

A-Engrossed
Senate Bill 1566

Ordered by the Senate February 7
Including Senate Amendments dated February 7

Sponsored by Senators GELSER, MANNING JR; Senators BEYER, BURDICK, DEMBROW, FREDERICK, MONNES ANDERSON, PROZANSKI, RILEY, ROBLAN, TAYLOR, WAGNER (Presession filed.)

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.

Modifies Oregon Promise program to extend eligibility to certain Oregon foster children who attain their highest level of education while in out-of-state placements.

[Establishes school district residency of individual placed in congregate care residential setting.]

Temporarily permits Department of Human Services to close at screening reports of third party child abuse not involving *[child care providers or schools]* **child's parent or caregiver, member of child's household, person responsible for child's care, provider of child care or school employee, contractor, agent or volunteer.**

Directs department to report to interim committees of Legislative Assembly related to child welfare regarding reports closed at screening and to identify resources required to investigate all allegations of third party abuse. Sunsets March 31, 2021.

Directs Department of Human Services to adopt rules *[identifying]* **allowing** up to two family-based group homes to provide services to certain children. Directs department to report to interim committees of Legislative Assembly related to child welfare regarding success of placements in family-based group homes. Sunsets January 1, 2024.

Prohibits placement of Oregon children in out-of-state child-caring agency unless child-caring agency is licensed by Department of Human Services. Establishes certain contract requirements and department duties regarding placements of children in out-of-state child-caring agencies.

Requires qualified residential treatment programs and psychiatric residential treatment programs to maintain site-specific accreditation from nationally recognized organization.

Prohibits colocation of children and youth committed to custody of Oregon Youth Authority without court order.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children; creating new provisions; amending ORS 341.522, 418.258, 418.259, 418.500,
3 419B.354, 419B.356, 419B.358 and 419B.360; and declaring an emergency.

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

5
6 **OREGON PROMISE PROGRAM**

7
8 **SECTION 1.** ORS 341.522 is amended to read:

9 341.522. (1) The Office of Student Access and Completion shall administer the Oregon Promise
10 program as provided by this section.

11 (2) Subject to subsections (7) to (10) of this section, the office shall provide a grant for commu-
12 nity college courses to a person who meets the criteria described in subsections (3) to (6) of this
13 section. The grant shall be limited as provided by subsections (7) to (10) of this section.

14 (3) A grant shall be awarded under this section to a person who meets the following criteria:

15 (a) Is enrolled in courses that are:

16 (A) Offered at a community college in this state; and

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 (B) Determined by the office, in accordance with rules adopted by the Higher Education Coor-
2 dinating Commission, to be required for completion of:

3 (i) A one-year curriculum for students who plan to transfer to another post-secondary institution
4 of education;

5 (ii) An associate degree; or

6 (iii) A program in career and technical education;

7 (b) **Except as provided in subsection (5) of this section**, has been a resident of this state for
8 at least 12 months prior to enrolling in the courses described in paragraph (a) of this subsection;

9 (c) Attained the person's highest level of education, **except as provided in subsection (5) of**
10 **this section**, in this state prior to:

11 (A) Receiving a diploma under ORS 329.451;

12 (B) Receiving a certificate for passing an approved high school equivalency test such as the
13 General Educational Development (GED) test as provided by ORS 350.175;

14 (C) Completing grade 12 in compliance with the requirements of ORS 339.035; or

15 (D) Completing grade 12 at a private or parochial school, as described in ORS 339.030 (1)(a);

16 (d) Except as provided in subsections (4) and (5) of this section, attained the person's highest
17 level of education as described in paragraph (c) of this subsection within six months from the date
18 that the person first enrolls in courses described in paragraph (a) of this subsection for the purpose
19 of receiving a grant under this section;

20 (e) Earned a cumulative grade point average of 2.5 or better in high school or otherwise dem-
21 onstrated an equivalent academic ability, as determined by the office according to rules adopted by
22 the commission;

23 (f) Completed and submitted the Free Application for Federal Student Aid for each academic
24 year and accepted all state and federal aid grants available to the person, if eligible to file the ap-
25 plication; and

26 (g) Has not completed either of the following:

27 (A) More than a total of 90 credit hours, or the equivalent, at a post-secondary institution of
28 education; or

29 (B) A curriculum, degree or program, as described in paragraph (a)(B) of this subsection.

30 (4)(a) If a person otherwise meets the required criteria and has been awarded a grant under
31 subsection (3) of this section, but the person enters into service with a career and technical student
32 organization relating to agriculture or farming that is approved by the Department of Education
33 under ORS 344.077 within six months after the person attained the person's highest level of educa-
34 tion as described in subsection (3)(c) of this section, the person will continue to be eligible to receive
35 the grant if the person first enrolls in courses described in subsection (3)(a) of this section within
36 six months of finishing the person's service with the career and technical student organization.

37 (b) In addition to the situation described in paragraph (a) of this subsection, the commission may
38 waive the requirement set forth in subsection (3)(d) of this section for a person who shows that the
39 person was unable to timely enroll in courses described in subsection (3)(a) of this section due to a
40 significant hardship. The commission may adopt rules to implement this paragraph.

41 (5)(a) A member of the Oregon National Guard who has completed initial active duty training
42 is not required to comply with the criteria set forth in subsection (3)(d) of this section in order to
43 receive a grant, provided that the member first enrolls in courses described in subsection (3)(a) of
44 this section within six months after completing initial active duty training, as evidenced by an offi-
45 cial form issued by the United States Department of Defense.

