

SB 825-1
(LC 3959)
3/8/19 (LAS/ps)

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 825**

1 In line 2 of the printed bill, after “agencies” insert “; creating new pro-
2 visions; amending ORS 418.205, 418.312, 418.470, 419A.004, 419A.104, 419B.443,
3 419B.812, 419C.620, 419C.623 and 419C.626; and declaring an emergency”.

4 Delete lines 4 through 8 and insert:
5

6 **“CHILDREN AND WARDS**
7

8 **“SECTION 1. Authority to pay for qualified residential treatment**
9 **programs. The Department of Human Services may engage and make**
10 **reasonable payment for services of persons to make available, main-**
11 **tain and operate a qualified residential treatment program described**
12 **in section 3 of this 2019 Act that provides residential care and treat-**
13 **ment to a child, as defined in ORS 418.205, who, based on an inde-**
14 **pendent assessment described in section 4 of this 2019 Act, requires**
15 **specialized, evidence-based supports and services related to the effects**
16 **of trauma or mental, emotional or behavioral health needs.**

17 **“SECTION 2. Sections 3 to 5 of this 2019 Act are added to and made**
18 **a part of ORS 418.205 to 418.327.**

19 **“SECTION 3. Qualified residential treatment program. A program**
20 **at a child-caring agency is a qualified residential treatment program**
21 **if the child-caring agency:**

1 “(1) Provides residential care and treatment to a child who, based
2 on an independent assessment described in section 4 of this 2019 Act,
3 requires specialized, evidence-based supports and services related to
4 the effects of trauma or mental, emotional or behavioral health needs.

5 “(2) Uses a trauma-informed treatment model that is designed to
6 address the needs, including clinical needs as appropriate, of the child.

7 “(3) Ensures that the staff at the agency’s facility includes regis-
8 tered nurses licensed under ORS chapter 678 and other licensed clinical
9 staff who:

10 “(a) Provide care within their licensed scope of practice;

11 “(b) Are on site according to the treatment model identified in
12 subsection (2) of this section; and

13 “(c) Are available 24 hours per day and seven days per week.

14 “(4) Facilitates the involvement of the child’s family, as defined in
15 ORS 418.575, in the child’s treatment program, to the extent appro-
16 priate and in the child’s best interests.

17 “(5) Facilitates outreach to the child’s family, as defined in ORS
18 418.575, documents how outreach is made and maintains contact in-
19 formation for any known biological relatives or other individuals with
20 whom the child has a close relationship.

21 “(6) Documents how the agency integrates family into the child’s
22 treatment process, including after discharge, and how sibling con-
23 nections are maintained.

24 “(7) Provides discharge planning and in-home support for at least
25 six months following the child’s discharge from the program.

26 “(8) Is licensed and accredited in accordance with requirements
27 adopted by the Department of Human Services by rule, consistent with
28 federal licensure and accreditation requirements for qualified residen-
29 tial treatment programs.

30 “SECTION 4. Independent assessment. (1) The Department of Hu-

1 man Services shall ensure that an independent, qualified individual
2 assesses the strengths and needs of a child placed in a qualified resi-
3 dential treatment program.

4 “(2) The assessment described in this section may occur prior to the
5 child’s placement in the program, but shall occur no later than 30 days
6 following the date of placement.

7 “(3) The department, by rule, shall establish procedures for age-
8 appropriate, evidence-based assessments under this section, consistent
9 with federal requirements for assessments of children placed in quali-
10 fied residential treatment programs. The rules adopted under this
11 subsection must require assessments to include, at a minimum, the
12 following:

13 “(a) A recommendation regarding the most appropriate placement
14 setting for the child.

15 “(b) If the recommended placement setting is a qualified residential
16 treatment program:

17 “(A) An explanation for why placement in a qualified residential
18 treatment program is consistent with the child’s short-term and
19 long-term goals identified in the child’s case plan.

20 “(B) An explanation for why the needs of the child cannot be met
21 by the child’s family, as defined in ORS 418.575, in a foster home that
22 is certified, licensed or approved by the department or an Indian tribe,
23 or in a proctor foster home.

24 “(C) Recommendations for specific qualified residential treatment
25 programs that will meet the child’s needs and an explanation for why
26 the identified programs are the least restrictive settings to provide the
27 child with the most effective and appropriate level of care.

28 “(c) The date of the child’s placement or, if the assessment is per-
29 formed prior to the child’s placement, the expected date of placement.

30 “(4)(a) At any time before or after placement, the qualified indi-

1 **vidual may determine that a specific qualified residential treatment**
2 **program is not the appropriate placement for the child.**

3 **“(b) If the qualified individual determines that the qualified resi-**
4 **dential treatment program is not the appropriate placement for the**
5 **child, the department may relocate the child to a recommended qual-**
6 **ified residential treatment program, if available.**

7 **“(c) If an assessment under this section indicates that the child’s**
8 **current placement is not the appropriate placement for the child, the**
9 **department shall relocate the child to a recommended placement no**
10 **later than 30 days following the date of the assessment.**

11 **“(5) Unless the department receives a federal waiver, as used in this**
12 **section, ‘qualified individual’ means an individual who is:**

13 **“(a) A regulated social worker as defined in ORS 675.510 or a trained**
14 **child welfare professional;**

15 **“(b) Not an employee of the department; and**

16 **“(c) Not connected to, or affiliated with, any placement setting in**
17 **which children are placed by the department.**

18 **“SECTION 5. Exception. (1) The provisions of sections 7 and 16 of**
19 **this 2019 Act do not apply to placements in a child-caring agency if:**

20 **“(a) The child-caring agency is providing prenatal, postpartum or**
21 **parenting supports to the individual placed;**

22 **“(b) The individual placed is at least 18 years of age and the child-**
23 **caring agency is an independent residence facility described in ORS**
24 **418.475;**

25 **“(c) The individual placed is, or is at risk of becoming, a victim of**
26 **sex trafficking and the child-caring agency is providing high-quality**
27 **residential care and supportive services to the individual; or**

28 **“(d) The child-caring agency is a shelter-care home.**

29 **“(2) As used in this section, ‘sex trafficking’ means the use of force,**
30 **intimidation, fraud or coercion to cause a person to engage, or at-**

1 tempt to engage, in a commercial sex act.

