.

9 (b) A schedule of all license fees and civil penalties established by the  
10 department by rule pursuant to ORS 443.455 and 443.790.

11 (2) The department shall provide the report described in subsection (1)(a)  
12 of this section to the appropriate legislative committees, the Oregon Council  
13 on Developmental Disabilities and to the agency designated to administer the  
14 state protection and advocacy system under ORS 192.517.

15 (3) As used in this section, “service settings” means any of the following  
16 that provide developmental disability services:

17 (a) An adult foster home as defined in ORS 443.705;

18 (b) A residential facility as defined in ORS 443.400;

19 (c) A location where home health services, as defined in ORS 443.014, are  
20 received by a resident;

21 (d) A location where in-home care services, as defined in ORS 443.305, are  
22 received by a resident; and

23 (e) A domiciliary care facility as defined in ORS 443.205.

24 **SECTION 5.** ORS 427.024 is amended to read:

25 427.024. (1) **As used in this section:**

26 (a) **“Attendant care services” has the meaning given that term in**  
27 **ORS 427.191.**

28 (b) **“Provider of community-based services” includes any licensed,**  
29 **certified or endorsed agency, company or organization that hires, em-**  
30 **ploy, trains, pays or supervises individuals who provide attendant**  
31 **care services to clients of the agency, company or organization.**

1     ~~[(1)]~~ **(2)** The Department of Human Services shall adopt rules to ensure  
 2     fiscal transparency in the provision of community-based services to individ-  
 3     uals with intellectual or developmental disabilities and to ensure individuals  
 4     with intellectual or developmental disabilities receive high quality services  
 5     from providers that are licensed, certified or endorsed by the department to  
 6     provide community-based services. At a minimum, the rules must establish,  
 7     for providers of community-based services to individuals with intellectual or  
 8     developmental disabilities:

9     (a) Requirements to annually submit staffing data to a reporting survey  
 10    organization specified by the department;

11    (b) Requirements to submit an annual report to the department that in-  
 12    cludes:

13      (A) A disclosure of executive compensation and benefits;

14      (B) A disclosure of starting, average and highest wages for direct support  
 15    professionals that are employed by, under contract with or otherwise engaged  
 16    with the provider to deliver community-based services to individuals with  
 17    intellectual or developmental disabilities;

18      (C) A disclosure of the provider's overhead expenses and expenditures;  
 19    and

20      (D) Any other fiscal matters prescribed by the department;

21    (c) Requirements to ensure that wages and health benefits paid to direct  
 22    support professionals delivering community-based supports reflect any in-  
 23    crease in rates approved by the Legislative Assembly for the purpose of im-  
 24    proving wages and health benefits;

25    (d) Criteria for conditions under which a provider may be prohibited from  
 26    applying for a license, certificate or endorsement;

27    (e) Criteria for the inclusion of information about the organizational  
 28    history of an applicant for a new license, certification or endorsement, not  
 29    to exceed the 10 previous years; and

30    (f) A process for the consideration of the regulatory and safety compliance  
 31    and operational experience of all providers in this state or in any other ju-



1 jurisdiction when issuing an initial license, certification or endorsement or  
2 renewing a license, certification or endorsement.

3 [(2)] (3) Rules adopted by the department must, to the greatest extent  
4 practicable, consolidate new reporting requirements with existing reporting  
5 requirements to avoid the need for providers to make duplicative reports of  
6 the same information.

7 **SECTION 6. (1) As used in this section:**

8 (a) “Agency” means an organization that hires, trains and super-  
9 vises providers of attendant care services using state funds received  
10 from the Department of Human Services.

11 (b) “Attendant care services” has the meaning given that term in  
12 ORS 427.191.