1 (b)(A) A person who completes the highest level of education as described in subsection (3)(c)
2 of this section while confined in a correctional facility, either serving a sentence of incarceration
3 or as a young person, youth or youth offender, is not required to comply with the criteria set forth
4 in subsection (3)(d) of this section in order to receive a grant, provided that the person first enrolls
5 in courses described in subsection (3)(a) of this section within six months after the date on which
6 the person is first released from a correctional facility following completion of the highest level of
7 education described in subsection (3)(c) of this section.

8 (B) The eligibility requirements described in subsection (6)(a)(C) of this section may be waived
9 by the office according to rules adopted by the commission for a person who receives a grant under
10 this section in the manner described in subparagraph (A) of this paragraph.

11 (C) As used in this paragraph:

12 (i) "Correctional facility" means any place used for the confinement of young persons, youth or
13 youth offenders or persons charged with or convicted of a crime or otherwise confined under a court
14 order, including a:

15 (I) Youth correction facility;

16 (II) Detention facility;

17 (III) Department of Corrections institution;

18 (IV) Local correctional facility; or

19 (V) State hospital or a secure intensive community inpatient facility, with respect to persons
20 detained therein who are youth or youth offenders, who are charged with or convicted of a crime
21 or who are detained therein after having been found guilty except for insanity of a crime under ORS
22 161.290 to 161.373 or having been found responsible except for insanity under ORS 419C.411.

23 (ii) "Department of Corrections institution" has the meaning given that term in ORS 421.005.

24 (iii) "Detention facility," "young person," "youth" and "youth offender" have the meanings given
25 those terms in ORS 419A.004.

26 (iv) "Local correctional facility" has the meaning given that term in ORS 169.005.

27 (v) "Youth correction facility" has the meaning given that term in ORS 420.005.

28 **(c)(A) If a person was a foster child:**

29 **(i) The person shall be treated as meeting the residency criteria for eligibility under**
30 **subsection (3)(b) of this section if, but for the person's placement in out-of-state foster care,**
31 **the person otherwise meets the requirements of subsection (3)(b) of this section.**

32 **(ii) The person shall be treated as attaining the person's highest level of education in this**
33 **state under subsection (3)(c) of this section if the person attained the person's highest level**
34 **of education while placed in out-of-state foster care and the person's highest level of educa-**
35 **tion substantially meets the requirements under subsection (3)(c) of this section.**

36 **(iii) The person is not required to comply with the criteria set forth in subsection (3)(d)**
37 **of this section in order to receive a grant provided that the person completes the highest**
38 **level of education as described in subparagraph (A)(ii) of this paragraph while in a treatment**
39 **program and the person first enrolls in courses described in subsection (3)(a) of this section**
40 **within 12 months after the date on which the person is released from the treatment pro-**
41 **gram.**

42 **(B) Upon request from the commission, the Department of Human Services shall provide**
43 **documentation of the placement status of a person described in paragraph (c)(A) of this**
44 **subsection.**

45 **(C) As used in this paragraph:**

1 (i) **“Foster care” means substitute care for children placed by the Department of Human**
2 **Services or a tribal child welfare agency away from the child’s parents and for whom the**
3 **department or agency has placement and care responsibility, including placements in foster**
4 **family homes, foster homes of relatives, group homes, emergency shelters, residential facil-**
5 **ities, child care institutions and preadoptive homes.**

6 (ii) **“Foster child” means a child over whom the Department of Human Services retained**
7 **jurisdiction under ORS 417.200 for the duration of the child’s placement in foster care outside**
8 **the state of Oregon.**

9 (6)(a) A person continues to remain eligible to receive a grant under this section if the person,
10 in addition to satisfying the criteria specified in subsection (3) of this section, meets the following
11 criteria:

12 (A) Maintains at least the minimum cumulative grade point average prescribed by the commis-
13 sion based on federal aid grant requirements;

14 (B) Makes satisfactory academic progress toward a curriculum, degree or program, as described
15 in subsection (3)(a)(B) of this section, as prescribed by the commission based on federal aid grant
16 requirements;

17 (C) Enrolls in courses described in subsection (3)(a) of this section for a sufficient number of
18 credit hours to be considered at least a half-time student each term for at least three terms in each
19 consecutive academic year; and

20 (D) Completes a first-year experience, as identified by the community college and reported by
21 the community college to the commission.

22 (b) A person who fails to meet an eligibility requirement described in paragraph (a) of this
23 subsection becomes ineligible to receive a grant under this section for the term after which the
24 person fails to meet the eligibility requirement, unless the eligibility requirement is waived by the
25 office according to rules adopted by the commission.

26 (7)(a) The total amount of a grant awarded under this section shall be based on each term that
27 a person is enrolled in courses described in subsection (3)(a) of this section. Except as provided in
28 subsections (9) and (10) of this section, after the amount of tuition for the person for the term is
29 reduced by any amounts received by the person in state and federal aid grants, the person shall be
30 eligible for a grant under this section in an amount that equals:

31 (A) Except as provided by paragraphs (b) and (c) of this subsection, not less than the greater
32 of:

33 (i) \$1,000; and

34 (ii) The person’s actual cost for tuition.

35 (B) Not more than the lesser of:

36 (i) The average cost of tuition at a community college in this state, as determined by the office;
37 and

38 (ii) The person’s actual cost for tuition.