2 **“SECTION 6. Section 7 of this 2019 Act is added to and made a part**
3 **of ORS chapter 419B.**

4 **“SECTION 7. Placement of child or ward in qualified residential**
5 **treatment program. (1) Except as provided in section 5 of this 2019 Act:**

6 **“(a) The Department of Human Services may place a child or ward**
7 **in a child-caring agency, as defined in ORS 418.205, only if the child-**
8 **caring agency is a qualified residential treatment program;**

9 **“(b) The department shall petition the court for approval of the**
10 **placement no later than 30 days following the date of placement; and**

11 **“(c) The court shall approve or disapprove every placement of a**
12 **child or ward in a qualified residential treatment program.**

13 **“(2) The petition for approval of the placement must include, at a**
14 **minimum:**

15 **“(a) The date of the placement; and**

16 **“(b) A copy of the child’s or ward’s independent assessment de-**
17 **scribed in section 4 of this 2019 Act.**

18 **“(3) The department shall serve a true copy of the petition on each**
19 **of the parties listed in ORS 419B.875.**

20 **“(4)(a) The court shall schedule a hearing to occur no later than 45**
21 **days following the date the child or ward is placed in the qualified**
22 **residential treatment program.**

23 **“(b) Notwithstanding paragraph (a) of this subsection, the court is**
24 **not required to hold a hearing under this section if all of the parties**
25 **to the proceeding waive the hearing.**

26 **“(5)(a) The court shall enter an order approving or disapproving the**
27 **placement and make specific determinations regarding the following:**

28 **“(A) Whether the needs of the child or ward can be met through**
29 **placement in a foster home that is certified, licensed or approved by**
30 **the department or an Indian tribe, or in a proctor foster home.**

1 **“(B) If the court determines that the needs of the child or ward**
2 **cannot be met through placement in a foster home or proctor foster**
3 **home:**

4 **“(i) Whether placement of the child or ward in the qualified resi-**
5 **dential treatment program provides the least restrictive setting to**
6 **provide the most effective and appropriate level of care for the child**
7 **or ward; and**

8 **“(ii) Whether placement in a specific qualified residential treatment**
9 **program identified in the order is consistent with the child’s or ward’s**
10 **case plan.**

11 **“(b) The court may receive testimony, reports or other material**
12 **relating to the child’s or ward’s mental, physical and social history**
13 **and prognosis without regard to the competency or relevancy of the**
14 **testimony, reports or other material under the rules of evidence.**

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

18 **“(7) If the court enters an order disapproving the child’s or ward’s**
19 **placement, the department shall move the child or ward to a place-**
20 **ment consistent with the court’s order no later than 30 days following**
21 **the date the court enters the order.**

22 **“SECTION 8. ORS 418.205 is amended to read:**

23 **“418.205. As used in ORS 418.205 to 418.327, 418.470, 418.475, 418.950 to**
24 **418.970 and 418.992 to 418.998, unless the context requires otherwise:**

25 **“(1) ‘Child’ means an unmarried person under 21 years of age who resides**
26 **in or receives care or services from a child-caring agency.**

27 **“(2)(a) ‘Child-caring agency’:**

28 **“(A) Means any private school, private agency or private organization**
29 **providing:**

30 **“(i) Day treatment for children with emotional disturbances;**

1 “(ii) Adoption placement services;

2 “(iii) Residential care, including but not limited to foster care or resi-
3 dential treatment for children;

4 “(iv) Residential care in combination with academic education and
5 therapeutic care, including but not limited to treatment for emotional, be-
6 havioral or mental health disturbances;

7 “(v) Outdoor youth programs; or

8 “(vi) Other similar care or services for children.

9 “(B) Includes the following:

10 “(i) A shelter-care home that is not a foster home subject to ORS 418.625
11 to 418.645;

12 “(ii) An independent residence facility as described in ORS 418.475;

13 “(iii) A private residential boarding school; and

14 “(iv) A child-caring facility as defined in ORS 418.950.

15 “(b) ‘Child-caring agency’ does not include:

16 “(A) Residential facilities or foster care homes certified or licensed by the
17 Department of Human Services under ORS 443.400 to 443.455, 443.830 and
18 443.835 for children receiving developmental disability services;

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

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

27 “(D) A shelter-care home that is a foster home subject to ORS 418.625 to
28 418.645;

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

30 “(F) A facility that exclusively serves individuals 18 years of age and

1 older; or

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

5 “(3) ‘Child-caring facility’ has the meaning given that term in ORS
6 418.950.

7 “(4) ‘Governmental agency’ means an executive, legislative or judicial
8 agency, department, board, commission, authority, institution or
9 instrumentality of this state or of a county, municipality or other political
10 subdivision of this state.

11 “(5) ‘Independent residence facility’ means a facility established or certi-
12 fied under ORS 418.475.