13 (2) In setting rates for providers of attendant care services who  
14 serve clients with intellectual or developmental disabilities, the De-  
15 partment of Human Services shall adopt a differentiated rate model  
16 for providers who reside with their clients. The differentiated rate  
17 model adopted under this section:

18 (a) Shall, for a provider employed by an agency, reflect the reduced  
19 overhead costs to the agency as a result of the provider residing with  
20 the client;

21 (b) May not reduce the hours of service for which the provider’s  
22 client is eligible; and

23 (c) May not reduce the wages of the provider.  
24

25 **PLACEMENT DECISIONS**  
26

27 **SECTION 7. Sections 8 to 10 of this 2026 Act are added to and made**  
28 **a part of ORS 418.205 to 418.327.**

29 **SECTION 8. Out-of-state placement exceptions.** (1) Notwithstanding  
30 ORS 418.321, if there is reason to know, as described in ORS 419B.636,  
31 that a child is an Indian child, the Department of Human Services

1 may place the child in an out-of-state placement without requiring the  
2 placement to be licensed by or under a contract described in ORS  
3 418.321 with the department if:

4 (a) The placement complies with the placement preferences under  
5 ORS 419B.654;

6 (b) The placement is operated by an Indian organization or is li-  
7 censed, approved or certified through the process established by the  
8 child's tribe; and

9 (c)(A) The placement is affirmatively requested by the child's tribe;  
10 or

11 (B) The department has consulted with the child's tribe regarding  
12 the placement and the tribe does not object to the placement.

13 (2) ORS 418.321 does not apply to the department's placement of a  
14 child in an out-of-state child-caring agency if:

15 (a) The placement is for the purpose of placing the child or ward  
16 in a relative foster home or pre-adoptive family placement that has  
17 been selected and approved by the department;

18 (b) The department retains the sole authority to approve the foster  
19 care or pre-adoptive placement of the child;

20 (c) The child is not placed in a congregate care residential setting,  
21 as defined in ORS 418.322; and

22 (d) The placement complies with the requirements of the Interstate  
23 Compact on the Placement of Children.

24 SECTION 9. Access to out-of-state eating disorder program. (1)  
25 Except as provided in subsection (3) of this section, ORS 418.321 does  
26 not apply to the Department of Human Services' admission of a child  
27 in an out-of-state inpatient or residential eating disorder treatment  
28 program if:

29 (a) The child is diagnosed with an eating disorder;

30 (b) The child's treating provider is not employed by or contracted  
31 with by the department;

1 (c) The child's treating provider determines that the child requires  
2 admission to an inpatient or residential eating disorder treatment  
3 program because the child's needs related to the eating disorder can-  
4 not be met on an outpatient or partial hospitalization basis;

5 (d) No suitable inpatient or residential eating disorder treatment  
6 program is available in this state;

7 (e) The Oregon Health Authority has enrolled the inpatient or res-  
8 idential eating disorder treatment program as a provider in the state  
9 medical assistance program;

10 (f) The inpatient or residential eating disorder treatment program  
11 is regulated and in good standing with the authority and any entity  
12 regulating child-caring agencies in the state in which the facility is  
13 located;

14 (g) The inpatient or residential eating disorder treatment program  
15 provides on-site nursing services 24 hours per day, seven days per  
16 week;

17 (h) The responsible Medicaid entity has approved the services and  
18 treatment to be provided to the child;

19 (i) The child's admission to the inpatient or residential eating dis-  
20 order treatment program is approved by the court prior to the child  
21 leaving this state or, if the time it would take for the court to approve  
22 the admission would threaten the child's life, the child's admission is  
23 approved by the court as soon as practicable after the child leaves this  
24 state; and

25 (j) The admission has been approved by the director of the division  
26 of the department that administers the state child welfare program  
27 or the director's designee and by the director of the division of the  
28 authority that administers the state medical assistance program or the  
29 director's designee.

30 (2) When a child has been admitted for treatment to an out-of-state  
31 inpatient or residential eating disorder treatment program under this

section:

(a) A Department of Human Services employee must make an in-person visit to the program and certify the program as substantially compliant with the licensing requirements for child-caring agencies that would apply if the program was providing services in this state;

(b) A department employee who is familiar to the child shall visit the child in person at least twice per month while the child is admitted to the program;

(c) The child's caseworker or the caseworker's supervisor shall have weekly contact with the child, either by telephone, in person or through an electronic platform; and

(d) The department shall provide necessary supports to the child's family or foster family to participate in the child's treatment, including through the purchase of transportation or lodging, as appropriate.

(3) The department may place a child in an out-of-state inpatient or residential eating disorder treatment program as described in this section only if the program has agreed, by entering into a contract with the department, to comply with, at a minimum, all of the requirements described in ORS 418.321 (3)(b)(C) to (G) and (K) to (O).