39 (b) The amount of a grant, as calculated under paragraph (a) of this subsection, shall be reduced
40 by \$50 for each term that the person receives a grant under this section.

41 (c)(A) If the office determines both that the person’s actual cost for tuition exceeds the amount
42 set forth in paragraph (a)(A)(i) of this subsection and that the person’s actual cost for tuition ex-
43 ceeds the average cost of tuition at a community college in this state, the person shall be eligible
44 for a grant in an amount that equals the average cost of tuition at a community college in this state.

45 (B) If the office determines that the person’s actual cost for tuition is less than the amount set

1 forth in paragraph (a)(A)(i) of this subsection, the person shall be eligible for a grant in an amount
2 that equals the amount set forth in paragraph (a)(A)(i) of this subsection.

3 (d) The minimum amount of a grant, as calculated under paragraphs (a) to (c) of this subsection,
4 may be prorated for a person who is enrolled in courses described in subsection (3)(a) of this section
5 for a sufficient number of credit hours to be considered at least a half-time student but not a full-
6 time student.

7 (e) The commission may prescribe by rule whether to include fees, and any limitations related
8 to the inclusion of fees, when determining the actual cost of tuition or the average cost of tuition
9 under this subsection.

10 (8) The commission may adopt by rule the priority by which grants are awarded, which may
11 allow for preference to be given to persons enrolled in school districts or high schools that meet
12 specified criteria.

13 (9) Prior to the start of the fall term of each academic year, the commission shall determine
14 whether there are sufficient moneys to award a grant under this section to each person who meets
15 the criteria described in subsections (3) to (6) of this section. On the basis of this determination the
16 commission may:

17 (a) Limit eligibility to receive a grant under this section to a person whose family contribution,
18 as determined by the commission by rule, is at or below the level the commission determines is
19 necessary to allow the commission to operate the Oregon Promise program with available moneys;
20 or

21 (b) Reduce or eliminate any limitation on eligibility previously imposed by the commission under
22 paragraph (a) of this subsection.

23 (10)(a) If at any time the commission determines that there are insufficient moneys to provide
24 a grant to each person who has been awarded a grant under this section, the commission may:

25 (A) Decrease the total amount of the grant awarded; or

26 (B) Increase the amount that a person must pay under subsection (7)(b) of this section for each
27 term that the person receives a grant under this section.

28 (b) If at any time the commission determines that the amount of moneys available to operate the
29 Oregon Promise program exceeds the amount determined under subsection (9) of this section, the
30 commission may reduce or eliminate any limitation on eligibility to receive a grant under this sec-
31 tion that was previously imposed by the commission under subsection (9)(a) of this section.

32 (c) The commission shall promptly notify the interim committees of the Legislative Assembly
33 responsible for higher education each time the commission takes any action under paragraph (a) or
34 (b) of this subsection.

35 (11) The commission shall adopt any rules necessary for the administration of this section, in-
36 cluding any requirements related to:

37 (a) Specifying the form and timelines for submitting an application for a grant under this section;

38 (b) Determining whether a person is eligible for a grant under this section, including whether
39 the person shall be given priority as allowed under subsection (8) of this section;

40 (c) Implementing programs or policies that improve the academic success or completion rates for
41 persons who receive a grant under this section;

42 (d) Prescribing eligibility requirements and grant calculations for persons dually enrolled in a
43 community college and a public university; and

44 (e) Evaluating the impact of the program established under this section, including any require-
45 ments for reporting data needed for evaluations.

1 (12) No later than December 31 of each even-numbered year, the commission shall submit to an
2 interim legislative committee related to education a report that summarizes the commission's
3 findings on the impact of the program established under this section. The report shall include:

4 (a) Student completion rates of curricula, degrees and programs described in subsection (3)(a)(B)
5 of this section;

6 (b) The amount of federal aid grants received by persons who received a grant under this sec-
7 tion;

8 (c) The financial impact of the program on school districts that had students receive a grant
9 under this section;

10 (d) The financial impact and the enrollment impact of the program on community colleges and
11 public universities in this state; and

12 (e) The overall success rate of the program and financial impact of the program.

13 **NOTE:** Sections 2 and 2a were deleted by amendment. Subsequent sections were not renum-
14 bered.

15
16 **INVESTIGATIONS OF THIRD PARTY ABUSE**

17
18 **SECTION 3. (1) Notwithstanding ORS 419B.020 (1)(a), the Department of Human Services**
19 **may close at screening a report of child abuse if:**

20 (a) **The department determines that there is no imminent risk of harm to the child; and**

21 (b) **The alleged abuser is not:**

22 (A) **The child's parent or caregiver, a member of the child's household, a person respon-**
23 **sible for the child's care, custody or control or a provider of child care, as defined in ORS**
24 **329A.250; or**

25 (B) **A person who is a school employee, contractor, agent or volunteer, as those terms**
26 **are defined in ORS 419B.019.**

27 (2) **The department shall, by rule, establish the procedure for closing reports of child**
28 **abuse at screening under subsection (1) of this section.**

29 (3) **No later than November 15, 2020, the department shall report to the interim com-**
30 **mittees of the Legislative Assembly related to child welfare regarding:**

31 (a) **The number of reports of child abuse closed at screening under subsection (1) of this**
32 **section;**

33 (b) **The types of connections between the alleged abusers and victims in the reports that**
34 **were closed at screening;**

35 (c) **The types of abuse alleged to have occurred in the reports that were closed at**
36 **screening; and**

37 (d) **The resources the department requires to provide training and personnel to fully**
38 **implement the investigation requirements under ORS 419B.020 beginning on April 1, 2021.**

39 **SECTION 4. Section 3 of this 2020 Act is repealed on March 31, 2021.**

40
41 **FAMILY-BASED GROUP HOME PLACEMENTS**

42
43 **SECTION 5. (1) The Department of Human Services shall adopt rules allowing up to two**
44 **programs that meet the following criteria to provide services to children in this state:**

45 (a) **The services are provided in a family home setting.**

1 (b) The foster parents live in the house 24 hours per day, seven days per week.

