

## SENATE AMENDMENTS TO SENATE BILL 85

By COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

April 19

1 On page 1 of the printed bill, line 2, after “children;” insert “creating new provisions; and”.

2 On page 2, delete lines 6 through 45 and delete page 3.

3 On page 4, delete lines 1 through 34 and insert:

4 “**SECTION 2.** Section 7a, chapter 19, Oregon Laws 2020 (first special session), as amended by  
5 section 7b, chapter 19, Oregon Laws 2020 (first special session), is amended to read:

6 “**Sec. 7a.** (1) Subject to ORS 419B.354, the Department of Human Services may place a child in  
7 an out-of-state child-caring agency only if:

8 “(a) The out-of-state child-caring agency is licensed to provide or engage in the provision of care  
9 or services by the department under ORS 418.205 to 418.327 and complies with the licensing re-  
10 quirements under ORS 418.215;

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

12 “(c) The department’s contract with the child-caring agency meets the criteria under subsection  
13 (3) of this section.

14 “(2)(a) The department shall license an out-of-state child-caring agency pursuant to the same  
15 licensure requirements the department would impose if the out-of-state child-caring agency was lo-  
16 cated in this state.

17 “(b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Placement of  
18 Children and ORS 417.230, the department may not delegate the department’s licensing, visitation,  
19 inspection, investigation or supervision of an out-of-state child-caring agency licensed by the de-  
20 partment to provide care or services to an Oregon child.

21 “(3)(a) The department shall review the department’s contract with an out-of-state child-caring  
22 agency prior to placing a child with the child-caring agency.

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

24 “(A) At the time the contract is executed, the child-caring agency must provide the department  
25 with a current list of every entity for which the child-caring agency is providing placement services.

26 “(B) No later than 15 days after accepting placement of a child from a new entity, the child-  
27 caring agency must notify the department in writing of the child-caring agency’s association with  
28 the new entity. The notice must include the name and contact information of the new entity and the  
29 name and contact information of an individual associated with the new entity.

30 “(C) The child-caring agency must make mandatory reports of child abuse, as defined in ORS  
31 418.257 and 419B.005, involving Oregon children both to the Oregon child abuse hotline and as re-  
32 quired under the laws of the state in which the child-caring agency is located.

33 “(D) The child-caring agency must allow the department full access to the child-caring agency’s  
34 facilities, residents, records and personnel as necessary for the department to conduct child abuse  
35 investigations and licensing activities or investigations.

1 “(E) The child-caring agency must notify the department in writing no later than three business  
2 days after any state determines that an allegation of child abuse or a license violation involving the  
3 child-caring agency is founded, regardless of whether the child abuse or violation involves an  
4 Oregon child.

5 “(F) The child-caring agency must notify the department in writing no later than three business  
6 days after the child-caring agency receives notice from any other state imposing a restriction on  
7 placement of children with the child-caring agency, suspending or revoking the child-caring agency’s  
8 license with that state or indicating the state’s intent to suspend or revoke the child-caring agency’s  
9 license with that state.

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

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

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

16 “(H) Except with respect to protected information described in ORS 418.256 (5), the child-caring  
17 agency may not ask or require an employee or volunteer to sign a nondisclosure or other agreement  
18 prohibiting the employee or volunteer from the good faith disclosure of information concerning the  
19 abuse or mistreatment of a child who is in the care of the child-caring agency, violations of licensing  
20 or certification requirements, criminal activity at the child-caring agency, violations of state or  
21 federal laws or any practice that threatens the health and safety of a child in the care of the  
22 child-caring agency.

23 “(I) The child-caring agency must ensure staffing [*and direct service level*] **ratio and staff**  
24 **training and education** requirements that meet, at a minimum, the standards set by the department  
25 by rule for intensive behavioral support services.

26 “(J) The child-caring agency must meet all of the program, discipline, behavior support, super-  
27 vision and child rights requirements adopted by the department by rule for behavioral rehabilitation  
28 services provided in this state.

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

30 “(L) The child-caring agency must identify a child by the child’s preferred name and pronouns  
31 and may not implement a dress code that prohibits or requires clothing on the basis of biological  
32 sex.

33 “(M) Genetic testing, including testing for [*psychopharmacological*] **psychopharmacological**  
34 purposes, must be approved by a court and may not be included as a standing order for a child in  
35 care.

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

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

41 “(4) The department shall develop rules outlining a process for review of the out-of-state place-  
42 ment of a child who is identified as a child with an intellectual or developmental disability or who  
43 is suspected of having an intellectual or developmental disability. At a minimum, the rules must:

44 “(a) Identify a process for expediting review of the child’s eligibility for developmental disability  
45 services.

1 “(b) Require that a multidisciplinary review team, including administrators in the developmental  
2 disability services program, review the placement before the child is placed out-of-state.

3 “(c) Require that a multidisciplinary team, including administrators in the developmental disa-  
4 bility services program, monitor the progress of the child in the out-of-state placement.

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

7 “(5)(a) A department child welfare services employee must accompany a child who is placed in  
8 an out-of-state child-caring agency any time the child is transported to an initial out-of-state place-  
9 ment, any time the child is moved to a new placement and any time the child is moved by secure  
10 transport.