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

16 “(b) ‘Outdoor youth program’ does not include any program, facility or
17 activity:

18 “(A) Operated by a governmental entity;

19 “(B) Operated or affiliated with the Oregon Youth Conservation Corps;

20 “(C) Licensed by the Department of Human Services under other author-
21 ity of the department; or

22 “(D) Operated by a youth job development organization as defined in ORS
23 344.415.

24 “(7) ‘Private’ means not owned, operated or administered by any govern-
25 mental agency or unit.

26 “(8) ‘Private residential boarding school’ means either of the following
27 as the context requires:

28 “(a) A child-caring agency that is a private school that provides residen-
29 tial care in combination with academic education and therapeutic care, in-
30 cluding but not limited to treatment for emotional, behavioral or mental

1 health disturbances; or

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

4 “(9) ‘Proctor foster home’ means a foster home certified by a child-caring
5 agency under ORS 418.248 that is not subject to ORS 418.625 to 418.645.

6 “(10) ‘Provider of care or services for children’ means a person, entity or
7 organization that provides care or services to children, regardless of whether
8 the child is in the custody of the Department of Human Services, and that
9 does not otherwise meet the definition of, or requirements for, a child-caring
10 agency. ‘Provider of care or services for children’ includes a proctor foster
11 home certified by a child-caring agency under ORS 418.248.

12 “(11) **‘Qualified residential treatment program’ means a program**
13 **described in section 3 of this 2019 Act.**

14 “[~~(11)~~] (12) ‘Shelter-care home’ has the meaning given that term in ORS
15 418.470.

16 **“SECTION 9.** ORS 418.312 is amended to read:

17 “418.312. (1) The Department of Human Services may not require any
18 parent or legal guardian to transfer legal custody of a child in order to have
19 the child placed in a child-caring agency under ORS 418.205 to 418.327,
20 418.470, 418.475, 418.480 to 418.500, 418.950 to 418.970 and 418.992 to 418.998
21 in a foster home, group home or institutional child care setting, when the
22 sole reason for the placement is the need to obtain services for the child’s
23 emotional, behavioral or mental disorder or developmental or physical disa-
24 bility. In all such cases, the child shall be placed pursuant to a voluntary
25 placement agreement. When a child is placed pursuant to a voluntary
26 placement agreement, the department shall have responsibility for the child’s
27 placement and care.

28 **“(2) If a child is placed pursuant to a voluntary placement agree-**
29 **ment in a qualified residential treatment program described in section**
30 **3 of this 2019 Act, the placement is subject to judicial approval under**

1 **section 7 of this 2019 Act.**

2 “(3)(a) [*When*] **If** a child remains in voluntary placement for more than
3 180 days, the juvenile court shall make a judicial determination, within the
4 first 180 days of the placement, that the placement is in the best interests
5 of the child.

6 “(b) **If a child remains in voluntary placement for more than 12**
7 **months**, [*In addition,*] the juvenile court shall hold a permanency hearing
8 as provided in ORS 419B.476 no later than 14 months after the child’s ori-
9 ginal voluntary placement, and not less frequently than once every 12
10 months thereafter during the continuation of the child’s original voluntary
11 placement, to determine the future status of the child.

12 “[2)] (4) As used in this section, ‘voluntary placement agreement’ means
13 a binding, written agreement between the department and the parent or legal
14 guardian of a minor child that does not transfer legal custody to the de-
15 partment but that specifies, at a minimum, the legal status of the child and
16 the rights and obligations of the parent or legal guardian, the child and the
17 department while the child is in placement.

18 “**SECTION 10.** ORS 418.470 is amended to read:

19 “418.470. (1) The Department of Human Services may engage and make
20 reasonable payment for services of persons to make available, maintain and
21 operate shelter-care homes for the safekeeping of children taken into tempo-
22 rary custody pending investigation and disposition.

23 “(2) The services, pursuant to specific prior authorization of the depart-
24 ment, shall be deemed actually rendered if the shelter-care home is made
25 available, maintained and operated to receive such children.

26 “(3)(a) **The department may not place a child in a shelter-care home**
27 **for more than 60 cumulative days in any 12-month period.**

28 “(b) **Calculations of the number of days a child is placed in a**
29 **shelter-care home under paragraph (a) of this subsection exclude the**
30 **days the child is in a shelter-care home if the child:**

1 **“(A) Accessed the shelter-care home without the support or direc-**
2 **tion of the department; and**

3 **“(B) Is homeless or a runaway, as defined by the department by**
4 **rule.**

5 “[(3)] (4) As used in this section and ORS 418.472, ‘shelter-care home’
6 means a certified foster home or a licensed facility contracted with by the
7 department [*of Human Services*] for the purpose of safekeeping of children
8 taken into temporary custody pending investigation and disposition where
9 the circumstances are such that the child need not be kept in secure custody.

10 **“SECTION 11.** ORS 419A.004 is amended to read:

11 “419A.004. As used in this chapter and ORS chapters 419B and 419C, un-
12 less the context requires otherwise:

13 “(1) ‘Age-appropriate or developmentally appropriate activities’ means:

14 “(a) Activities or items that are generally accepted as suitable for chil-
15 dren of the same chronological age or level of maturity or that are deter-
16 mined to be developmentally appropriate for a child, based on the
17 development of cognitive, emotional, physical and behavioral capacities that
18 are typical for an age or age group; and

19 “(b) In the case of a specific child, activities or items that are suitable
20 for the child based on the developmental stages attained by the child with
21 respect to the cognitive, emotional, physical and behavioral capacities of the
22 child.

23 “(2) ‘Another planned permanent living arrangement’ means an out-of-
24 home placement for a ward 16 years of age or older that is consistent with
25 the case plan and in the best interests of the ward other than placement:

26 “(a) By adoption;

27 “(b) With a legal guardian; or

28 “(c) With a fit and willing relative.