(4) ORS 418.215 (2) does not apply to an out-of-state inpatient or residential eating disorder treatment program into which a child is admitted under this section.

**SECTION 10. Accompaniment of child in care in an out-of-state placement.** (1) If the Department of Human Services places a child in an out-of-state child-caring agency, a department child welfare services employee must accompany the child when the child is transported to the initial out-of-state placement, any time the child is moved to a new placement and any time the child is moved by secure transport.

(2) Notwithstanding subsection (1) of this section, if a child placed in an out-of-state child-caring agency requires secure transport from

an out-of-state location due to an emergency, a department child welfare services employee is not required to accompany the child if the time it would take for the employee to travel to the child's out-of-state location would pose a risk to the health, safety or welfare of the child. If a department child welfare services employee does not accompany a child transported to an alternate out-of-state placement, as provided in this subsection, the child welfare services employee must immediately travel to meet the child at the new out-of-state facility.

(3) As used in this section, "out-of-state child-caring agency" has the meaning given that term in ORS 418.321.

**SECTION 11.** ORS 418.321 is amended to read:

418.321. (1) **Except as provided in section 8 of this 2026 Act, and** subject to ORS 418.322, the Department of Human Services may place a child in an out-of-state child-caring agency only if:

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

(b) The department has a current contract with the [*child-caring*] agency; and

(c) The department's contract with the [*child-caring*] agency meets the [*criteria*] **requirements** under subsection (3) of this section.

(2) **If an out-of-state child-caring agency is required to be licensed by the department under this section:**

(a) The department shall license [*an out-of-state child-caring*] **the** agency pursuant to the same licensure requirements the department would impose if the [*out-of-state child-caring*] agency was located in this state.

(b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Placement of Children and ORS 417.230, the department may not delegate the department's licensing, visitation, inspection, investigation or supervision of [*an out-of-state child-caring agency licensed by the department to provide care or services to an Oregon child*] **the agency**.

1       (3) **If the department is required under this section to have a con-**  
2 **tract with an out-of-state child-caring agency:**

3       (a) The department shall review the [*department's contract with an out-*  
4 *of-state child-caring agency prior to placing a child with the child-caring*  
5 *agency*] **contract prior to placing a child with the agency.**

6       (b) The contract must, at a minimum, meet the following [*criteria*] **re-**  
7 **quirements:**

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

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

16       (C) The [*child-caring*] agency must make mandatory reports of child  
17 abuse, as defined in ORS 418.257 and 419B.005, involving Oregon children  
18 both to the centralized child abuse reporting system described in ORS 418.190  
19 and as required under the laws of the state in which the [*child-caring*]  
20 agency is located.

21       (D) The [*child-caring*] agency must allow the department full access to the  
22 [*child-caring*] agency's facilities, residents, records and personnel as neces-  
23 sary for the department to conduct child abuse investigations and licensing  
24 activities or investigations.

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

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

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

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

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

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

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

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

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

30 (K) The [child-caring] agency may not practice conversion therapy, as  
31 defined in ORS 675.850.

(L) The [*child-caring*] agency must identify a child by the child's preferred name and pronouns and may not implement a dress code that prohibits or requires clothing on the basis of biological sex.

(M) Genetic testing, including testing for psychopharmacological purposes, must be approved by a court and may not be included as a standing order for a child in care.

(N) Neither the [*child-caring*] agency nor its contractors or volunteers may use chemical or mechanical restraints on a child, including during secure transport.

(O) The [*child-caring*] agency must ensure that the use of any psychotropic medications for a child placed with the [*child-caring*] agency by the department is in compliance with ORS 418.517 and any rules regarding psychotropic medications adopted by the department.

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

(a) Identify a process for expediting review of the child's eligibility for developmental disability services.

(b) Require that a multidisciplinary [*review*] team, including administrators in the developmental disability services program, review the placement before the child is placed out-of-state.

