

# Senate Bill 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Department of Human Services)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Human Services and Oregon Health Authority to adopt rules for licensing of each type of adult foster home, including those providing residential care to older adults, persons with physical disabilities, persons with intellectual disabilities and persons with mental illness.

Expands list of mandatory reporters of abuse of individuals with developmental disabilities.

Requires department to adopt criteria for developmental disability and intellectual disability.

Authorizes department to impose civil penalties in programs administered by department.

Changes name of Department of Human Services Volunteer Program Donated Fund Account and modifies purposes for which moneys in account may be used.

## A BILL FOR AN ACT

1  
2 Relating to human services; creating new provisions; and amending ORS 409.365, 419B.005, 427.005  
3 and 430.735.

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

## ADULT FOSTER HOME LICENSE CLASSIFICATIONS

5  
6  
7  
8 **SECTION 1.** Section 2 of this 2019 Act is added to and made a part of ORS 443.705 to  
9 443.825.

10 **SECTION 2.** Consistent with the requirements of ORS 443.705 to 443.825:

11 (1) The Department of Human Services shall adopt:

12 (a) Rules for the licensing of adult foster homes that provide residential care to older  
13 adults;

14 (b) Rules for the licensing of adult foster homes that provide residential care to individ-  
15 uals with physical disabilities; and

16 (c) Rules for the licensing of adult foster homes that provide residential care to individ-  
17 uals with intellectual or developmental disabilities.

18 (2) The Oregon Health Authority shall adopt rules for the licensing of adult foster homes  
19 that provide residential care to individuals with mental illness.

## MANDATORY REPORTERS OF ABUSE OR NEGLECT

20  
21  
22  
23 **SECTION 3.** ORS 419B.005 is amended to read:

24 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

25 (1)(a) "Abuse" means:

26 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child

**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.

1 which has been caused by other than accidental means, including any injury which appears to be  
 2 at variance with the explanation given of the injury.

3 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
 4 of the child’s mental or psychological ability to function caused by cruelty to the child, with due  
 5 regard to the culture of the child.

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

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

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

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

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

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

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

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

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

28 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
 29 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
 30 stantial risk of harm to the child’s health or safety.

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

33 (2) “Child” means an unmarried person who:

34 (a) Is under 18 years of age; or

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

37 (3) “Higher education institution” means:

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

39 (b) A public university listed in ORS 352.002;

40 (c) The Oregon Health and Science University; and

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

42 (4) “Law enforcement agency” means:

43 (a) A city or municipal police department.

44 (b) A county sheriff’s office.

45 (c) The Oregon State Police.

- 1 (d) A police department established by a university under ORS 352.121 or 353.125.
- 2 (e) A county juvenile department.
- 3 (5) "Public or private official" means:
- 4 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 5 including any intern or resident.
- 6 (b) Dentist.
- 7 (c) School employee, including an employee of a higher education institution.
- 8 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 9 or employee of an in-home health service.
- 10 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 11 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
- 12 health department, a community mental health program, a community developmental disabilities
- 13 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
- 14 or an alcohol and drug treatment program.
- 15 (f) Peace officer.
- 16 (g) Psychologist.
- 17 (h) Member of the clergy.
- 18 (i) Regulated social worker.
- 19 (j) Optometrist.
- 20 (k) Chiropractor.
- 21 (L) Certified provider of foster care, or an employee thereof.
- 22 (m) Attorney.
- 23 (n) Licensed professional counselor.
- 24 (o) Licensed marriage and family therapist.
- 25 (p) Firefighter or emergency medical services provider.
- 26 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 27 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 28 (s) Member of the Legislative Assembly.
- 29 (t) Physical, speech or occupational therapist.
- 30 (u) Audiologist.
- 31 (v) Speech-language pathologist.
- 32 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 33 gations or discipline by the commission.
- 34 (x) Pharmacist.
- 35 (y) An operator of a preschool recorded program under ORS 329A.255.
- 36 (z) An operator of a school-age recorded program under ORS 329A.257.
- 37 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 38 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 39 109.056.
- 40 (bb) Employee of a public or private organization providing child-related services or activities:
- 41 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 42 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 43 vision or auspices of religious, public or private educational systems or community service organ-
- 44 izations; and
- 45 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide

1 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
 2 ficking.