2 (c) The foster parents are the primary care providers for the children served by the
3 program.

4 (d) The program serves no more than 15 children.

5 (e) The program accepts children who have sexually maladaptive behaviors, a history of
6 eloping from care or a history of unsuccessful placement in other settings.

7 (2)(a) Notwithstanding ORS 418.204 and 419B.354:

8 (A) The department may engage and make reasonable payment to the programs allowed
9 under subsection (1) of this section; and

10 (B) A program allowed under subsection (1) of this section is not required to be a quali-
11 fied residential treatment program.

12 (b) Notwithstanding ORS 419B.360, if a program allowed under subsection (1) of this sec-
13 tion is a qualified residential treatment program, the department is not required to move the
14 court for approval of its placement of a child in the program.

15 (c) The department is not required to ensure that a child the department places in a
16 program allowed under subsection (1) of this section is assessed by a qualified individual
17 under ORS 419B.358.

18 (3) No later than September 1, 2022, the department shall submit a report to the interim
19 committees of the Legislative Assembly related to child welfare regarding the success of
20 placements in the programs allowed under subsection (1) of this section and recommen-
21 dations, if any, for the continuation or expansion of placements consistent with this section.

22 SECTION 6. Section 5 of this 2020 Act is repealed on January 2, 2024.

23
24 **QUALIFIED RESIDENTIAL TREATMENT PROGRAMS**

25
26 SECTION 7. (1) Subject to ORS 419B.354, the Department of Human Services may place
27 a child in an out-of-state child-caring agency only if:

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

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

32 (c) The department's contract with the child-caring agency meets the criteria under
33 subsection (3) of this section.

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

37 (b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Place-
38 ment of Children and ORS 417.230, the department may not delegate the department's li-
39 censing, visitation, inspection, investigation or supervision of an out-of-state child-caring
40 agency licensed by the department to provide care or services to an Oregon child.

41 (3)(a) The department shall review the department's contract with an out-of-state child-
42 caring agency prior to placing a child with the child-caring agency.

43 (b) The contract must, at a minimum, meet the following criteria:

44 (A) At the time the contract is executed, the child-caring agency must provide the de-
45 partment with a current list of every entity for which the child-caring agency is providing

1 placement services.

2 (B) No later than 15 days after accepting placement of a child from a new entity, the
3 child-caring agency must notify the department in writing of the child-caring agency's asso-
4 ciation with the new entity. The notice must include the name and contact information of
5 the new entity and the name and contact information of an individual associated with the
6 new entity.

7 (C) The child-caring agency must make mandatory reports of child abuse, as defined in
8 ORS 418.257 and 419B.005, involving Oregon children both to the Oregon child abuse hotline
9 and as required under the laws of the state in which the child-caring agency is located.

10 (D) The child-caring agency must allow the department full access to the child-caring
11 agency's facilities, residents, records and personnel as necessary for the department to
12 conduct child abuse investigations and licensing activities or investigations.

13 (E) The child-caring agency must notify the department in writing no later than three
14 business days after any state determines that an allegation of child abuse or a license vio-
15 lation involving the child-caring agency is founded, regardless of whether the child abuse or
16 violation involves an Oregon child.

17 (F) The child-caring agency must notify the department in writing no later than three
18 business days after the child-caring agency receives notice from any other state imposing a
19 restriction on placement of children with the child-caring agency, suspending or revoking the
20 child-caring agency's license with that state or indicating the state's intent to suspend or
21 revoke the child-caring agency's license with that state.

22 (G) The child-caring agency must notify the department immediately, verbally and in
23 writing:

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

26 (ii) When the child-caring agency becomes aware of any criminal investigation, arrest or
27 criminal charges involving an agency staff member if the alleged offense involved a child or
28 could have reasonably posed a risk to the health, safety or welfare of a child.

29 (H) Except with respect to protected information described in ORS 418.256 (5), the child-
30 caring agency may not ask or require an employee or volunteer to sign a nondisclosure or
31 other agreement prohibiting the employee or volunteer from the good faith disclosure of in-
32 formation concerning the abuse or mistreatment of a child who is in the care of the child-
33 caring agency, violations of licensing or certification requirements, criminal activity at the
34 child-caring agency, violations of state or federal laws or any practice that threatens the
35 health and safety of a child in the care of the child-caring agency.

36 (I) The child-caring agency must ensure staffing and direct service level requirements
37 that meet, at a minimum, the standards set by the department by rule for intensive behav-
38 ioral support services.

39 (J) The child-caring agency must meet all of the program, discipline, behavior support,
40 supervision and child rights requirements adopted by the department by rule for behavioral
41 rehabilitation services provided in this state.

42 (K) The child-caring agency may not practice conversion therapy, as defined in ORS
43 675.850.