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

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

[(5)(a) *A department child welfare services employee must accompany a child who is placed in an out-of-state child-caring agency any time the child is transported to an initial out-of-state placement, any time the child is moved*



*to a new placement and any time the child is moved by secure transport.]*

*[(b) Notwithstanding paragraph (a) of this subsection, if a child placed in an out-of-state child-caring agency requires secure transport from the out-of-state placement due to an emergency, a department child welfare services employee is not required to accompany the child if the time it would take for the employee to travel to the child's out-of-state location would pose a risk to the health, safety or welfare of the child. If a department child welfare services employee does not accompany a child transported to an alternate out-of-state placement, as provided in this paragraph, the child welfare services employee must immediately travel to meet the child at the new out-of-state facility.]*

*[(6)(a)] (5)(a)* As used in this subsection, "juvenile offender" means a person under 18 years of age who has or is alleged to have committed an act that is a violation, or, if done by an adult, would constitute a violation, of a law or ordinance of the United States or a county or city in this state.

(b) Except as provided in paragraph (c) of this subsection, the department may not place a child in an out-of-state child-caring agency if the *[child-caring]* agency provides care to juvenile offenders.

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

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

(B) The *[child-caring]* agency maintains site-specific accreditation from a nationally recognized organization;

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

(D) Prior to the hearing to approve the placement, the court and all parties to the dependency case have been informed of the nature of the services offered by the program and of the population served by the program, and the court, having considered the nature of the services and composition of the facility population and the report of the qualified individual, has found that placement in the facility is the least restrictive setting available to appropriately meet the child's treatment needs.

(6) As used in this section, “out-of-state child-caring agency” means a provider of children’s care or services in a state other than Oregon that would be required to be licensed, certified or otherwise authorized by the department under ORS 418.240 if the provider provided the care or services in this state.

**SECTION 12.** 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) “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

1 meets the standards established by the Department of Human Services by  
2 rule to be considered a child-caring agency;

3 (C) A private residential boarding school;

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

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

7 (c) "Child-caring agency" does not include:

8 (A) Residential facilities or foster care homes certified or licensed by the  
9 Department of Human Services under ORS 443.400 to 443.455, 443.830 and  
10 443.835 for children receiving developmental disability services;

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

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

19 (D) A shelter-care home that is a foster home subject to ORS 418.625 to  
20 418.645;

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

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

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

27 (3) "Child-caring facility" has the meaning given that term in ORS  
28 418.950.

29 (4)(a) "County program" means any county operated program that pro-  
30 vides care or services to children:

31 (A) In the custody of the Department of Human Services or the Oregon

Youth Authority; 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.

(5) “Governmental agency” means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of this state or of a county, municipality or other political subdivision of this state.

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

(7)(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 or affiliated with the Oregon Youth Corps;

(C) Licensed by the Department of Human Services under other authority of the department; or

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

**(8) “Out-of-state child-caring agency” has the meaning given that term in ORS 418.321.**

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

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

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

turbances; or

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

~~[(10)]~~ **(11)** “Proctor foster home” means a foster home certified by a child-caring agency under ORS 418.248 that is not subject to ORS 418.625 to 418.645.

~~[(11)]~~ **(12)** “Provider of care or services for children” means a person, entity or organization that provides care or services to children, regardless of whether the child is in the custody of the Department of Human Services, and that does not otherwise meet the definition of, or requirements for, a child-caring agency. “Provider of care or services for children” includes a proctor foster home certified by a child-caring agency under ORS 418.248.

~~[(12)]~~ **(13)** “Qualified residential treatment program” means a program described in ORS 418.323.

~~[(13)]~~ **(14)** “Shelter-care home” has the meaning given that term in ORS 418.470.

**SECTION 13.** ORS 419B.351 is amended to read:

419B.351. (1) The Department of Human Services shall move the court for approval of a placement no later than 30 days following the date the department placed, or will place, a child or ward in a qualified residential treatment program described in ORS 418.323.

(2)(a) The motion for approval of the placement must include, at a minimum:

(A) The date of the placement;

(B) To the extent practicable, the parties’ placement preferences; and

(C) A copy of the child’s or ward’s independent assessment described in ORS 418.324.

(b) Notwithstanding paragraph (a)(C) of this subsection, if the independent assessment is not completed at the time the department files the motion under subsection (1) of this section, the department may file the motion under this section without the assessment and shall supplement the motion

1 with a copy of the completed assessment immediately following the  
2 department's receipt of the completed assessment.

3 (3) The department shall provide an exact copy of the motion to each of  
4 the parties listed in ORS 419B.875.