29 “(3) ‘CASA Volunteer Program’ means a program that is approved or
30 sanctioned by a juvenile court, has received accreditation from the National

1 CASA Association and has entered into a contract with the Oregon Depart-
2 ment of Administrative Services under ORS 184.492 to recruit, train and su-
3 pervise volunteers to serve as court appointed special advocates.

4 “(4) ‘Child care center’ means a residential facility for wards or youth
5 offenders that is licensed, certified or otherwise authorized as a child-caring
6 agency as that term is defined in ORS 418.205.

7 “(5) ‘Community service’ has the meaning given that term in ORS 137.126.

8 “(6) ‘Conflict of interest’ means a person appointed to a local citizen re-
9 view board who has a personal or pecuniary interest in a case being reviewed
10 by that board.

11 “(7) ‘Counselor’ means a juvenile department counselor or a county juve-
12 nile probation officer.

13 “(8) ‘Court’ means the juvenile court.

14 “(9) ‘Court appointed special advocate’ means a person in a CASA Vol-
15 unteer Program who is appointed by the court to act as a court appointed
16 special advocate pursuant to ORS 419B.112.

17 “(10) ‘Court facility’ has the meaning given that term in ORS 166.360.

18 “(11) ‘Current caretaker’ means a foster parent:

19 “(a) Who is currently caring for a ward who is in the legal custody of the
20 Department of Human Services and who has a permanency plan or concur-
21 rent permanent plan of adoption; and

22 “(b) Who has cared for the ward, or at least one sibling of the ward, for
23 at least 12 cumulative months or for one-half of the ward’s or sibling’s life
24 where the ward or sibling is younger than two years of age, calculated cu-
25 mulatively.

26 “(12) ‘Department’ means the Department of Human Services.

27 “(13) ‘Detention’ or ‘detention facility’ means a facility established under
28 ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of
29 children, wards, youths or youth offenders pursuant to a judicial commitment
30 or order.

1 “(14) ‘Director’ means the director of a juvenile department established
2 under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

3 “(15) ‘Guardian’ means guardian of the person and not guardian of the
4 estate.

5 “(16) ‘Indian child’ means any unmarried person less than 18 years of age
6 who is:

7 “(a) A member of an Indian tribe; or

8 “(b) Eligible for membership in an Indian tribe and is the biological child
9 of a member of an Indian tribe.

10 “(17) ‘Juvenile court’ means the court having jurisdiction of juvenile
11 matters in the several counties of this state.

12 “(18) ‘Local citizen review board’ means the board specified by ORS
13 419A.090 and 419A.092.

14 “(19) ‘Parent’ means the biological or adoptive mother and the legal par-
15 ent of the child, ward, youth or youth offender. As used in this subsection,
16 ‘legal parent’ means:

17 “(a) A person who has adopted the child, ward, youth or youth offender
18 or whose parentage has been established or declared under ORS 109.065 or
19 416.400 to 416.465 or by a juvenile court; and

20 “(b) In cases in which the Indian Child Welfare Act applies, a man who
21 is a father under applicable tribal law.

22 “(20) ‘Permanent foster care’ means an out-of-home placement in which
23 there is a long-term contractual foster care agreement between the foster
24 parents and the department that is approved by the juvenile court and in
25 which the foster parents commit to raise a ward in substitute care or youth
26 offender until the age of majority.

27 “(21) ‘Public building’ has the meaning given that term in ORS 166.360.

28 “(22) ‘Proctor foster home’ has the meaning given that term in ORS
29 **418.205.**

30 “(23) ‘Qualified residential treatment program’ means a program

1 **described in section 3 of this 2019 Act.**

2 “[22] **(24)** ‘Reasonable and prudent parent standard’ means the standard,
3 characterized by careful and sensible parental decisions that maintain the
4 health, safety and best interests of a child or ward while encouraging the
5 emotional and developmental growth of the child or ward, that a substitute
6 care provider shall use when determining whether to allow a child or ward
7 in substitute care to participate in extracurricular, enrichment, cultural and
8 social activities.

9 “[23] **(25)** ‘Reasonable time’ means a period of time that is reasonable
10 given a child or ward’s emotional and developmental needs and ability to
11 form and maintain lasting attachments.

12 “[24] **(26)** ‘Records’ means any information in written form, pictures,
13 photographs, charts, graphs, recordings or documents pertaining to a case.

14 “[25] **(27)** ‘Resides’ or ‘residence,’ when used in reference to the resi-
15 dence of a child, ward, youth or youth offender, means the place where the
16 child, ward, youth or youth offender is actually living or the jurisdiction in
17 which wardship or jurisdiction has been established.

18 “[26] **(28)** ‘Restitution’ has the meaning given that term in ORS 137.103.

19 “[27] **(29)** ‘Serious physical injury’ means:

20 “(a) A serious physical injury as defined in ORS 161.015; or

21 “(b) A physical injury that:

22 “(A) Has a permanent or protracted significant effect on a child’s daily
23 activities;

24 “(B) Results in substantial and recurring pain; or

25 “(C) In the case of a child under 10 years of age, is a broken bone.

26 “[28] **(30)** ‘Shelter care’ means a home or other facility suitable for the
27 safekeeping of a child, ward, youth or youth offender who is taken into
28 temporary custody pending investigation and disposition.

29 “[29] **(31)** ‘Short-term detention facility’ means a facility established
30 under ORS 419A.050 (3) for holding children, youths and youth offenders

1 pending further placement.

