

# House Bill 2424

Sponsored by Representative NATHANSON, Senator PROZANSKI (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 **as introduced**.

Directs Department of Human Services, in consultation with Oregon Youth Authority and Oregon Health Authority, to develop child-caring agency grant and training program. Appropriates moneys to department for program.

Modifies unsubstantiated abuse reports involving child-caring agencies to include situations in which there is evidence that abuse of child in care occurred but that abuse was result of substandard care.

Establishes Child Welfare Cultural Equity Program within Department of Human Services to ensure access to diverse set of child welfare service providers consistent with cultural diversity needs of population being served. Appropriates moneys to department for program.

Creates qualified mental health associate incentive program within Oregon Health Authority. Appropriates moneys to authority for program.

Prescribes certain educational and training requirements for qualified mental health associates assisting child-caring agencies. Appropriates moneys to Oregon Health Authority.

## A BILL FOR AN ACT

Relating to child welfare; creating new provisions; and amending ORS 418.205, 418.259 and 676.450.

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

## CHILD SAFETY TRAINING

**SECTION 1.** (1) As used in this section, "child" and "child-caring agency" have the meanings given those terms in ORS 418.205.

(2) The Department of Human Services, in consultation with the Oregon Youth Authority and the Oregon Health Authority, shall establish a child-caring agency grant and training program.

(3) The purpose of the grant and training program is to improve the safety and treatment outcomes of children receiving services from child-caring agencies, to increase regulatory compliance by service providers and to improve the recruitment and retention of well-trained and qualified service providers.

(4) The department may contract with a nonprofit organization to administer the program.

(5)(a) The administrator of the program may award grants in an amount not to exceed \$30,000 per grant recipient to child-caring agencies for the purpose of developing training programs to ensure compliance with the federal Family First Prevention Services Act and other quality improvement initiatives.

(b) In addition to awarding the grants described in paragraph (a) of this subsection, the administrator of the program shall develop a statewide child-caring agency training program to support the implementation of the federal Family First Prevention Services Act.

(6) The administrator of the grant and training program shall submit biannual reports

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 to the department describing the following:

- 2 (a) The number of grants awarded in the preceding six-month period;
- 3 (b) The aggregate amount of grant moneys awarded;
- 4 (c) The number of statewide trainings held by the administrator of the program; and
- 5 (d) The demonstrated outcomes of the grant and training program.
- 6 (7) The department may adopt any rules necessary to carry out the provisions of this
- 7 section.

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9 **SUBSTANDARD CARE**

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11 **SECTION 2.** ORS 418.259, as amended by section 9, chapter 19, Oregon Laws 2020 (first special  
12 session), is amended to read:

13 418.259. (1) The investigation conducted by the Department of Human Services under ORS  
14 418.258 must result in one of the following findings:

15 (a) That the report is substantiated. A report is substantiated when, **except as provided in**  
16 **paragraph (b) of this subsection**, there is reasonable cause to believe that the abuse of a child in  
17 care occurred.

18 (b) That the report is unsubstantiated. A report is unsubstantiated when there is no evidence  
19 that the abuse of a child in care occurred **or when there is evidence that the abuse of a child**  
20 **in care occurred but that the abuse was the result of substandard care.**

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

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

30 (3) The department may interview the child in care who is the subject of suspected abuse and  
31 witnesses without the presence of employees of the child-caring agency, proctor foster home or de-  
32 velopmental disabilities residential facility, the provider of services at a certified foster home or  
33 department personnel. The department shall inform the child in care that the child may have the  
34 child's parent or guardian, if the child has not been committed to the custody of the department or  
35 the Oregon Youth Authority, or attorney present when participating in an interview conducted in  
36 the course of an abuse investigation.

37 (4)(a) **For the purposes of this section, abuse is the result of substandard care if the de-**  
38 **partment determines that:**

- 39 (A) **There is reasonable cause to believe that the abuse of a child in care occurred;**
- 40 (B) **The abuse resulted in no harm or minimal harm to the child in care; and**
- 41 (C) **There is reasonable cause to believe that the actions of the employee, person or en-**  
42 **tity that is the subject of the investigation were:**
  - 43 (i) **Inadvertent; or**
  - 44 (ii) **A behavioral choice with no intent to harm, but which resulted in minimal harm or**  
45 **the risk of harm to the child in care.**

1       **(b) Abuse is not the result of substandard care if the department determines that there**  
 2 **is reasonable cause to believe that the employee, person or entity that is the subject of the**  
 3 **investigation:**

- 4       **(A) Consciously disregarded policies and practices; or**  
 5       **(B) Intended to harm the child in care.**