44 (L) The child-caring agency must identify a child by the child's preferred name and pro-
45 nouns and may not implement a dress code that prohibits or requires clothing on the basis

1 of biological sex.

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

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

6 (O) The child-caring agency must ensure that the use of any psychotropic medications
7 for a child placed with the child-caring agency by the department is in compliance with ORS
8 418.517 and any rules regarding psychotropic medications adopted by the department.

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

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

15 (b) Require that a multidisciplinary review team, including administrators in the devel-
16 opmental disability services program, review the placement before the child is placed out-
17 of-state.

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

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

22 (5) A department child welfare services employee must accompany a child who is placed
23 in an out-of-state child-caring agency any time the child is transported to an initial out-of-
24 state placement, any time the child is moved to a new placement and any time the child is
25 moved by secure transport.

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

30 (b) Except as provided in paragraph (c) of this subsection, the department may not place
31 a child in an out-of-state child-caring agency if the child-caring agency provides care to ju-
32 venile offenders.

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

35 (A) The child being placed is a juvenile offender; or

36 (B) The child being placed is not a juvenile offender and the out-of-state child caring
37 agency:

38 (i) Operates distinct programs for children and juvenile offenders;

39 (ii) Prohibits the commingling of children and juvenile offenders;

40 (iii) Prohibits the commingling of the staff from the child and juvenile offender programs;

41 (iv) Has separate handbooks and policies for the child and juvenile offender programs;

42 (v) Has a facility that is large enough to ensure that the nature and culture of the child
43 and juvenile offender programs are separate and distinct; and

44 (vi) Is a qualified residential treatment program.

45 **SECTION 8.** ORS 418.258 is amended to read:

1 418.258. (1) When the Department of Human Services becomes aware of a report of suspected
2 child abuse of a child in care, whether in the form of an allegation, complaint or formal report made
3 under this section, and whether made directly to the Director of Human Services, the department
4 or an employee of the department, to a hotline operated by the department, through the mandatory
5 abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall
6 immediately:

7 (a) Notify appropriate personnel within the department, including but not limited to employees
8 responsible for licensing, certifying or authorizing child-caring agencies, certified foster homes and
9 developmental disabilities residential facilities.

10 (b) Notify any governmental agency that has a contract with the child-caring agency, certified
11 foster home or developmental disabilities residential facility to provide care or services to the child
12 in care.

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

16 [(c)] (d) Commence an investigation to determine whether the report of suspected abuse is sub-
17 stantiated, unsubstantiated or inconclusive under ORS 418.259[.] **if:**

18 **(A) The reported abuse occurred in this state;**

19 **(B) The reported abuse occurred in any other state and involves a child in care placed**
20 **by the department in an out-of-state child-caring agency; or**

21 **(C) The reported abuse occurred in any other state and the department reasonably be-**
22 **lieves that the reported abuse poses a danger to the health, safety or wellness of a child in**
23 **care placed by the department in an out-of-state child-caring agency.**

24 [(d)] (e) Report to a law enforcement agency any crime that the department has reason to be-
25 lieve has occurred with respect to a child in care or at a child-caring agency, proctor foster home,
26 certified foster home or developmental disabilities residential facility even if the suspected crime is
27 not related to a report of abuse made under this section.

28 (2)(a) As a condition for issuance or renewal of a license, certificate or authorization to a
29 child-caring agency, certified foster home or developmental disabilities residential facility, the de-
30 partment shall require and verify that the child-caring agency, certified foster home or develop-
31 mental disabilities residential facility has procedures and protocols that:

32 (A) Require employees of the child-caring agency, a proctor foster home certified by the child-
33 caring agency, the certified foster home or the developmental disabilities residential facility to im-
34 mediately report suspected abuse of a child in care to the director, the director's designee or
35 personnel within the department who have been specifically designated to receive reports of abuse
36 of children in care;

37 (B) Mandate that the child-caring agency, certified foster home or developmental disabilities
38 residential facility provide an annual training and written materials that include information about
39 the child abuse reporting hotline, and that the agency, home or facility advise and educate employ-
40 ees of the child-caring agency and any proctor foster home certified by the child-caring agency, of
41 the certified foster home or of the developmental disabilities residential facility of the duty under
42 this section and ORS 419B.005 to 419B.050 to report abuse of a child in care; and

43 (C) Inform employees of child-caring agencies, proctor foster homes, certified foster homes and
44 developmental disabilities residential facilities that the duty to report abuse of a child in care is
45 personal to the employee and that the duty is not fulfilled by reporting the abuse to the owner, op-

1 erator or any other employee of the child-caring agency, proctor foster home, certified foster home
2 or developmental disabilities residential facility even if the owner, operator or other employee re-
3 ports the abuse of a child in care to the director, the director's designee or the department.

4 (b) A child-caring agency, certified foster home or developmental disabilities residential facility
5 need not develop and maintain procedures and protocols or provide an annual training and written
6 materials under paragraph (a) of this subsection if the agency, home or facility does not have any
7 employees, staff or volunteers.

8 (3) Interference or hindering an investigation of abuse of a child in care, including but not lim-
9 ited to the intimidation of witnesses, falsification of records or denial or limitation of interviews
10 with the child in care who is the subject of the investigation or with witnesses, may constitute
11 grounds for the revocation, suspension or placing of conditions on the license, certificate or other
12 authorization of a child-caring agency, proctor foster home, certified foster home or developmental
13 disabilities residential facility.