11 “(b) **Notwithstanding paragraph (a) of this subsection, if a child placed in an out-of-state**  
12 **child-caring agency requires secure transport from the out-of-state placement due to an**  
13 **emergency, a department child welfare services employee is not required to accompany the**  
14 **child if the time it would take for the employee to travel to the child’s out-of-state location**  
15 **would pose a risk to the health, safety or welfare of the child. If a department child welfare**  
16 **services employee does not accompany a child transported to an alternate out-of-state**  
17 **placement, as provided in this paragraph, the child welfare services employee must imme-**  
18 **diately travel to meet the child at the new out-of-state facility.**

19 “(6)(a) As used in this subsection, ‘juvenile offender’ means a person under 18 years of age who  
20 has or is alleged to have committed an act that is a violation, or, if done by an adult, would con-  
21 stitute a violation, of a law or ordinance of the United States or a [state,] county or city in this  
22 state.

23 “(b) Except as provided in paragraph (c) of this subsection, the department may not place a child  
24 in an out-of-state child-caring agency if the child-caring agency provides care to juvenile offenders.

25 “(c) The department may place a child in an out-of-state [child caring] **child-caring** agency that  
26 provides care to juvenile offenders if:

27 “[A] *The child being placed is a juvenile offender; or]*

28 “[B] *The child being placed is not a juvenile offender and the out-of-state child caring agency:]*

29 “[i] *Operates distinct programs for children and juvenile offenders;]*

30 “[ii] *Prohibits the commingling of children and juvenile offenders;]*

31 “[iii] *Prohibits the commingling of the staff from the child and juvenile offender programs;]*

32 “[iv] *Has separate handbooks and policies for the child and juvenile offender programs;]*

33 “[v] *Has a facility that is large enough to ensure that the nature and culture of the child and ju-*  
34 *venile offender programs are separate and distinct; and]*

35 “[vi] *Is a qualified residential treatment program.]*

36 “(A) **The child-caring agency is a qualified residential treatment program licensed by the**  
37 **department;**

38 “(B) **The child-caring agency maintains site-specific accreditation from a nationally re-**  
39 **cognized organization;**

40 “(C) **The child being placed is a juvenile offender; and**

41 “(D) **Prior to the hearing to approve the placement, the court and all parties to the de-**  
42 **pendency case have been informed of the nature of the services offered by the program and**  
43 **of the population served by the program, and the court, having considered the nature of the**  
44 **services and composition of the facility population and the report of the qualified individual,**  
45 **has found that placement in the facility is the least restrictive setting available to appropri-**

1 **ately meet the child’s treatment needs.”.**

2 In line 39, delete “or (E)” and insert “, (E) or (F)”.

3 On page 5, line 37, restore the bracketed material and delete the boldfaced material.

4 On page 6, delete lines 12 through 40 and insert:

5 “**SECTION 4.** Section 12b, chapter 19, Oregon Laws 2020 (first special session), is amended to  
6 read:

7 “**Sec. 12b.** A program is a qualified residential treatment program if it:

8 “(1) Provides residential care and treatment to a child who, based on an independent assessment  
9 described in section 13b [*of this 2020 special session Act*], **chapter 19, Oregon Laws 2020 (first  
10 special session)**, requires specialized, evidence-based, as defined by the Department of Human Ser-  
11 vices by rule, supports and services related to the effects of trauma or mental, emotional or behav-  
12 ioral health needs.

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

15 “(3) Ensures that the staff at the facility includes licensed or registered nurses licensed under  
16 ORS chapter 678, **or the equivalent statute in the state in which the facility is located**, and  
17 other licensed clinical staff who:

18 “(a) **Are licensed or registered in good standing under the laws and regulations of the  
19 state in which the facility is located and** provide care within their licensed scope of practice;

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

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

22 “(4) Facilitates the involvement of the child’s family, as defined in ORS 418.575, in the child’s  
23 treatment program, to the extent appropriate and in the child’s best interests.

24 “(5) Facilitates outreach to the child’s family, as defined in ORS 418.575, documents how out-  
25 reach is made and maintains contact information for any known biological relatives or fictive kin,  
26 as defined by the department by rule.

27 “(6) Documents how the program integrates family into the child’s treatment process, including  
28 after discharge, and how sibling connections are maintained.

29 “(7) Provides discharge planning and family-based after-care support for at least six months fol-  
30 lowing the child’s discharge from the program.

31 “(8) Is licensed and accredited in accordance with requirements adopted by the department by  
32 rule. The rules adopted by the department under this subsection must be consistent with federal  
33 licensure and accreditation requirements for qualified residential treatment programs and require  
34 that the qualified residential treatment program maintain site-specific accreditation from a na-  
35 tionally recognized organization.”.

36 On page 7, after line 19, insert:

37 “**SECTION 6.** (1) **The Department of Human Services shall submit reports to the interim  
38 committees of the Legislative Assembly related to human services no later than November  
39 1, 2021, and November 1, 2022, regarding children or wards placed in temporary lodgings by  
40 the department in the preceding 12-month period who were required to leave their placement  
41 at a residential care facility or shelter-care home solely due to the expiration of the limits  
42 on the duration of placements described in ORS 419B.354 (4)(a).**

43 “(2) **For each child or ward accounted for in a report under this section, the department  
44 shall include the month the temporary lodging occurred, the number of nights the child or  
45 ward remained in the temporary lodging, the type of placement the child or ward was placed**

1 in at the end of the temporary lodging and the number of times the child or ward was placed  
2 in temporary lodging due to the expiration of the placement time limits during the reporting  
3 period.

4 SECTION 7. Section 6 of this 2021 Act is repealed on January 1, 2023.”  
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