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

5 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

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

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

10 **SECTION 4.** ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is  
 11 amended to read:

12 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

13 (1)(a) “Abuse” means:

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

17 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
 18 of the child’s mental or psychological ability to function caused by cruelty to the child, with due  
 19 regard to the culture of the child.

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

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

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

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

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

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

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

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

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

42 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
 43 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
 44 stantial risk of harm to the child’s health or safety.

45 (b) “Abuse” does not include reasonable discipline unless the discipline results in one of the

1 conditions described in paragraph (a) of this subsection.

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

3 (a) Is under 18 years of age; or

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

6 (3) "Higher education institution" means:

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

8 (b) A public university listed in ORS 352.002;

9 (c) The Oregon Health and Science University; and

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

11 (4) "Law enforcement agency" means:

12 (a) A city or municipal police department.

13 (b) A county sheriff's office.

14 (c) The Oregon State Police.

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

16 (e) A county juvenile department.

17 (5) "Public or private official" means:

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

20 (b) Dentist.

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

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

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

29 (f) Peace officer.

30 (g) Psychologist.

31 (h) Member of the clergy.

32 (i) Regulated social worker.

33 (j) Optometrist.

34 (k) Chiropractor.

35 (L) Certified provider of foster care, or an employee thereof.

36 (m) Attorney.

37 (n) Licensed professional counselor.

38 (o) Licensed marriage and family therapist.

39 (p) Firefighter or emergency medical services provider.

40 (q) A court appointed special advocate, as defined in ORS 419A.004.

41 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

42 (s) Member of the Legislative Assembly.

43 (t) Physical, speech or occupational therapist.

44 (u) Audiologist.

45 (v) Speech-language pathologist.

1 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
 2 gations or discipline by the commission.

3 (x) Pharmacist.

4 (y) An operator of a preschool recorded program under ORS 329A.255.

5 (z) An operator of a school-age recorded program under ORS 329A.257.

6 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
 7 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
 8 109.056.

9 (bb) Employee of a public or private organization providing child-related services or activities:

10 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day  
 11 camps, survival camps or groups, centers or camps that are operated under the guidance, super-  
 12 vision or auspices of religious, public or private educational systems or community service organ-  
 13 izations; and

14 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
 15 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
 16 ficking.

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

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

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

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

24 **SECTION 5.** ORS 430.735, as amended by section 2, chapter 77, Oregon Laws 2018, is amended  
 25 to read:

26 430.735. As used in ORS 430.735 to 430.765:

27 (1) "Abuse" means one or more of the following:

28 (a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neg-  
 29 lect of duties and obligations owed an adult by a caregiver or other person.

30 (b) Any physical injury to an adult caused by other than accidental means, or that appears to  
 31 be at variance with the explanation given of the injury.

32 (c) Willful infliction of physical pain or injury upon an adult.

33 (d) Sexual abuse.

34 (e) Neglect.

35 (f) Verbal abuse of an adult.

36 (g) Financial exploitation of an adult.

37 (h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the  
 38 adult.

39 (i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of re-  
 40 straint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under  
 41 ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practi-  
 42 tioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with  
 43 an approved treatment plan or in connection with a court order.

44 (j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,  
 45 163.465 or 163.467.