14 (4)(a) Anyone, including but not limited to an employee of a child-caring agency, proctor foster
15 home, certified foster home or developmental disabilities residential facility, who makes a report of
16 suspected abuse of a child in care to the Governor, the Department of Justice, the Director of Hu-
17 man Services, the director's designee or the department under this section in good faith and who
18 has reasonable grounds for the making of the report shall have immunity:

19 (A) From any liability, civil or criminal, that might otherwise be incurred or imposed with re-
20 spect to the making or content of such report;

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

22 (C) With respect to participating in any judicial proceeding resulting from or involving the re-
23 port.

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

28 **SECTION 9.** ORS 418.259 is amended to read:

29 418.259. (1) The investigation conducted by the Department of Human Services under ORS
30 418.258 must result in one of the following findings:

31 (a) That the report is substantiated. A report is substantiated when there is reasonable cause
32 to believe that the abuse of a child in care occurred.

33 (b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence
34 that the abuse of a child in care occurred.

35 (c) That the report is inconclusive. A report is inconclusive when there is some indication that
36 the abuse occurred but there is insufficient evidence to conclude that there is reasonable cause to
37 believe that the abuse occurred.

38 (2) When a report is received under ORS 418.258 alleging that a child in care may have been
39 subjected to abuse, the department shall notify the case managers for the child, the attorney for the
40 child, the child's court appointed special advocate, the parents or guardians of the child, any attor-
41 ney representing a parent or guardian of the child and any governmental agency that has a contract
42 with the child-caring agency or developmental disabilities residential facility to provide care or
43 services to the child that a report has been received.

44 (3) The department may interview the child in care who is the subject of suspected abuse and
45 witnesses without the presence of employees of the child-caring agency, proctor foster home or de-

1 velopmental disabilities residential facility, the provider of services at a certified foster home or
2 department personnel. The department shall inform the child in care that the child may have the
3 child's parent or guardian, if the child has not been committed to the custody of the department or
4 the Oregon Youth Authority, or attorney present when participating in an interview conducted in
5 the course of an abuse investigation.

6 (4) The department shall notify the following when a report of abuse is substantiated:

7 (a) The Director of Human Services.

8 (b) Personnel in the department responsible for the licensing, certificate or authorization of
9 child-caring agencies.

10 (c) The department's lead personnel in that part of the department that is responsible for child
11 welfare generally.

12 (d) With respect to the child in care who is the subject of the abuse report and investigation,
13 the case managers for the child, the attorney for the child, the child's court appointed special ad-
14 vocate, the parents or guardians of the child, any attorney representing a parent or guardian of the
15 child and any governmental agency that has a contract with the child-caring agency to provide care
16 or services to the child.

17 (e) The parents or guardians of the child in care who is the subject of the abuse report and in-
18 vestigation if the child in care has not been committed to the custody of the department or the
19 youth authority. Notification under this paragraph may not include any details or information other
20 than that a report of abuse has been substantiated.

21 (f) Any governmental agency that has a contract with the child-caring agency to provide care
22 or services to a child in care.

23 (g) The local citizen review board established by the Judicial Department under ORS 419A.090.

24 (5) The department shall report on a quarterly basis to the interim legislative committees on
25 child welfare for the purposes of public review and oversight of the quality and safety of child-caring
26 agencies, certified foster homes and developmental disabilities residential facilities that are licensed,
27 certified or authorized by the department in this state and of proctor foster homes that are certified
28 by the child-caring agencies. Information provided in reports under this subsection may not contain
29 the name or any identifying information of a child in care but must contain all of the following:

30 (a) The name of any child-caring agency, **including an out-of-state child-caring agency**,
31 proctor foster home or developmental disabilities residential facility, or, provided there are five or
32 more certified foster homes in the county, the name of the county where a certified foster home is
33 located, where the department conducted an investigation pursuant to ORS 418.258 that resulted in
34 a finding that the report of abuse was substantiated during that quarter;

35 (b) The approximate date that the abuse occurred;

36 (c) The nature of the abuse and a brief narrative description of the abuse that occurred;

37 (d) Whether physical injury, sexual abuse or death resulted from the abuse; *[and]*

38 (e) Corrective actions taken or ordered by the department and the outcome of the corrective
39 actions[.]; **and**

40 **(f) Information the department received in that quarter regarding any substantiated**
41 **allegations of child abuse made by any other state involving a congregate care residential**
42 **setting, as defined in ORS 419B.354, in which the department has placed Oregon children.**

43 (6) In compiling records, reports and other information during an investigation under ORS
44 418.258 (1) and in issuing findings, letters of concern (1) or reprimands, the Director of Human Services
45 or the director's designee and the department may not refer to the employee, person or entity that

1 is the subject of the investigation as an “alleged perpetrator” but must refer to the employee, person
2 or entity as the “respondent.”

3 **SECTION 10.** ORS 418.500 is amended to read:

4 418.500. **Subject to ORS 419B.354**, if the Department of Human Services determines that need
5 exists for care and treatment of a child who is eligible for such care and treatment that is not
6 available through any public or private agency or facility in this state, it may enter into an agree-
7 ment with a public or private agency outside this state for the purchase of care for the child. Such
8 agreements shall contain the matter described in ORS 418.495 **and section 7 of this 2020 Act** and
9 shall apply to children described therein.