2 “[30] (32) ‘Sibling’ means one of two or more children or wards related:

3 “(a) By blood or adoption through a common legal parent; or

4 “(b) Through the marriage of the children’s or wards’ legal or biological
5 parents.

6 “[31] (33)(a) ‘Substitute care’ means an out-of-home placement directly
7 supervised by the department or other agency, including placement in a:

8 “(A) Foster [*family*] home[,] **that is certified, licensed or approved by**
9 **the department, the Oregon Youth Authority or an Indian tribe;**

10 “(B) Group home[,];

11 “(C) Child-caring agency as defined in ORS 418.205; or

12 “(D) Other child caring institution or facility.

13 “(b) ‘Substitute care’ does not include care in:

14 “[a] (A) A detention facility, forestry camp or youth correction facility;

15 “[b] (B) A family home that the court has approved as a ward’s perma-
16 nent placement, when a child-caring agency as defined in ORS 418.205 has
17 been appointed guardian of the ward and when the ward’s care is entirely
18 privately financed; or

19 “[c] (C) In-home placement subject to conditions or limitations.

20 “[32] (34) ‘Surrogate’ means a person appointed by the court to protect
21 the right of the child, ward, youth or youth offender to receive procedural
22 safeguards with respect to the provision of free appropriate public education.

23 “[33] (35) ‘Tribal court’ means a court with jurisdiction over child cus-
24 tody proceedings and that is either a Court of Indian Offenses, a court es-
25 tablished and operated under the code of custom of an Indian tribe or any
26 other administrative body of a tribe that is vested with authority over child
27 custody proceedings.

28 “[34] (36) ‘Victim’ means any person determined by the district attorney,
29 the juvenile department or the court to have suffered direct financial, psy-
30 chological or physical harm as a result of the act that has brought the youth

1 or youth offender before the juvenile court. When the victim is a minor,
2 ‘victim’ includes the legal guardian of the minor. The youth or youth
3 offender may not be considered the victim. When the victim of the crime
4 cannot be determined, the people of Oregon, as represented by the district
5 attorney, are considered the victims.

6 “[35] (37) ‘Violent felony’ means any offense that, if committed by an
7 adult, would constitute a felony and:

8 “(a) Involves actual or threatened serious physical injury to a victim; or

9 “(b) Is a sexual offense. As used in this paragraph, ‘sexual offense’ has
10 the meaning given the term ‘sex crime’ in ORS 163A.005.

11 “[36] (38) ‘Ward’ means a person within the jurisdiction of the juvenile
12 court under ORS 419B.100.

13 “[37] (39) ‘Young person’ means a person who has been found responsible
14 except for insanity under ORS 419C.411 and placed under the jurisdiction of
15 the Psychiatric Security Review Board.

16 “[38] (40) ‘Youth’ means a person under 18 years of age who is alleged
17 to have committed an act that is a violation, or, if done by an adult would
18 constitute a violation, of a law or ordinance of the United States or a state,
19 county or city.

20 “[39] (41) ‘Youth care center’ has the meaning given that term in ORS
21 420.855.

22 “[40] (42) ‘Youth offender’ means a person who has been found to be
23 within the jurisdiction of the juvenile court under ORS 419C.005 for an act
24 committed when the person was under 18 years of age.

25 **“SECTION 12.** ORS 419A.104 is amended to read:

26 “419A.104. (1) Within seven working days after the first of each month,
27 the Department of Human Services shall send to the citizen review board
28 state administrative office the federally required report listing all children
29 and wards in substitute care. The report must include the dates of placement
30 and the dates by which a review must be conducted.

1 “(2) Unless relieved by the court under ORS 419A.106 (1)(b), the cit-
2 izen review board shall review each child placed in a qualified resi-
3 dential treatment program pursuant to a voluntary placement
4 agreement under ORS 418.312 and make the findings required under
5 ORS 419A.116 no later than six months following the date the child is
6 placed, and not less frequently than every six months during the con-
7 tinuation of the child’s original voluntary placement.

8 “SECTION 13. ORS 419B.443 is amended to read:

9 “419B.443. (1) An agency described in ORS 419B.440 shall file the reports
10 required by ORS 419B.440 (1)(b) at the end of the initial six-month period and
11 no less frequently than each six months thereafter. The agency shall file re-
12 ports more frequently if the court so orders. The reports [*shall*] **must** in-
13 clude, but not be limited to:

14 “(a) A description of the problems or offenses that necessitated the
15 placement of the child or ward with the agency;

16 “(b) A description of the type and an analysis of the effectiveness of the
17 care, treatment and supervision that the agency has provided for the child
18 or ward;

19 “(c) A list of all placements made since the child or ward has been in the
20 guardianship or legal custody of an agency and the length of time the child
21 or ward has spent in each placement;

22 “(d) For a child or ward in substitute care, a list of all schools the child
23 or ward has attended since the child or ward has been in the guardianship
24 or legal custody of the agency, the length of time the child or ward has spent
25 in each school and, for a child or ward 14 years of age or older, the number
26 of high school credits the child or ward has earned;

27 “(e) A list of dates of face-to-face contacts the assigned case worker has
28 had with the child or ward since the child or ward has been in the
29 guardianship or legal custody of the agency and, for a child or ward in
30 substitute care, the place of each contact;

1 “(f) For a child or ward in substitute care, a list of the visits the child
2 or ward has had with the child’s or ward’s parents or siblings since the child
3 or ward has been in the guardianship or legal custody of the agency and the
4 place and date of each visit;

5 “(g) For a child or ward in substitute care, the steps the Department of
6 Human Services is taking to ensure that:

7 “(A) The child’s or ward’s substitute care provider is following the rea-
8 sonable and prudent parent standard; and

9 “(B) The child or ward has regular, ongoing opportunities to engage in
10 age-appropriate or developmentally appropriate activities, including consul-
11 tation with the child or ward in an age-appropriate manner about the op-
12 portunities the child or ward has to participate in the activities;

13 “(h) A description of agency efforts to return the child or ward to the
14 parental home or find permanent placement for the child or ward, including,
15 when applicable, efforts to assist the parents in remedying factors which
16 contributed to the removal of the child or ward from the home;

17 “(i) A proposed treatment plan or proposed continuation or modification
18 of an existing treatment plan, including a proposed visitation plan or pro-
19 posed continuation or modification of an existing visitation plan and a de-
20 scription of efforts expected of the child or ward and the parents to remedy
21 factors that have prevented the child or ward from safely returning home
22 within a reasonable time;

23 “(j) If continued substitute care is recommended, a proposed timetable for
24 the child’s or ward’s return home or other permanent placement or a justi-
25 fication of why extended substitute care is necessary; [*and*]

26 “(k) If the child or ward has been placed in foster care outside the state,
27 whether the child or ward has been visited not less frequently than every six
28 months by a state or private agency[.]; **and**

29 **“(L) If the child or ward is placed in a qualified residential treat-
30 ment program:**

1 **“(A) A determination that the strengths and needs of the child or**
2 **ward cannot be met through placement in a foster home, that the**
3 **placement in a qualified residential treatment program provides the**
4 **least restrictive setting to provide the most effective and appropriate**
5 **level of care for the child or ward, and that the placement is consist-**
6 **ent with the short-term and long-term goals for the child or ward, as**
7 **specified in the permanency plan for the child or ward;**

8 **“(B) Documentation of the specific treatment or service needs that**
9 **will be met for the child or ward in the placement and the length of**
10 **time the child or ward is expected to need the treatment or services;**
11 **and**

12 **“(C) Documentation of the efforts made by the agency to prepare**
13 **the child or ward to return home or be placed with a fit and willing**
14 **relative, a legal guardian or an adoptive parent, in a foster home that**
15 **is certified, licensed or approved by the department or an Indian tribe**
16 **or in a proctor foster home.**

17 “(2) In addition to the information required in a report made under sub-
18 section (1) of this section, for a ward who is in the legal custody of the de-
19 partment pursuant to ORS 419B.337 but who will be or recently has been
20 placed in the physical custody of a parent or a person who was appointed
21 the ward’s legal guardian prior to placement of the ward in the legal custody
22 of the department, a report required under ORS 419B.440 (1)(a) shall include:

23 “(a) A recommended timetable for dismissal of the department’s legal
24 custody of the ward and termination of the wardship; and

25 “(b) A description of the services that the department will provide to the
26 ward and the ward’s physical custodian to eliminate the need for the de-
27 partment to continue legal custody.

28 “(3) In addition to the information required in a report made under sub-
29 section (1) of this section, if the report is made by the department under ORS
30 419B.440 (1)(b)(C), the report shall include:

1 “(a) A recommended timetable for dismissal of the department’s legal
2 custody of the ward and termination of the wardship; and

3 “(b) A description of the services that the department has provided to the
4 ward and the ward’s physical custodian to eliminate the need for the de-
5 partment to continue legal custody.

6 “(4) Notwithstanding the requirements of subsection (1) of this section,
7 reports need not contain information contained in prior reports.

8 “**SECTION 14.** ORS 419B.812 is amended to read:

9 “419B.812. (1) As used in this section and ORS 419B.815, 419B.819 and
10 419B.824 **and section 7 of this 2019 Act**, a ‘true copy’ of a summons or pe-
11 tition means an exact and complete copy of the original summons or petition
12 with a certificate upon the copy signed by an attorney of record or a party
13 that indicates that the copy is exact and complete.

14 “(2) A summons under ORS 419B.815 or 419B.819 must be titled ‘In the
15 matter of _____, a child’ and must contain the name of the person to be
16 served and the address at which the summons and petition may be served.

17 “(3) The summons must be issued no later than 30 days after the filing
18 of a petition alleging jurisdiction under ORS 419B.100, a petition to establish
19 a permanent guardianship under ORS 419B.365 or a petition seeking termi-
20 nation of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506
21 or 419B.508.

22 “(4) The petitioner, the petitioner’s attorney, the juvenile department, the
23 district attorney, the Attorney General or the Department of Human Services
24 may issue a summons.

25 “(5) The summons must be signed by the:

26 “(a) Petitioner;

27 “(b) Petitioner’s attorney;

28 “(c) Juvenile department;

29 “(d) District attorney;

30 “(e) Attorney General; or

1 “(f) Department of Human Services.

2 “(6) The summons must be served with a true copy of the petition.

3 “(7) The summons and petition may be served by any competent person
4 18 years of age or older who is a resident of the state where service is made
5 or of this state.

6 “(8) The summons and petition may be transmitted by telegraph, facsimile
7 or electronic mail as provided in ORS 419B.848 (3).

8 “(9) The court shall fix the date and time for the hearing on a petition
9 at a reasonable time after service or, if service is by publication, final pub-
10 lication of the summons. The time may not be less than 24 hours after service
11 or, if service is by publication, final publication in a proceeding to establish
12 jurisdiction under ORS 419B.100 and may not be less than 10 days after ser-
13 vice or, if service is by publication, final publication in a proceeding to es-
14 tablish permanent guardianship or terminate parental rights.

