

**A-Engrossed**  
**House Bill 2104**

Ordered by the House April 16  
Including House Amendments dated April 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Human Services)

**SUMMARY**

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

Modifies definition of "current caretaker."  
*[Grants juvenile court continuing wardship jurisdiction upon establishment of permanent or durable guardianship regardless of whether original bases for wardship jurisdiction continue to exist.]*

**A BILL FOR AN ACT**

1  
2 Relating to wards; amending ORS 419A.004.

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

4 **SECTION 1.** ORS 419A.004, as amended by section 26, chapter 14, Oregon Laws 2020 (first  
5 special session), and sections 17a and 17b, chapter 19, Oregon Laws 2020 (first special session), is  
6 amended to read:

7 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires  
8 otherwise:

9 (1) "Age-appropriate or developmentally appropriate activities" means:

10 (a) Activities or items that are generally accepted as suitable for children of the same chrono-  
11 logical age or level of maturity or that are determined to be developmentally appropriate for a child,  
12 based on the development of cognitive, emotional, physical and behavioral capacities that are typical  
13 for an age or age group; and

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

17 (2) "Another planned permanent living arrangement" means an out-of-home placement for a ward  
18 16 years of age or older that is consistent with the case plan and in the best interests of the ward  
19 other than placement:

20 (a) By adoption;

21 (b) With a legal guardian; or

22 (c) With a fit and willing relative.

23 (3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile  
24 court, has received accreditation from the National CASA Association and has entered into a con-  
25 tract with the Oregon Department of Administrative Services under ORS 184.492 to recruit, train  
26 and supervise volunteers to serve as court appointed special advocates.

27 (4) "Child care center" means a residential facility for wards or youth offenders that is licensed,

**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 certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

2 (5) "Community service" has the meaning given that term in ORS 137.126.

3 (6) "Conflict of interest" means a person appointed to a local citizen review board who has a  
4 personal or pecuniary interest in a case being reviewed by that board.

5 (7) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

6 (8) "Court" means the juvenile court.

7 (9) "Court appointed special advocate" means a person in a CASA Volunteer Program who is  
8 appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

9 (10) "Court facility" has the meaning given that term in ORS 166.360.

10 (11) "Current caretaker" means a foster parent:

11 (a) Who is currently caring for a ward who is in the legal custody of the Department of Human  
12 Services and who has a permanency plan [*or concurrent permanent plan*] of adoption; and

13 (b) Who has cared for the ward, or at least one sibling of the ward, for at least 12 cumulative  
14 months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two  
15 years of age, calculated cumulatively **from the date the ward entered substitute care**.

16 (12) "Department" means the Department of Human Services.

17 (13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to  
18 419A.020 and 419A.050 to 419A.063 for the detention of youths or youth offenders pursuant to a ju-  
19 dicial commitment or order.

20 (14) "Director" means the director of a juvenile department established under ORS 419A.010 to  
21 419A.020 and 419A.050 to 419A.063.

22 (15) "Guardian" means guardian of the person and not guardian of the estate.

23 (16) "Indian child" has the meaning given that term in section 2, chapter 14, Oregon Laws 2020  
24 (first special session).

25 (17) "Juvenile court" means the court having jurisdiction of juvenile matters in the several  
26 counties of this state.

27 (18) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

28 (19) "Parent" means the biological or adoptive mother and the legal parent of the child, ward,  
29 youth or youth offender. As used in this subsection, "legal parent" means:

30 (a) A person who has adopted the child, ward, youth or youth offender or whose parentage has  
31 been established or declared under ORS 25.501 to 25.556 or 109.065 or by a juvenile court; and

32 (b) If the child is an Indian child, a man whose parentage has been established as described in  
33 section 4, chapter 14, Oregon Laws 2020 (first special session).

34 (20) "Permanent foster care" means an out-of-home placement in which there is a long-term  
35 contractual foster care agreement between the foster parents and the department that is approved  
36 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or  
37 youth offender until the age of majority.

38 (21) "Public building" has the meaning given that term in ORS 166.360.