- 1 (k) Any death of an adult caused by other than accidental or natural means.
- 2 (2) "Adult" means a person 18 years of age or older:
- 3 (a) With a developmental disability who is currently receiving services from a community pro-
- 4 gram or facility or who was previously determined eligible for services as an adult by a community
- 5 program or facility;
- 6 (b) With a severe and persistent mental illness who is receiving mental health treatment from
- 7 a community program; or
- 8 (c) Who is receiving services for a substance use disorder or a mental illness in a facility or a
- 9 state hospital.
- 10 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-
- 11 tation of an adult, to prevent self-destructive acts and to safeguard the adult's person, property and
- 12 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to
- 13 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides
- 14 for the greatest degree of independence.
- 15 (4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed re-
- 16 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.
- 17 (5) "Community program" includes:
- 18 (a) A community mental health program or a community developmental disabilities program as
- 19 established in ORS 430.610 to 430.695; or
- 20 (b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide
- 21 mental health treatment in the community.
- 22 (6) "Facility" means a residential treatment home or facility, residential care facility, adult fos-
- 23 ter home, residential training home or facility or crisis respite facility.
- 24 (7) "Financial exploitation" means:
- 25 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an
- 26 adult.
- 27 (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or prop-
- 28 erty of the adult if the adult would reasonably believe that the threat conveyed would be carried
- 29 out.
- 30 (c) Misappropriating, misusing or transferring without authorization any money from any ac-
- 31 count held jointly or singly by an adult.
- 32 (d) Failing to use the income or assets of an adult effectively for the support and maintenance
- 33 of the adult.
- 34 (8) "Intimidation" means compelling or deterring conduct by threat.
- 35 (9) "Law enforcement agency" means:
- 36 (a) Any city or municipal police department;
- 37 (b) A police department established by a university under ORS 352.121 or 353.125;
- 38 (c) Any county sheriff's office;
- 39 (d) The Oregon State Police; or
- 40 (e) Any district attorney.
- 41 (10) "Neglect" means:
- 42 (a) Failure to provide the care, supervision or services necessary to maintain the physical and
- 43 mental health of an adult that may result in physical harm or significant emotional harm to the
- 44 adult;
- 45 (b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or

1 (c) Withholding of services necessary to maintain the health and well-being of an adult that  
 2 leads to physical harm of the adult.

3 (11) "Public or private official" means:

4 (a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505  
 5 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

6 (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an  
 7 in-home health service;

8 (c) Employee of the Department of Human Services, [or] Oregon Health Authority, local health  
 9 department, community mental health program or community developmental disabilities program or  
 10 a private agency contracting with a public body to provide any community mental health service;

11 (d) Peace officer;

12 (e) Member of the clergy;

13 (f) Regulated social worker;

14 (g) Physical, speech or occupational therapist;

15 (h) Information and referral, outreach or crisis worker;

16 (i) Attorney;

17 (j) Licensed professional counselor or licensed marriage and family therapist;

18 (k) Any public official;

19 (L) Firefighter or emergency medical services provider;

20 (m) Member of the Legislative Assembly;

21 (n) Personal support worker, as defined by rule adopted by the Home Care Commission; [or]

22 (o) Home care worker, as defined in ORS 410.600[.]; or

23 **(p) An individual paid by the Department of Human Services to provide a service identi-**  
 24 **fied in an individualized written service plan of an adult with a developmental disability.**

25 (12) "Services" includes but is not limited to the provision of food, clothing, medicine, housing,  
 26 medical services, assistance with bathing or personal hygiene or any other service essential to the  
 27 well-being of an adult.

28 (13)(a) "Sexual abuse" means:

29 (A) Sexual contact with a nonconsenting adult or with an adult considered incapable of con-  
 30 senting to a sexual act under ORS 163.315;

31 (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-  
 32 rial or language;

33 (C) Any sexual contact between an employee of a facility or paid caregiver and an adult served  
 34 by the facility or caregiver;

35 (D) Any sexual contact between an adult and a relative of the adult other than a spouse;

36 (E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

37 (F) Any sexual contact between an individual receiving mental health or substance abuse  
 38 treatment and the individual providing the mental health or substance abuse treatment.

39 (b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid  
 40 caregiver who is the spouse of the adult.

41 (14) "Sexual contact" has the meaning given that term in ORS 163.305.

42 (15) "Verbal abuse" means to threaten significant physical or emotional harm to an adult  
 43 through the use of:

44 (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

45 (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate



1 sexual comments.

2 **SECTION 6.** ORS 430.735, as amended by section 22, chapter 75, Oregon Laws 2018, and section  
 3 2, chapter 77, Oregon Laws 2018, is amended to read:

4 430.735. As used in ORS 430.735 to 430.765:

5 (1) "Abuse" means one or more of the following:

6 (a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neg-  
 7 lect of duties and obligations owed an adult by a caregiver or other person.

8 (b) Any physical injury to an adult caused by other than accidental means, or that appears to  
 9 be at variance with the explanation given of the injury.

