

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4042**

1 On page 1 of the printed A-engrossed bill, line 2, after the first semicolon
2 delete the rest of the line and line 3 and insert “and amending ORS 418.240,
3 418.322 and 418.519.”.

4 Delete lines 6 through 25 and delete pages 2 through 9 and insert:

5

6

“CHILD-CARING AGENCIES

7

8 **“SECTION 1.** ORS 418.240 is amended to read:

9 “418.240. (1) All child-caring agencies shall obtain from the Department
10 of Human Services a license, certificate or other authorization to provide
11 care or services to children under ORS 418.205 to 418.327, 418.470, 418.475 or
12 418.950 to 418.970. The criteria for issuance, renewal, suspension or revoca-
13 tion of, or for placing conditions on, a license, certificate or authorization
14 under this section must:

15 “(a) Be set forth in rules adopted by the department;

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

18 “(c) Include, but are not limited to, the following:

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

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

1 “(C) Sufficient financial backing to ensure effective operations.

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

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

5 “(F) That the child-caring agency is or will be in compliance with the
6 standards of care and treatment established in rules adopted by the depart-
7 ment.

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

11 “(A) The agency ensures child and family rights.

12 “(B) The agency complies with abuse reporting and investigation re-
13 quirements.

14 “(C) The agency engages in and applies appropriate behavior management
15 techniques.

16 “(D) The agency provides adequate furnishings and personal items for
17 children.

18 “(E) The agency provides appropriate food services.

19 “(F) The agency ensures the safety of children.

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

22 “(H) The agency or the agency’s employees or agents have not engaged
23 in financial mismanagement.

24 “(I) The agency fully and timely corrects violations and maintains stan-
25 dards in accordance with any plan of correction imposed by the department.

26 “(J) The agency provides access as required under ORS 418.305 to a child
27 or the agency’s premises to the department or the department’s employees,
28 investigators, court appointed special advocates, attorneys for a child or
29 other authorized persons or entities.

30 “(K) The agency provides the department with true copies of records re-

1 lating to incidents involving the restraint or involuntary seclusion of chil-
2 dren in care as required under ORS 418.526 (2).

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

7 “(c) **The department must take immediate steps to suspend or re-**
8 **voke the license, certificate or other authorization of a child-caring**
9 **agency, if either of the following are found to exist:**

10 “(A) **The agency failed to cooperate fully with any local, state or**
11 **federal regulatory entity’s investigation of the agency or the agency’s**
12 **operations or employees.**

13 “(B) **The agency facilitated the abuse of any child in the agency’s**
14 **care or custody or failed to take reasonable action to remedy, prevent**
15 **or end the abuse of any child in the agency’s care or custody, despite**
16 **having knowledge that abuse of a child in the agency’s care or custody**
17 **was occurring.**

18 “[*(c)*] (d) The department must take immediate steps to suspend, [*or*] re-
19 voke **or place conditions on** the license, certificate or other authorization
20 of a child-caring agency, if any of the following are found to exist:

21 “(A) There has been the death of a child as a result of abuse or neglect
22 on the part of the agency or any of the agency’s employees or agents.

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

27 “[*(C)*] *The agency failed to cooperate fully with any local, state or federal*
28 *regulatory entity’s investigation of the agency or the agency’s operations or*
29 *employees.*]

30 “[*(D)*] (B) The agency failed to provide financial statements as required

1 under ORS 418.255.

2 “(C) **The agency failed to provide reasonable access to a child in the**
3 **agency’s care or custody as required by ORS 418.305.**

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

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

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

22 “(b) Fourteen days before rescinding a notice of intent to suspend or re-
23 voke, the Director of Human Services must provide written notice regarding
24 the intent to rescind to the Governor. The notice of intent to rescind is a
25 public record and open for inspection by any person without order of a court.
26 The notice of intent to rescind must include the following information:

27 “(A) The circumstances that led to the notice of intent to suspend or re-
28 voke;

29 “(B) The actions taken by the child-caring agency, the Department of
30 Human Services, the Attorney General, the Oregon Youth Authority and the

1 Oregon Health Authority in response to the circumstances leading to the
2 notice of intent to suspend or revoke;

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

5 “(D) A complete description of changes that were made at the child-caring
6 agency and the reasons for the determination that the concerns regarding the
7 health and safety of children in the child-caring agency’s care or custody
8 have been ameliorated or that any conditions placed on the license, certifi-
9 cate or other authorization of the child-caring agency have been resolved.

10 “(c) In making a decision to rescind a notice of intent to suspend or re-
11 voke under this subsection, the decision must be based solely on the health
12 and safety of the children served by the child-caring agency. Systemwide
13 capacity of the child welfare system may not be considered as an element
14 of the decision.