6       [(4)] (5) 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)] (6) The department shall report on a quarterly basis to the interim legislative committees  
 25 on child welfare for the purposes of public review and oversight of the quality and safety of child-  
 26 caring agencies, certified foster homes and developmental disabilities residential facilities that are  
 27 licensed, certified or authorized by the department in this state and of proctor foster homes that are  
 28 certified by the child-caring agencies. Information provided in reports under this subsection may  
 29 not contain the name or any identifying information of a child in care but must contain all of the  
 30 following:

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

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

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

38       (d) Whether physical injury, sexual abuse or death resulted from the abuse;

39       (e) Corrective actions taken or ordered by the department and the outcome of the corrective  
 40 actions; and

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

44       [(6)] (7) In compiling records, reports and other information during an investigation under ORS  
 45 418.258 (1) and in issuing findings, letters of concern or reprimands, the Director of Human Services

1 or the director's designee and the department may not refer to the employee, person or entity that  
2 is the subject of the investigation as an "alleged perpetrator" but must refer to the employee, person  
3 or entity as the "respondent."

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5 **WORKFORCE DIVERSITY**  
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7 **SECTION 3. (1) The Child Welfare Cultural Equity Program is established within the**  
8 **Department of Human Services. The purpose of the program is to ensure access to a diverse**  
9 **set of child welfare service providers consistent with the cultural diversity needs of the**  
10 **population being served.**

11 **(2) Under the program, the department may develop, or contract with nonprofit organ-**  
12 **izations to assist in developing:**

13 **(a) Methods for determining the cultural needs of the children receiving child welfare**  
14 **services from the department;**

15 **(b) Methods for incentivizing the recruitment and retention of a diverse set of child**  
16 **welfare service providers; and**

17 **(c) Best practices for connecting a child served by the department with service providers**  
18 **who meet the child's cultural diversity needs.**

19 **(3) The department may adopt rules to implement and carry out the provisions of this**  
20 **section.**

21  
22 **STUDENT LOAN FORGIVENESS**  
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24 **SECTION 4. (1) There is created in the Oregon Health Authority a qualified mental health**  
25 **associate incentive program for the purpose of providing loan repayment subsidies to quali-**  
26 **fied mental health associates who commit to serving children in child-caring agencies in this**  
27 **state. The authority shall prescribe by rule:**

28 **(a) Participant eligibility criteria, including the types of qualified mental health associ-**  
29 **ates who may participate in the program;**

30 **(b) The terms and conditions of participation in the program, including the duration of**  
31 **the term of any service agreement, which must be at least 24 months;**

32 **(c) If the funds allocated to the program from the Health Care Provider Incentive Fund**  
33 **established under ORS 676.450 are insufficient to provide assistance to all of the applicants**  
34 **who are eligible to participate in the program, the priority for the distribution of funds; and**

35 **(d) The financial penalties imposed on an individual who fails to comply with the terms**  
36 **and conditions of participation.**

37 **(2) Eligibility requirements adopted for the program:**

38 **(a) Must allow qualified mental health associates to qualify for an incentive for multiyear**  
39 **periods.**

40 **(b) Must give preference to applicants:**

41 **(A) Who are willing to commit to completing trainings offered under section 1 of this 2021**  
42 **Act;**

43 **(B) Who have been recruited through the Child Welfare Cultural Equity Program estab-**  
44 **lished under section 3 of this 2021 Act;**

45 **(C) Who commit to serving with a child-caring agency that provides care to children re-**

1 ceiving child welfare services from the Department of Human Services or children who have  
2 been referred by state or local agencies or coordinated care organizations; or

3 (D) Who meet specific needs identified by the child-caring agency.

4 (3) The authority may enter into contracts with one or more public or private entities  
5 to administer the qualified mental health associate incentive program or parts of the pro-  
6 gram.

7 (4) The authority may receive gifts, grants or contributions from any source, whether  
8 public or private, to carry out the provisions of this section. Moneys received under this  
9 subsection shall be deposited in the Health Care Provider Incentive Fund established under  
10 ORS 676.450.

11 **SECTION 5.** ORS 418.205, as amended by sections 15a and 15b, chapter 19, Oregon Laws 2020  
12 (first special session), is amended to read:

13 418.205. As used in ORS 418.205 to 418.327, 418.470, 418.475, 418.950 to 418.970 and 418.992 to  
14 418.998 and section 4 of this 2021 Act, unless the context requires otherwise:

15 (1) "Child" means an unmarried person under 21 years of age who resides in or receives care  
16 or services from a child-caring agency.

17 (2)(a) "Child-caring agency":

18 (A) Means any private school, private agency, private organization or county program providing:

19 (i) Day treatment for children with emotional disturbances;

20 (ii) Adoption placement services;

21 (iii) Residential care, including but not limited to foster care or residential treatment for chil-  
22 dren;

23 (iv) Residential care in combination with academic education and therapeutic care, including but  
24 not limited to treatment for emotional, behavioral or mental health disturbances;

25 (v) Outdoor youth programs; or

26 (vi) Other similar care or services for children.