15

16 **“YOUTHS AND YOUTH OFFENDERS**

17

18 **“SECTION 15. Section 16 of this 2019 Act is added to and made a**
19 **part of ORS chapter 419C.**

20 **“SECTION 16. Placement of youth or youth offender in qualified**
21 **residential treatment program. (1) Except as provided in section 5 of**
22 **this 2019 Act:**

23 **(a) The court shall review every placement of a youth or youth**
24 **offender in a qualified residential treatment program; and**

25 **“(b) The Oregon Youth Authority shall petition the court for ap-**
26 **proval of the placement no later than 30 days following the date of**
27 **placement.**

28 **“(2) The petition for approval of the placement must include, at a**
29 **minimum:**

30 **“(a) The date of the placement; and**

1 **“(b) A copy of the youth’s or youth offender’s independent assess-**
2 **ment described in section 4 of this 2019 Act.**

3 **“(3) The authority shall serve a true copy of the petition on each**
4 **of the parties listed in ORS 419C.285. The authority must certify on the**
5 **copy that the copy is an exact and complete copy of the original peti-**
6 **tion.**

7 **“(4)(a) The court shall schedule a hearing to occur no later than 60**
8 **days following the date the youth or youth offender is placed in the**
9 **qualified residential treatment program.**

10 **“(b) Notwithstanding paragraph (a) of this subsection, the court is**
11 **not required to hold a hearing under this section if all of the parties**
12 **to the proceeding waive the hearing.**

13 **“(5)(a) The court shall enter an order approving or disapproving the**
14 **placement and make specific determinations regarding the following:**

15 **“(A) Whether the needs of the youth or youth offender can be met**
16 **through placement in a foster home.**

17 **“(B) If the court determines that the needs of the youth or youth**
18 **offender cannot be met through placement in a foster home:**

19 **“(i) Whether placement of the youth or youth offender in a quali-**
20 **fied residential treatment program provides the least restrictive set-**
21 **ting to provide the most effective and appropriate level of care for the**
22 **youth or youth offender; and**

23 **“(ii) Whether placement in a specific qualified residential treatment**
24 **program identified in the order is consistent with the youth’s or youth**
25 **offender’s case plan.**

26 **“(b) The court may receive testimony, reports or other material**
27 **relating to the youth’s or youth offender’s mental, physical and social**
28 **history and prognosis without regard to the competency or relevancy**
29 **of the testimony, reports or other material under the rules of evi-**
30 **dence.**

1 **“(6) The court shall enter an order under subsection (5) of this**
2 **section no later than 60 days following the date the youth or youth**
3 **offender is placed in the qualified residential treatment program.**

4 **“(7) If the court enters an order disapproving of the youth’s or**
5 **youth offender’s placement, the authority shall move the youth or**
6 **youth offender to a placement consistent with the court’s order no**
7 **later than 30 days following the date the court enters the order.**

8 **“SECTION 17.** ORS 419C.620 is amended to read:

9 **“419C.620. (1) When required by the court, the Oregon Youth Authority**
10 **or a private agency having guardianship or legal custody of a youth offender**
11 **pursuant to court order shall file reports on the youth offender with the ju-**
12 **venile court that entered the original order concerning the youth offender.**

13 **“(2) If a county juvenile department participating in programs re-**
14 **lated to Title IV-E of the Social Security Act has responsibility for the**
15 **placement and care of a youth offender, the county juvenile depart-**
16 **ment shall file a report with the court if the youth offender remains**
17 **under juvenile department care for six consecutive months from the**
18 **date of initial placement in a placement other than a detention facil-**
19 **ity.**

20 **“SECTION 18.** ORS 419C.623 is amended to read:

21 **“419C.623. (1) The Oregon Youth Authority, a county juvenile depart-**
22 **ment or a private agency shall file the reports required by ORS 419C.620**
23 **at times required by the court, required by the youth offender’s reformation**
24 **plan or case plan and as determined necessary by the youth authority or**
25 **agency. The youth authority or agency shall file reports more frequently if**
26 **the court so orders. The reports shall include, but need not be limited to:**

27 **“(a) A description of the offenses that necessitated the placement of the**
28 **youth offender with the youth authority, juvenile department or agency;**

29 **“(b) A description of the youth offender’s risk to reoffend and an analysis**
30 **of the need for services and assistance; and**

1 “(c) A proposed reformation plan or case plan, or proposed continuation
2 or modification of an existing reformation plan or case plan, including,
3 where applicable, a description of services to be provided in furtherance of
4 the youth offender’s reformation and safe return to the community.

5 **“(2) A report under ORS 419C.620 (2) must also include:**

6 **“(a) A description of the efforts to return the youth offender to the
7 parental home, including when applicable, efforts to assist the parents
8 in remedying factors that contributed to the removal of the youth
9 offender from the home.**

10 **“(b) A description of the care, treatment and supervision that has
11 been provided for the youth offender, including:**

12 **“(A) The safety of the placement;**

13 **“(B) A description of whether the placement is the least restrictive
14 and most appropriate setting available and in close proximity to the
15 youth offender’s home, and is consistent with the best interest and the
16 special needs of the youth offender; and**

17 **“(C) An analysis of the effectiveness of the care, treatment and
18 supervision.**

19 **“(c) A description of the progress that has been made toward alle-
20 viating or mitigating the causes necessitating the youth offender’s
21 placement.**

22 **“(d) If continued substitute care is recommended, a proposed time-
23 table for the youth offender’s return home or other permanent place-
24 ment or a justification of why continued substitute care is necessary.**

25 **“[(2)] (3) Notwithstanding the requirements of [subsection (1)] sub-
26 sections (1) and (2) of this section, reports following the first report that
27 is required by [subsection (1) of] this section need not contain information
28 contained in prior reports.**

29 **“[(3)] (4) Notwithstanding the requirements under ORS 419C.620 that re-
30 ports be filed with the court, any report after the first report that is required**

1 by subsection (1) of this section on a youth offender whose case is being
2 regularly reviewed by a local citizen review board shall be filed with that
3 local citizen review board rather than with the court.