15 “(d) For three years after a notice of intent to suspend or revoke is
16 rescinded under this subsection, the child-caring agency must apply for a
17 renewal of the child-caring agency’s license, certificate or other authori-
18 zation on an annual basis.

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

21 “(A) The Governor; and

22 “(B) The committees of the Legislative Assembly relating to child welfare.

23 “(4) The department may immediately place conditions on any license,
24 certificate or authorization issued under this section, including but not lim-
25 ited to placing full or partial restrictions on admission of children, tempo-
26 rary suspension, limitation of operations subject to an intent to revoke and
27 limitation of operations subject to correction of violations as specified in a
28 plan of correction imposed by the department. The department shall imme-
29 diately notify any state or governmental agency or unit that has a contract
30 with the child-caring agency to provide care or services to a child, and the

1 governing board, trustees, owners, managers, operators or other appropriate
2 authorities responsible for the child-caring agency, of conditions placed by
3 the department on the child-caring agency's license, certificate or authori-
4 zation under this section.

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

7 “(6) The department may not charge a fee for inspections leading to de-
8 cisions regarding, and issuance of, licenses, certifications or authorizations
9 under this section, but may impose fees to cover costs of related inspections
10 done for the department by other governmental agencies.

11 “(7) Except as provided in subsection (3) of this section, a license, certif-
12 icate or authorization issued by the department under this section shall be
13 valid for a period of two years, unless suspended or revoked sooner by the
14 department. However, the department at any time may require amendments
15 to an existing license, certificate or authorization to accommodate changes
16 in the factors upon which the issuance was based.

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

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

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

27 “(A) If the agency is being operated without a valid license, certificate
28 or other authorization issued under this section; or

29 “(B) If the agency fails to comply with a plan of correction imposed by
30 the department or to correct conditions not in conformity with standards as

1 set out in an order issued under paragraph (a) of this subsection, within the
2 time specified in the order.

3 “(9) If the director, the director’s designee or the department becomes
4 aware through any means that a child-caring agency, or an owner, operator
5 or employee of a child-caring agency, is the subject of an investigation by
6 another state agency, law enforcement agency or federal agency, the director
7 or director’s designee shall take immediate steps to cause an investigation
8 to take place into the circumstances surrounding the investigation and
9 whether there is a threat to a child, or whether a child is at risk, at the
10 child-caring agency. Upon determination of the level of threat or risk to
11 children at the agency, the director shall take appropriate steps to protect
12 and ensure the health, safety and welfare of children as necessary under the
13 circumstances. Failure to comply with the requirements of this subsection
14 constitutes grounds for a charge of official misconduct in the second degree
15 under ORS 162.405.

16 “(10) If the Department of Justice or Bureau of Labor and Industries
17 commences an investigation of a child-caring agency or an owner, operator
18 or employee of a child-caring agency, the Department of Justice or Bureau
19 of Labor and Industries shall notify, inform and regularly update the direc-
20 tor, the director’s designee or such other personnel in the Department of
21 Human Services designated to receive such information regarding the inves-
22 tigation. The director and the department shall immediately undertake the
23 responsive action required by subsection (9) of this section upon receiving
24 such notification. Interference with, discouragement of or impediment to the
25 receipt of the notification, information and updates required under this sub-
26 section constitutes official misconduct in the second degree under ORS
27 162.405.

28 “(11) The Department of Human Services shall adopt rules to implement
29 the provisions of this section.

30 **“SECTION 2.** ORS 418.519 is amended to read:

1 “418.519. As used in ORS 418.519 to 418.532:

2 “(1) ‘Certified foster home’ means a foster home subject to ORS 418.625
3 to 418.645.

4 “(2) ‘Chemical restraint’ means a drug or medication that is administered
5 to a child in care to control behavior or restrict freedom of movement.

6 “(3) ‘Child-caring agency’ has the meaning given that term in ORS
7 418.205.

8 “(4) ‘Child in care’ has the meaning given that term in ORS 418.257.

9 “(5) ‘Children’s emergency safety intervention specialist’ means a quali-
10 fied mental health professional licensed to order, monitor and evaluate the
11 use of seclusion and restraint in accredited and certified facilities that pro-
12 vide intensive mental health treatment services to individuals under 21 years
13 of age.

14 “(6) ‘Developmental disabilities residential facility’ has the meaning given
15 that term in ORS 418.257.

16 “(7)(a) ‘Involuntary seclusion’ means the confinement of a child in care
17 alone in a room or an enclosed space from which the child in care is pre-
18 vented from leaving by any means.