10 (c) Willful infliction of physical pain or injury upon an adult.

11 (d) Sexual abuse.

12 (e) Neglect.

13 (f) Verbal abuse of an adult.

14 (g) Financial exploitation of an adult.

15 (h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the  
 16 adult.

17 (i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of re-  
 18 straint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under  
 19 ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practi-  
 20 tioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with  
 21 an approved treatment plan or in connection with a court order.

22 (j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,  
 23 163.465 or 163.467.

24 (k) Any death of an adult caused by other than accidental or natural means.

25 (2) "Adult" means a person 18 years of age or older:

26 (a) With a developmental disability who is currently receiving services from a community pro-  
 27 gram or facility or who was previously determined eligible for services as an adult by a community  
 28 program or facility;

29 (b) With a severe and persistent mental illness who is receiving mental health treatment from  
 30 a community program; or

31 (c) Who is receiving services for a substance use disorder or a mental illness in a facility or a  
 32 state hospital.

33 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-  
 34 tation of an adult, to prevent self-destructive acts and to safeguard the adult's person, property and  
 35 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to  
 36 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides  
 37 for the greatest degree of independence.

38 (4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed re-  
 39 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.

40 (5) "Community program" includes:

41 (a) A community mental health program or a community developmental disabilities program as  
 42 established in ORS 430.610 to 430.695; or

43 (b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide  
 44 mental health treatment in the community.

45 (6) "Facility" means a residential treatment home or facility, residential care facility, adult fos-

1 ter home, residential training home or facility or crisis respite facility.

2 (7) “Financial exploitation” means:

3 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an  
4 adult.

5 (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or prop-  
6 erty of the adult if the adult would reasonably believe that the threat conveyed would be carried  
7 out.

8 (c) Misappropriating, misusing or transferring without authorization any money from any ac-  
9 count held jointly or singly by an adult.

10 (d) Failing to use the income or assets of an adult effectively for the support and maintenance  
11 of the adult.

12 (8) “Intimidation” means compelling or deterring conduct by threat.

13 (9) “Law enforcement agency” means:

14 (a) Any city or municipal police department;

15 (b) A police department established by a university under ORS 352.121 or 353.125;

16 (c) Any county sheriff’s office;

17 (d) The Oregon State Police; or

18 (e) Any district attorney.

19 (10) “Neglect” means:

20 (a) Failure to provide the care, supervision or services necessary to maintain the physical and  
21 mental health of an adult that may result in physical harm or significant emotional harm to the  
22 adult;

23 (b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or

24 (c) Withholding of services necessary to maintain the health and well-being of an adult that  
25 leads to physical harm of the adult.

26 (11) “Public or private official” means:

27 (a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505  
28 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

29 (b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of an  
30 in-home health service;

31 (c) Employee of the Department of Human Services or Oregon Health Authority, local health  
32 department, community mental health program or community developmental disabilities program or  
33 private agency contracting with a public body to provide any community mental health service;

34 (d) Peace officer;

35 (e) Member of the clergy;

36 (f) Regulated social worker;

37 (g) Physical, speech or occupational therapist;

38 (h) Information and referral, outreach or crisis worker;

39 (i) Attorney;

40 (j) Licensed professional counselor or licensed marriage and family therapist;

41 (k) Any public official;

42 (L) Firefighter or emergency medical services provider;

43 (m) Member of the Legislative Assembly;

44 (n) Personal support worker, as defined in ORS 410.600; [or]

45 (o) Home care worker, as defined in ORS 410.600[.]; **or**

1       **(p) An individual paid by the Department of Human Services to provide a service identi-**  
 2 **fied in an individualized written service plan of an adult with a developmental disability.**

3       (12) “Services” includes but is not limited to the provision of food, clothing, medicine, housing,  
 4 medical services, assistance with bathing or personal hygiene or any other service essential to the  
 5 well-being of an adult.

6       (13)(a) “Sexual abuse” means:

7       (A) Sexual contact with a nonconsenting adult or with an adult considered incapable of con-  
 8 senting to a sexual act under ORS 163.315;

9       (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-  
 10 rial or language;

11       (C) Any sexual contact between an employee of a facility or paid caregiver and an adult served  
 12 by the facility or caregiver;

13       (D) Any sexual contact between an adult and a relative of the adult other than a spouse;

14       (E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

15       (F) Any sexual contact between an individual receiving mental health or substance abuse  
 16 treatment and the individual providing the mental health or substance abuse treatment.