27 (B) Includes the following:

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

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

30 (iii) A private residential boarding school; and

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

32 (b) "Child-caring agency" does not include:

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

36 (B) Any private agency or organization facilitating the provision of respite services for parents  
37 pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subpar-  
38 agraph, "respite services" means the voluntary assumption of short-term care and control of a minor  
39 child without compensation or reimbursement of expenses for the purpose of providing a parent in  
40 crisis with relief from the demands of ongoing care of the parent's child;

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

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

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

44 (F) A facility that exclusively serves individuals 18 years of age and older; or

45 (G) A facility that primarily serves both adults and children but requires that any child must

1 be accompanied at all times by at least one custodial parent or guardian.

2 (3) "Child-caring facility" has the meaning given that term in ORS 418.950.

3 (4)(a) "County program" means any county operated program that provides care or services to  
4 children in the custody of the Department of Human Services or the Oregon Youth Authority.

5 (b) "County program" does not include any local juvenile detention facility that receives state  
6 services provided and coordinated by the Department of Corrections under ORS 169.070.

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

10 (6) "Independent residence facility" means a facility established or certified under ORS 418.475.

11 (7)(a) "Outdoor youth program" means a program that provides, in an outdoor living setting,  
12 services to children who have behavioral problems, mental health problems or problems with abuse  
13 of alcohol or drugs.

14 (b) "Outdoor youth program" does not include any program, facility or activity:

15 (A) Operated by a governmental entity;

16 (B) Operated or affiliated with the Oregon Youth Corps;

17 (C) Licensed by the Department of Human Services under other authority of the department; or

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

19 (8) "Private" means not owned, operated or administered by any governmental agency or unit.

20 (9) "Private residential boarding school" means either of the following as the context requires:

21 (a) A child-caring agency that is a private school that provides residential care in combination  
22 with academic education and therapeutic care, including but not limited to treatment for emotional,  
23 behavioral or mental health disturbances; or

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

26 (10) "Proctor foster home" means a foster home certified by a child-caring agency under ORS  
27 418.248 that is not subject to ORS 418.625 to 418.645.

28 (11) "Provider of care or services for children" means a person, entity or organization that  
29 provides care or services to children, regardless of whether the child is in the custody of the De-  
30 partment of Human Services, and that does not otherwise meet the definition of, or requirements for,  
31 a child-caring agency. "Provider of care or services for children" includes a proctor foster home  
32 certified by a child-caring agency under ORS 418.248.

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

35 (13) "Shelter-care home" has the meaning given that term in ORS 418.470.

36 **SECTION 6.** ORS 676.450 is amended to read:

37 676.450. The Health Care Provider Incentive Fund is established in the State Treasury, separate  
38 and distinct from the General Fund. Interest earned by the Health Care Provider Incentive Fund  
39 shall be credited to the fund. The fund consists of moneys appropriated to the fund by the Legisla-  
40 tive Assembly and gifts, grants or other moneys contributed to the fund by any source, whether  
41 public or private. Moneys in the fund are continuously appropriated to the Oregon Health Authority  
42 to carry out ORS 676.454 and 676.467 **and section 4 of this 2021 Act.**

43  
44 **QUALIFIED MENTAL HEALTH ASSOCIATES**  
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**SECTION 7.** A child-caring agency, as defined in ORS 418.205, may allow a person to serve as a qualified mental health associate designated to assist the child-caring agency if the person:

(1) Provides the child-caring agency with documentation showing that the person has completed an educational program for qualified mental health associates accredited by a national accreditation organization approved by the Oregon Health Authority or the Department of Human Services by rule;

(2) Is actively enrolled in, or has completed, a registered apprenticeship program identified by the authority by rule;

(3) Provides the child-caring agency with documentation showing that the person has completed a training program identified by the authority by rule; and

(4) Every two years completes 16 hours of continuing education approved by the authority.

**APPROPRIATIONS**

**SECTION 8.** (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Human Services, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$1,250,000 for the purpose of carrying out the provisions of section 1 of this 2021 Act.

(2) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Human Services, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$2,500,000 for the purpose of carrying out the provisions of section 3 of this 2021 Act.

(3) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$250,000, for deposit in the Health Care Provider Incentive Fund established in ORS 676.450, and which may be expended for the purpose of providing loan repayment subsidies to qualified mental health associates participating in the qualified mental health associate incentive program under section 4 of this 2021 Act.

(4) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$250,000 for the purpose of carrying out the provisions of section 7 of this 2021 Act.

**CAPTIONS**

**SECTION 9.** The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.