39 (22) "Proctor foster home" has the meaning given that term in ORS 418.205.

40 (23) "Qualified residential treatment program" means a program described in section 12b, chap-  
41 ter 19, Oregon Laws 2020 (first special session).

42 (24) "Reasonable and prudent parent standard" means the standard, characterized by careful and  
43 sensible parental decisions that maintain the health, safety and best interests of a child or ward  
44 while encouraging the emotional and developmental growth of the child or ward, that a substitute  
45 care provider shall use when determining whether to allow a child or ward in substitute care to

1 participate in extracurricular, enrichment, cultural and social activities.

2 (25) "Reasonable time" means a period of time that is reasonable given a child or ward's emo-  
3 tional and developmental needs and ability to form and maintain lasting attachments.

4 (26) "Records" means any information in written form, pictures, photographs, charts, graphs,  
5 recordings or documents pertaining to a case.

6 (27) "Resides" or "residence," when used in reference to the residence of a child, ward, youth  
7 or youth offender, means the place where the child, ward, youth or youth offender is actually living  
8 or the jurisdiction in which wardship or jurisdiction has been established.

9 (28) "Restitution" has the meaning given that term in ORS 137.103.

10 (29) "Serious physical injury" means:

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

12 (b) A physical injury that:

13 (A) Has a permanent or protracted significant effect on a child's daily activities;

14 (B) Results in substantial and recurring pain; or

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

16 (30) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward,  
17 youth or youth offender who is taken into temporary custody pending investigation and disposition.

18 (31) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for  
19 holding youths and youth offenders pending further placement.

20 (32) "Sibling" means one of two or more children or wards related:

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

22 (b) Through the marriage of the children's or wards' legal or biological parents.

23 (33)(a) "Substitute care" means an out-of-home placement directly supervised by the department  
24 or other agency, including placement in a foster family home, group home, child-caring agency as  
25 defined in ORS 418.205 or other child caring institution or facility.

26 (b) "Substitute care" does not include care in:

27 (A) A detention facility, forestry camp or youth correction facility;

28 (B) A family home that the court has approved as a ward's permanent placement, when a  
29 child-caring agency as defined in ORS 418.205 has been appointed guardian of the ward and when  
30 the ward's care is entirely privately financed;

31 (C) In-home placement subject to conditions or limitations;

32 (D) A facility or other entity that houses or provides services only to youth offenders committed  
33 to the custody of the Oregon Youth Authority by the juvenile court; or

34 (E) A youth offender foster home as that term is defined in ORS 420.888.

35 (34) "Surrogate" means a person appointed by the court to protect the right of the child, ward,  
36 youth or youth offender to receive procedural safeguards with respect to the provision of free ap-  
37 propriate public education.

38 (35) "Tribal court" has the meaning given that term in section 2, chapter 14, Oregon Laws 2020  
39 (first special session).

40 (36) "Victim" means any person determined by the district attorney, the juvenile department or  
41 the court to have suffered direct financial, psychological or physical harm as a result of the act that  
42 has brought the youth or youth offender before the juvenile court. When the victim is a minor,  
43 "victim" includes the legal guardian of the minor. The youth or youth offender may not be consid-  
44 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-  
45 presented by the district attorney, are considered the victims.

1 (37) "Violent felony" means any offense that, if committed by an adult, would constitute a felony  
2 and:

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

4 (b) Is a sexual offense. As used in this paragraph, "sexual offense" has the meaning given the  
5 term "sex crime" in ORS 163A.005.

6 (38) "Ward" means a person within the jurisdiction of the juvenile court under ORS 419B.100.

7 (39) "Young person" means a person who has been found responsible except for insanity under  
8 ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

9 (40) "Youth" means a person under 18 years of age who is alleged to have committed an act that  
10 is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the  
11 United States or a state, county or city.

12 (41) "Youth care center" has the meaning given that term in ORS 420.855.

13 (42) "Youth offender" means a person who has been found to be within the jurisdiction of the  
14 juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

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