10 **SECTION 11.** ORS 419B.354 is amended to read:

11 419B.354. (1) As used in this section:

12 (a) “Congregate care residential setting” means any setting that cares for more than one child
13 or ward and is not a setting described in ORS 418.205 (2)(b)(A), (D) or (E) or (10).

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

19 (2) The Department of Human Services may place a child or ward in a congregate care resi-
20 dential setting [*in this state*] only if the setting is:

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

23 (b) A qualified residential treatment program described in ORS 419B.356.

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

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

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

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

32 (d) **The Oregon Health Authority has approved the placement as medically necessary and**
33 **the child-caring agency:**

34 (A) Is a residential care facility [*that is also*];

35 (B) Is licensed by the [*Oregon Health*] authority and [*accredited by a national*] **maintains site-**
36 **specific accreditation from a nationally recognized** organization to provide psychiatric treatment
37 to children[.]; **and**

38 (C) **Has an active provider agreement with the Oregon Medicaid program.**

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

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

45 (g) The child-caring agency is a residential care facility licensed by the department that provides

1 short-term assessment and stabilization services.

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

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

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

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

9 (b) If the residential care facility or shelter-care home also serves youth or youth offenders
10 served by the county juvenile department or youth offenders committed to the custody of the Oregon
11 Youth Authority by the court.

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

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

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

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

22 (7)(a) Nothing in this section prohibits the Oregon Youth Authority from placing a youth
23 offender committed to its custody in a placement that is not a qualified residential treatment pro-
24 gram.

25 (b) Nothing in this section prohibits the Oregon Youth Authority or a county juvenile depart-
26 ment from placing a youth offender or a youth served by the Oregon Youth Authority or the county
27 juvenile department in shelter care or detention under ORS chapter 419C.

28 **SECTION 12.** ORS 419B.356 is amended to read:

29 419B.356. A program is a qualified residential treatment program if it:

30 (1) Provides residential care and treatment to a child who, based on an independent assessment
31 described in ORS 419B.358, requires specialized, evidence-based, as defined by the Department of
32 Human Services by rule, supports and services related to the effects of trauma or mental, emotional
33 or behavioral health needs.

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

36 (3) Ensures that the staff at the facility includes licensed or registered nurses licensed under
37 ORS chapter 678 and other licensed clinical staff who:

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

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

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

41 (4) Facilitates the involvement of the child's family, as defined in ORS 418.575, in the child's
42 treatment program, to the extent appropriate and in the child's best interests.

43 (5) Facilitates outreach to the child's family, as defined in ORS 418.575, documents how outreach
44 is made and maintains contact information for any known biological relatives or fictive kin, as de-
45 fined by the department by rule.

1 (6) Documents how the program integrates family into the child's treatment process, including
2 after discharge, and how sibling connections are maintained.

3 (7) Provides discharge planning and family-based after-care support for at least six months fol-
4 lowing the child's discharge from the program.

5 (8) Is licensed and accredited in accordance with requirements adopted by the department by
6 rule[.]. **The rules adopted by the department under this subsection must be** consistent with
7 federal licensure and accreditation requirements for qualified residential treatment programs **and**
8 **require that the qualified residential treatment program maintain site-specific accreditation**
9 **from a nationally recognized organization.**

10 **SECTION 13.** ORS 419B.358 is amended to read:

11 419B.358. (1) The Department of Human Services shall ensure that an independent, qualified in-
12 dividual assesses the strengths and needs of each child or ward the department places in a qualified
13 residential treatment program described in ORS 419B.356.

14 (2) The assessment described in this section may occur prior to the child's or ward's placement
15 in the program, but shall occur no later than 30 days following the date of placement.

16 (3) The assessment described in this section must, at a minimum:

17 (a) Assess the strengths and needs of the child or ward using an age-appropriate, evidence-based,
18 validated, functional assessment tool;

19 (b) Determine whether the needs of the child or ward can be met with family members or
20 through placement in a foster family home or, if not, which setting would provide the most effective
21 and appropriate level of care for the child or ward in the least restrictive environment and be con-
22 sistent with the short-term and long-term goals for the child or ward, as specified in the permanency
23 plan for the child or ward; and

24 (c) Develop a list of individualized, specific short-term and long-term mental and behavioral
25 health goals.

26 (4)(a) The qualified individual conducting the assessment shall work in conjunction with the
27 child's or ward's family and permanency team, including:

28 (A) Appropriate biological family members, relatives and fictive kin of the child or ward;

29 (B) Appropriate professionals who are a resource to the family of the child or ward, including
30 teachers and medical or mental health providers who have treated the child or ward;

31 (C) Clergy; or

32 (D) If the child or ward has attained the age of 14 years, individuals selected by the child or
33 ward.

34 (b) The department shall document the following in the child's or ward's case plan:

35 (A) The reasonable and good faith efforts of the department to identify and include all of the
36 individuals identified in paragraph (a) of this subsection on the child's or ward's family and
37 permanency team.

38 (B) Contact information for members of the child's or ward's family and permanency team and
39 for any of the child's or ward's family members or fictive kin who are not part of the child's or
40 ward's family and permanency team.

41 (C) Evidence that meetings of the family and permanency team, including meetings related to
42 the required assessment, are held at a time and place convenient for the child's or ward's family.

43 (D) If reunification is the goal, evidence demonstrating that the parent from whom the child or
44 ward was removed provided input on the members of the family and permanency team.

45 (E) Evidence that the assessment is determined in conjunction with the family and permanency

1 team.