4 **“SECTION 19.** ORS 419C.626 is amended to read:

5 “419C.626. (1) Upon receiving a report required by ORS 419C.620:

6 “(a) The court may hold a hearing to review the youth offender’s condi-
7 tion and circumstances and to determine if the court should continue juris-
8 diction over the youth offender or order modifications in the custody,
9 placement and supervision of the youth offender.

10 “(b) And if requested by the youth offender, the attorney for the youth
11 offender, if any, the parents of the youth offender if parental rights have not
12 been terminated, a court appointed special advocate, a local citizen review
13 board, the Oregon Youth Authority, **a county juvenile department**, a dis-
14 trict attorney or a private agency having guardianship or legal custody of
15 the youth offender, the court shall hold a hearing within 30 days of receipt
16 of the request.

17 “(2) The court, on its own motion, may hold a review hearing at any time.
18 Unless good cause otherwise is shown, the court shall hold a review hearing
19 at any time upon the request of the youth offender, the attorney for the
20 youth offender, if any, the parents of the youth offender if parental rights
21 have not been terminated, a court appointed special advocate, a local citizen
22 review board, the youth authority, **a county juvenile department**, a dis-
23 trict attorney or a private agency having guardianship or legal custody of
24 the youth offender.

25 “(3) A hearing under subsection (1) or (2) of this section shall be con-
26 ducted in the manner provided in ORS 419C.400 (1), 419C.405 and 419C.408,
27 except that the court may receive testimony and reports as provided in ORS
28 419C.400 (4). At the conclusion of the hearing, the court shall enter findings
29 of fact if the decision is to continue the youth offender in an out-of-home
30 placement in the legal custody of the youth authority, **a county juvenile**

1 **department** or a private agency. The findings shall specifically state:

2 “(a) Why continued out-of-home placement is necessary as opposed to re-
3 turning the youth offender to the youth offender’s home or promptly securing
4 another placement;

5 “(b) The expected timetable for return home; and

6 “(c) Whether the youth offender’s reformation plan or case plan should
7 be modified.

8 **“(4) After receiving a report required by ORS 419C.620 (2), if re-**
9 **quested by the youth authority or a county juvenile department, the**
10 **court’s findings under subsection (3) of this section must specifically**
11 **state:**

12 **“(a) Whether the youth authority or county juvenile department**
13 **has made reasonable efforts or, if the Indian Child Welfare Act applies,**
14 **active efforts to make it possible for the youth offender to safely re-**
15 **turn home. In making this finding, the court shall consider the youth**
16 **offender’s health and safety the paramount concerns.**

17 **“(b) The appropriateness of the youth offender’s placement.**

18 **“(c) The extent of compliance with the youth offender’s case plan.**

19 **“(d) The extent of progress that has been made toward alleviating**
20 **or mitigating the causes necessitating the youth offender’s placement**
21 **in substitute care.**

22 “[4] **(5)** The court may direct the local citizen review board to review
23 the status of the youth offender prior to the court’s next review under ORS
24 419A.106, 419A.108, 419A.110, 419A.112, 419A.116 and 419A.118.

25 “[5] **(6)** Any final decision of the court made pursuant to a hearing un-
26 der subsection (1) or (2) of this section is appealable under ORS 419A.200.

27

28 **“MISCELLANEOUS**

29

30 **“SECTION 20. Sections 1 to 7, 15 and 16 of this 2019 Act and the**

1 amendments to ORS 418.205, 418.312, 418.470, 419A.004, 419A.104,
2 419B.443, 419B.812, 419C.620, 419C.623 and 419C.626 by sections 8 to 14
3 and 17 to 19 of this 2019 Act apply to placements occurring on or after
4 the effective date of this 2019 Act.

5 **“SECTION 21. (1) Sections 1 to 7, 15 and 16 of this 2019 Act and the**
6 **amendments to ORS 418.205, 418.312, 418.470, 419A.004, 419A.104,**
7 **419B.443, 419B.812, 419C.620, 419C.623 and 419C.626 by sections 8 to 14**
8 **and 17 to 19 of this 2019 Act become operative on October 1, 2019.**

9 **“(2) The Department of Human Services and the Oregon Health**
10 **Authority may take any action before the operative date specified in**
11 **subsection (1) of this section that is necessary for the department or**
12 **the authority to exercise, on and after the operative date specified in**
13 **subsection (1) of this section, all of the functions and powers conferred**
14 **on the department or the authority by sections 1 to 7, 15 and 16 of this**
15 **2019 Act and the amendments to ORS 418.205, 418.312, 418.470, 419A.004,**
16 **419A.104, 419B.443, 419B.812, 419C.620, 419C.623 and 419C.626 by sections**
17 **8 to 14 and 17 to 19 of this 2019 Act.**

18 **“SECTION 22. The unit and section captions used in this 2019 Act**
19 **are provided only for the convenience of the reader and do not become**
20 **part of the statutory law of this state or express any legislative intent**
21 **in the enactment of this 2019 Act.**

22 **“SECTION 23. This 2019 Act being necessary for the immediate**
23 **preservation of the public peace, health and safety, an emergency is**
24 **declared to exist, and this 2019 Act takes effect on its passage.”.**

25