17       (b) “Sexual abuse” does not mean consensual sexual contact between an adult and a paid  
 18 caregiver who is the spouse of the adult.

19       (14) “Sexual contact” has the meaning given that term in ORS 163.305.

20       (15) “Verbal abuse” means to threaten significant physical or emotional harm to an adult  
 21 through the use of:

22       (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

23       (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate  
 24 sexual comments.

25  
 26                               **DEVELOPMENTAL DISABILITY PROGRAM DEFINITIONS**

27  
 28       **SECTION 7.** ORS 427.005 is amended to read:

29       427.005. As used in this chapter:

30       (1) “Adaptive behavior” means the effectiveness or degree with which an individual meets the  
 31 standards of personal independence and social responsibility expected for age and cultural group.

32       (2) “Care” means:

33       (a) Supportive services, including, but not limited to, provision of room and board;

34       (b) Supervision;

35       (c) Protection; and

36       (d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or  
 37 recreation.

38       (3) “Community developmental disabilities program director” means the director of an entity  
 39 that provides services described in ORS 430.664 to persons with intellectual disabilities or other  
 40 developmental disabilities.

41       (4) “Developmental disability” means an intellectual disability, autism, cerebral palsy, epilepsy  
 42 or other neurological condition diagnosed by a qualified professional that **meets criteria adopted**  
 43 **by the Department of Human Services.**[.]

44       [(a) *Originates before an individual is 22 years of age, or 18 years of age for an intellectual disa-*  
 45 *bility;*]

1        *[(b) Originates in and directly affects the brain and is expected to continue indefinitely;]*

2        *[(c) Results in a significant impairment in adaptive behavior as measured by a qualified profes-*  
 3 *sional;]*

4        *[(d) Is not attributed primarily to other conditions including, but not limited to, a mental or emo-*  
 5 *tional disorder, sensory impairment, substance abuse, personality disorder, learning disability or at-*  
 6 *tention deficit hyperactivity disorder; and]*

7        *[(e) Requires training and support similar to that required by an individual with an intellectual*  
 8 *disability.]*

9        (5) “Director of the facility” means the person in charge of care, treatment and training pro-  
 10 grams at a facility.

11        (6) “Facility” means a group home, activity center, community mental health clinic or other fa-  
 12 cility or program that the department [*of Human Services*] approves to provide necessary services  
 13 to persons with intellectual disabilities or other developmental disabilities.

14        (7) “Incapacitated” means a person is unable, without assistance, to properly manage or take  
 15 care of personal affairs, including but not limited to financial and medical decision-making, or is  
 16 incapable, without assistance, of self-care.

17        (8) “Independence” means the extent to which persons with intellectual disabilities or other  
 18 developmental disabilities exert control and choice over their own lives.

19        (9) “Integration” means:

20        (a) Use by persons with intellectual disabilities or other developmental disabilities of the same  
 21 community resources that are used by and available to other persons;

22        (b) Participation by persons with intellectual disabilities or other developmental disabilities in  
 23 the same community activities in which persons without disabilities participate, together with reg-  
 24 ular contact with persons without disabilities; and

25        (c) Residence by persons with intellectual disabilities or other developmental disabilities in  
 26 homes or in home-like settings that are in proximity to community resources, together with regular  
 27 contact with persons without disabilities in their community.

28        (10)*[(a)]* “Intellectual disability” means [*significantly subaverage general intellectual functioning,*  
 29 *defined as intelligence quotients under 70]* **an intelligence quotient at 70 or below** as measured by  
 30 a qualified professional and [*existing concurrently with significant impairment in adaptive behavior,*  
 31 *that is manifested before the individual is 18 years of age]* **meeting criteria adopted by the de-**  
 32 **partment by rule.**

33        *[(b) An individual with intelligence quotients of 70 through 75 may be considered to have an in-*  
 34 *tellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and*  
 35 *measured by a qualified professional.]*

36        *[(c) The impairment in adaptive behavior must be directly related to the intellectual disability.]*

37        *[(d) Intellectual disability is synonymous with mental retardation.]*

38        *[(11) “Intellectual functioning” means functioning as assessed by one or more of the individually*  
 39 *administered general intelligence tests developed for the purpose.]*

40        *[(12)]* (11) “Minor” means an unmarried person under 18 years of age.