19 “(b) ‘Involuntary seclusion’ does not include age-appropriate discipline,
20 including, but not limited to, time-out if the time-out is in a setting from
21 which the child in care is not prevented from leaving by any means.

22 “(8)(a) ‘Mechanical restraint’ means a device used to restrict the move-
23 ment of a child in care or the movement or normal function of a portion of
24 the body of a child in care.

25 “(b) **‘Mechanical restraint’ does not include a vehicle safety re-**
26 **straint when used as intended during the transport of a child in care**
27 **in a moving vehicle.**

28 “(9) ‘Proctor foster home’ means a foster home certified by a child-caring
29 agency under ORS 418.248.

30 “(10) ‘Program’ means:

1 “(a) A child-caring agency;

2 “(b) A proctor foster home; or

3 “(c) A developmental disabilities residential facility that is a residential
4 training home or facility licensed under ORS 443.415 to serve children under
5 18 years of age.

6 “(11) ‘Prone restraint’ means a restraint in which a child in care is held
7 face down on the floor.

8 “(12) ‘Reportable injury’ means any type of injury to a child in care, in-
9 cluding but not limited to rug burns, fractures, sprains, bruising, pain, soft
10 tissue injury, punctures, scratches, concussions, abrasions, dizziness, loss of
11 consciousness, loss of vision, visual disturbance or death.

12 “(13) ‘Restraint’ means the physical restriction of a child in care’s actions
13 or movements by holding the child in care or using pressure or other means.

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

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

24 “(16) ‘Serious bodily injury’ means any significant impairment of the
25 physical condition of an individual, as determined by qualified medical per-
26 sonnel, whether self-inflicted or inflicted by someone else.

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

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“PLACEMENT DECISIONS

1 **“SECTION 3.** ORS 418.322 is amended to read:

2 “418.322. (1) As used in this section:

3 “(a) ‘Congregate care residential setting’ means any setting that cares for
4 more than one child or ward and is not a setting described in ORS 418.205
5 (2)(c)(A), (D), (E) or (F) or (10).

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

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

14 “(a) A child-caring agency, as defined in ORS 418.205, a hospital, as de-
15 fined in ORS 442.015, or a rural hospital, as defined in ORS 442.470; and

16 “(b) A qualified residential treatment program described in ORS 418.323.

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

20 “(a) The child-caring agency is providing prenatal, postpartum or parent-
21 ing supports to the child or ward.

22 “(b) The child or ward is placed in an independent residence facility de-
23 scribed in ORS 418.475 that is licensed by the department as a child-caring
24 agency.

25 “(c) The child or ward is, or is at risk of becoming, a victim of sex traf-
26 ficking and the child-caring agency is providing high-quality residential care
27 and supportive services to the child or ward.

28 “(d) The Oregon Health Authority has [*approved the placement as med-*
29 *ically necessary*] **determined that the provision of the services or treat-**
30 **ment in a residential setting is medically appropriate and medically**

1 **necessary** and the child-caring agency:

2 “(A) Is a [*residential care*] **psychiatric residential treatment** facility;

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

6 “(C) Has an active provider agreement with the Oregon Medicaid pro-
7 gram.

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

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

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

17 “(h) The child-caring agency is a shelter-care home, as defined in ORS
18 418.470, that provides short-term assessment and stabilization services.

19 “(i) The child-caring agency is a homeless, runaway or transitional living
20 shelter licensed by the department that provides short-term assessment and
21 stabilization services.

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

25 “(4) The department may not place a child or ward in a residential care
26 facility or shelter-care home described in subsection (3)(g) or (h) of this sec-
27 tion:

28 “(a) For more than 60 consecutive days or 90 cumulative days in a
29 12-month period; or

30 “(b) If the residential care facility or shelter-care home also serves youths

1 or adjudicated youths served by the county juvenile department or adjudi-
2 cated youths committed to the custody of the Oregon Youth Authority by the
3 court.

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

7 “(6) Calculations of the number of days a child or ward is placed in a
8 shelter-care home under subsection (3)(h) of this section or a homeless, run-
9 away or transitional living shelter under subsection (3)(i) of this section ex-
10 clude the days the child or ward is in the shelter-care home or shelter if the
11 child or ward:

12 “(a) Accessed the shelter-care home or shelter without the support or di-
13 rection of the department; and

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

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

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

22

23

“MISCELLANEOUS

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25 **“SECTION 4. The unit captions used in this 2026 Act are provided**
26 **only for the convenience of the reader and do not become part of the**
27 **statutory law of this state or express any legislative intent in the**
28 **enactment of this 2026 Act.”.**

29