2 (F) If the setting recommended by the qualified individual conducting the assessment is different
3 than the placement preferences of the family and permanency team and of the child or ward, the
4 reasons why the preferences of the team and of the child or ward were not recommended.

5 (5) If the qualified individual conducting the assessment determines the child or ward should not
6 be placed in a foster family home, the qualified individual shall specify in writing the reasons why
7 the needs of the child or ward cannot be met by the family of the child or ward or in a foster family
8 home. A shortage or lack of foster family homes is not a valid reason for not placing a child or ward
9 in a foster family home under this subsection. The qualified individual shall specify in writing why
10 the recommended placement in a qualified residential treatment program is the setting that will
11 provide the child or ward with the most effective and appropriate level of care in the least restric-
12 tive environment and how that placement is consistent with the short-term and long-term goals for
13 the child or ward, as specified in the child's or ward's permanency plan.

14 (6) As used in this section:

15 (a) "Fictive kin" has the meaning given that term by the department by rule.

16 (b) [*Unless the department receives a federal waiver,*] "Qualified individual" means an individual
17 who is:

18 (A) A trained professional or licensed clinician;

19 (B) Not an employee of the department or of the Oregon Health Authority; and

20 (C) Not connected to, or affiliated with, any placement setting in which children or wards are
21 placed by the department.

22 **SECTION 14.** ORS 419B.360 is amended to read:

23 419B.360. (1) The Department of Human Services shall move the court for approval of a place-
24 ment no later than 30 days following the date the department placed, or will place, a child or ward
25 in a qualified residential treatment program described in ORS 419B.356.

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

27 (A) The date of the placement;

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

29 (C) A copy of the child's or ward's independent assessment described in ORS 419B.358.

30 (b) Notwithstanding paragraph (a)(C) of this subsection, if the independent assessment is not
31 completed at the time the department files the motion under subsection (1) of this section, the de-
32 partment may file the motion under this section without the assessment and shall supplement the
33 motion with a copy of the completed assessment immediately following the department's receipt of
34 the completed assessment.

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

37 (4) Upon receipt of a motion under this section, the court shall schedule a hearing to occur no
38 later than 60 days following the date the child or ward is placed in the qualified residential treat-
39 ment program.

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

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

44 (B) If the court determines that the needs of the child or ward cannot be met through placement
45 in a foster family home or proctor foster home, whether placement of the child or ward in the

1 qualified residential treatment program:

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

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

5 **(b) In addition to the determinations under paragraph (a) of this subsection, if the motion**
6 **is for approval of the placement of a child or ward in an out-of-state child-caring agency that**
7 **serves juvenile offenders as defined in section 7 of this 2020 Act, the court may not approve**
8 **the placement unless the court finds that the child or ward's placement in the out-of-state**
9 **child-caring agency is the least restrictive setting available to meet the child or ward's**
10 **treatment needs, taking into consideration all of the following:**

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

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

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

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

16 *[(b)]* (c) The court may receive testimony, reports or other material relating to the child's or
17 ward's mental, physical and social history and prognosis without regard to the competency or rele-
18 vancy of the testimony, reports or other material under the rules of evidence.

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

21 (7) If the court enters an order disapproving the child's or ward's placement, the department
22 shall move the child or ward to a placement consistent with the court's order no later than 30 days
23 following the date the court enters the order.

24
25 **MISCELLANEOUS**

26
27 **SECTION 15. Section 7 of this 2020 Act and ORS 419B.354, 419B.356 and 419B.358 are**
28 **added to and made a part of ORS 418.205 to 418.327.**

29 **SECTION 16. (1) The amendments to ORS 341.522 by section 1 of this 2020 Act apply to**
30 **a foster child who attained or attains the foster child's highest level of education before, on**
31 **or after the effective date of this 2020 Act.**

32 **(2) Section 3 of this 2020 Act applies to reports of child abuse received by the Department**
33 **of Human Services before, on or after the effective date of this 2020 Act.**

34 **(3) Sections 5 and 7 of this 2020 Act and the amendments to ORS 418.258, 418.259, 418.500,**
35 **419B.354, 419B.356, 419B.358 and 419B.360 by sections 8 to 14 of this 2020 Act apply to:**

36 **(a) Oregon children or wards placed in any other state on or after the effective date of**
37 **this 2020 Act; and**

38 **(b) Children or wards placed in this state on or after July 1, 2020.**

39 **SECTION 17. (1) Sections 5 and 7 of this 2020 Act and the amendments to ORS 418.258,**
40 **418.259, 418.500, 419B.354, 419B.356, 419B.358 and 419B.360 by sections 8 to 14 of this 2020 Act**
41 **become operative on July 1, 2020.**

42 **(2) The Department of Human Services and the Oregon Health Authority may take any**
43 **action before the operative date specified in subsection (1) of this section that is necessary**
44 **for the department or the authority to exercise, on and after the operative date specified in**
45 **subsection (1) of this section, all of the duties, functions and powers conferred on the de-**

1 **partment or the authority by sections 5 and 7 of this 2020 Act and the amendments to ORS**
2 **418.258, 418.259, 418.500, 419B.354, 419B.356, 419B.358 and 419B.360 by sections 8 to 14 of this**
3 **2020 Act.**

4
5 **CAPTIONS**
6

7 **SECTION 18. The unit captions used in this 2020 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 2020 Act.**

10
11 **EMERGENCY CLAUSE**
12

13 **SECTION 19. This 2020 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
15 **on its passage.**
16