41        *[(13)]* (12) “Naturopathic physician” has the meaning given the term in ORS 685.010.

42        *[(14)]* (13) “Physician” means a person licensed by the Oregon Medical Board to practice medi-  
 43 cine and surgery.

44        *[(15)]* (14) “Productivity” means regular engagement in income-producing work, [*preferable*]  
 45 **preferably** competitive employment with supports and accommodations to the extent necessary, by

1 a person with an intellectual disability or another developmental disability which is measured  
 2 through improvements in income level, employment status or job advancement or engagement by a  
 3 person with an intellectual disability or another developmental disability in work contributing to a  
 4 household or community.

5 [(16)] (15) "Service coordination" means person-centered planning, case management, procuring,  
 6 coordinating and monitoring of services under an individualized support plan to establish desired  
 7 outcomes, determine needs and identify resources for a person with developmental disabilities and  
 8 advocating for the person.

9 [(17)] "Significantly subaverage" means a score on a test of intellectual functioning that is two or  
 10 more standard deviations below the mean for the test.]

11 [(18)] (16) "Training" means:

12 (a) The systematic, planned maintenance, development or enhancement of self-care, social or  
 13 independent living skills; or

14 (b) The planned sequence of systematic interactions, activities, structured learning situations  
 15 or education designed to meet each person's specified needs in the areas of physical, emotional, in-  
 16 tellectual and social growth.

17 [(19)] (17) "Treatment" means the provision of specific physical, mental, social interventions and  
 18 therapies that halt, control or reverse processes that cause, aggravate or complicate malfunctions  
 19 or dysfunctions.

20  
 21 **AUTHORITY OF DEPARTMENT OF HUMAN SERVICES**  
 22 **TO IMPOSE CIVIL PENALTIES**  
 23

24 **SECTION 8. (1) The Department of Human Services may impose a civil penalty, in ac-**  
 25 **cordance with ORS 183.745, on any person that violates a statutory requirement or a rule**  
 26 **adopted by the department applicable to the provision of services described in ORS 409.010**  
 27 **(2).**

28 **(2) This section may not be construed to supersede ORS 418.992 or 441.710 or any other**  
 29 **statute that prescribes criteria for or limitations on the imposition of a civil penalty.**

30  
 31 **DEPARTMENT OF HUMAN SERVICES**  
 32 **DONATED FUND ACCOUNT**  
 33

34 **SECTION 9.** ORS 409.365 is amended to read:

35 409.365. [(1)] The Department of Human Services [*Volunteer Program*] Donated Fund Account is  
 36 established separate and distinct from the General Fund. Interest earned, if any, shall inure to the  
 37 benefit of the account. The moneys in the account are **continuously** appropriated [*continuously*] to  
 38 the Department of Human Services **to support activities that align with the mission of the de-**  
 39 **partment.**

40 [(2)] *The Department of Human Services Volunteer Program shall keep a record of all moneys*  
 41 *credited to and deposited in the Department of Human Services Volunteer Program Donated Fund*  
 42 *Account. The record shall indicate the source from which the moneys are derived and the activity or*  
 43 *program against which each withdrawal is charged.]*

44 [(3)] *All private donations or contributions made for the use or benefit of the Department of Human*  
 45 *Services Volunteer Program shall be deposited in the Department of Human Services Volunteer Pro-*

1 *gram Donated Fund Account. All*] Funds deposited in [*that*] **the** account shall [*be used for direct*  
2 *program expenditures for the Department of Human Services Volunteer Program and shall*] not be  
3 used for direct or indirect administrative expenditures.

4

5

**CAPTIONS**

6

7 **SECTION 10. The unit captions used in this 2019 Act are provided only for the conven-**  
8 **ience of the reader and do not become part of the statutory law of this state or express any**  
9 **legislative intent in the enactment of this 2019 Act.**

10