5 (4) Upon receipt of a motion under this section, the court shall schedule  
6 a hearing to occur no later than 60 days following the date the child or ward  
7 is placed in the qualified residential treatment program.

8 (5)(a) The court shall enter an order approving or disapproving the  
9 placement and make specific determinations regarding the following:

10 (A) Whether the needs of the child or ward can be met through placement  
11 in a foster family home or in a proctor foster home as defined in ORS  
12 418.205.

13 (B) If the court determines that the needs of the child or ward cannot be  
14 met through placement in a foster family home or proctor foster home,  
15 whether placement of the child or ward in the qualified residential treatment  
16 program:

17 (i) Provides the least restrictive setting to provide the most effective and  
18 appropriate level of care for the child or ward; and

19 (ii) Is consistent with the child's or ward's case plan.

20 (b) In addition to the determinations under paragraph (a) of this sub-  
21 section, if the motion is for approval of the placement of a child or ward in  
22 an out-of-state child-caring agency that serves juvenile offenders, [*as defined*  
23 *in ORS 418.321 (6)*] **as those terms are defined in ORS 418.321**, the court  
24 may not approve the placement unless the court finds that the child or  
25 ward's placement in the out-of-state child-caring agency is the least restric-  
26 tive setting available to meet the child or ward's treatment needs, taking  
27 into consideration all of the following:

28 (A) The nature of the services offered by the child-caring agency;

29 (B) The population served by the child-caring agency;

30 (C) The percentage of the child-caring agency's population that is juvenile  
31 offenders; and

(D) Whether the child-caring agency is required to file a report under the Prison Rape Elimination Act of 2003, 34 U.S.C. 30301 et seq.

(c) The court may receive testimony, reports or other material relating to the child's or ward's mental, physical and social history and prognosis without regard to the competency or relevancy of the testimony, reports or other material under the rules of evidence.

(6) The court shall enter an order under subsection (5) of this section no later than 60 days following the date the child or ward is placed in the qualified residential treatment program.

(7) If the court enters an order disapproving the child's or ward's placement, the department shall move the child or ward to a placement that provides care, supervision and services that are consistent with the court's order no later than 30 days following the date the court enters the order.

**SECTION 14.** 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)] (11).

(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 resi-

dential 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 and the child-caring agency:

(A) Is a residential care facility;

(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.

(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) 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 court.

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

(6) Calculations of the number of days a child or ward is placed in a shelter-care home under subsection (3)(h) of this section or a homeless, runaway or transitional living shelter under subsection (3)(i) of this section exclude the days the child or ward is in the shelter-care home or shelter if the child or ward:

(a) Accessed the shelter-care home or shelter without the support or direction of the department; and

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

(7)(a) Nothing in this section prohibits the Oregon Youth Authority from placing an adjudicated youth committed to its custody in a placement that is not a qualified residential treatment program.

(b) Nothing in this section prohibits the Oregon Youth Authority or a county juvenile department from placing an adjudicated youth or a youth served by the Oregon Youth Authority or the county juvenile department in shelter care or detention under ORS chapter 419C.

## RESTRAINT AND SECLUSION OF CHILDREN IN CARE

1     **SECTION 15. Substantiation exception for lapsed certification.** (1)

2     The Department of Human Services may not substantiate an  
3     allegation of abuse against an individual under ORS 418.259 arising out  
4     of the individual's restraint of a child in care in violation of ORS  
5     418.521 or 418.523 for the sole reason that the individual's certification  
6     issued under ORS 418.529 is not current.

7     (2) As used in this section:

8     (a) "Child in care" has the meaning given that term in ORS 418.257.

9     (b) "Restraint" has the meaning given that term in ORS 418.519.

10  
11                                   **MISCELLANEOUS**

12  
13     **SECTION 16. Captions.** The unit and section captions used in this  
14     2026 Act are provided only for the convenience of the reader and do  
15     not become part of the statutory law of this state or express any leg-  
16     islative intent in the enactment of this 2026 Act.

17     **SECTION 17. Effective date.** This 2026 Act being necessary for the  
18     immediate preservation of the public peace, health and safety, an  
19     emergency is declared to exist, and this 2026 Act takes effect on its  
20     passage.

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