

Senate Bill 230

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (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 **as introduced**.

Repeals Interstate Compact on the Placement of Children. Enacts Interstate Compact for the Placement of Children.

A BILL FOR AN ACT

Relating to interstate placement of children; creating new provisions; amending ORS 109.283, 109.285, 341.522, 417.210, 417.220, 417.230, 417.240, 417.260, 417.990 and 418.321; and repealing ORS 417.200 and 417.250.

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

SECTION 1. The Interstate Compact for the Placement of Children is enacted into law and entered into on behalf of this state with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

ARTICLE I

PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

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 H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for
2 interstate cases involving Indian children as is or may be permitted by federal law.

3 ARTICLE II
4 DEFINITIONS

5 As used in this compact:

6 A. "Approved placement" means the public child placing agency in the receiving state
7 has determined that the placement is both safe and suitable for the child.

8 B. "Assessment" means an evaluation of a prospective placement by a public child plac-
9 ing agency in the receiving state to determine if the placement meets the individualized
10 needs of the child, including but not limited to the child's safety and stability, health and
11 well-being, and mental, emotional, and physical development. An assessment is only applica-
12 ble to a placement by a public child placing agency.

13 C. "Child" means an individual who has not attained the age of eighteen (18).

14 D. "Certification" means to attest, declare or swear to before a judge or notary public.

15 E. "Default" means the failure of a member state to perform the obligations or respon-
16 sibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

17 F. "Home Study" means an evaluation of a home environment conducted in accordance
18 with the applicable requirements of the state in which the home is located, and documents
19 the preparation and the suitability of the placement resource for placement of a child in ac-
20 cordance with the laws and requirements of the state in which the home is located.

21 G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or
22 community of Indians recognized as eligible for services provided to Indians by the Secretary
23 of the Interior because of their status as Indians, including any Alaska native village as de-
24 fined in section 3(c) of the Alaska Native Claims Settlement Act at 43 U.S.C. 1602(c).

25 H. "Interstate Commission for the Placement of Children" means the commission that
26 is created under Article VIII of this compact and which is generally referred to as the
27 Interstate Commission.

28 I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

29 J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary
30 to an adoption where the prospective adoptive parents acknowledge in writing that a child
31 can be ordered returned to the sending state or the birth mother's state of residence, if
32 different from the sending state, and a final decree of adoption shall not be entered in any
33 jurisdiction until all required consents are obtained or are dispensed with in accordance with
34 applicable law.

35 K. "Member state" means a state that has enacted this compact.

36 L. "Non-custodial parent" means a person who, at the time of the commencement of
37 court proceedings in the sending state, does not have sole legal custody of the child or has
38 joint legal custody of a child, and who is not the subject of allegations or findings of child
39 abuse or neglect.

40 M. "Non-member state" means a state which has not enacted this compact.

41 N. "Notice of residential placement" means information regarding a placement into a
42 residential facility provided to the receiving state including, but not limited to the name, date
43 and place of birth of the child, the identity and address of the parent or legal guardian, evi-
44 dence of authority to make the placement, and the name and address of the facility in which
45 the child will be placed. Notice of residential placement shall also include information re-

1 **garding a discharge and any unauthorized absence from the facility.**

2 **O. "Placement" means the act by a public or private child placing agency intended to**
3 **arrange for the care or custody of a child in another state.**

4 **P. "Private child placing agency" means any private corporation, agency, foundation, in-**
5 **stitution, or charitable organization, or any private person or attorney that facilitates,**
6 **causes, or is involved in the placement of a child from one state to another and that is not**
7 **an instrumentality of the state or acting under color of state law.**

8 **Q. "Provisional placement" means a determination made by the public child placing**
9 **agency in the receiving state that the proposed placement is safe and suitable, and, to the**
10 **extent allowable, the receiving state has temporarily waived its standards or requirements**
11 **otherwise applicable to prospective foster or adoptive parents so as to not delay the place-**
12 **ment. Completion of the receiving state requirements regarding training for prospective**
13 **foster or adoptive parents shall not delay an otherwise safe and suitable placement.**

14 **R. "Public child placing agency" means any government child welfare agency or child**
15 **protection agency or a private entity under contract with such an agency, regardless of**
16 **whether they act on behalf of a state, county, municipality or other governmental unit and**
17 **which facilitates, causes, or is involved in the placement of a child from one state to another.**

18 **S. "Receiving state" means the state to which a child is sent, brought, or caused to be**
19 **sent or brought.**

20 **T. "Relative" means someone who is related to the child as a parent, stepparent, sibling**
21 **by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-**
22 **relative with such significant ties to the child that they may be regarded as relatives as de-**
23 **termined by the court in the sending state.**

24 **U. "Residential Facility" means a facility providing a level of care that is sufficient to**
25 **substitute for parental responsibility or foster care, and is beyond what is needed for as-**
26 **essment or treatment of an acute condition. For purposes of the compact, residential fa-**
27 **ilities do not include institutions primarily educational in character, hospitals or other**
28 **medical facilities.**

29 **V. "Rule" means a written directive, mandate, standard or principle issued by the**
30 **Interstate Commission promulgated pursuant to Article XI of this compact that is of general**
31 **applicability and that implements, interprets or prescribes a policy or provision of the com-**
32 **compact. "Rule" has the force and effect of an administrative rule in a member state, and in-**
33 **cludes the amendment, repeal, or suspension of an existing rule.**

34 **W. "Sending state" means the state from which the placement of a child is initiated.**

35 **X. "Service member's permanent duty station" means the military installation where an**
36 **active duty Armed Services member is currently assigned and is physically located under**
37 **competent orders that do not specify the duty as temporary.**

38 **Y. "Service member's state of legal residence" means the state in which the active duty**
39 **Armed Services member is considered a resident for tax and voting purposes.**

40 **Z. "State" means a state of the United States, the District of Columbia, the Common-**
41 **wealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Com-**
42 **monwealth of the Northern Mariana Islands and any other territory of the United States.**

43 **AA. "State court" means a judicial body of a state that is vested by law with responsi-**
44 **bility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status of-**
45 **fenses of individuals who have not attained the age of eighteen (18).**

1 ing agency shall be notified.

2 F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court
 3 sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as
 4 defined by the laws of the receiving state committed by the child in the receiving state which
 5 would be a violation of its laws.

6 G. Nothing in this article shall limit the receiving state’s ability to take emergency ju-
 7 risdiction for the protection of the child.

8 H. The substantive laws of the state in which an adoption will be finalized shall solely
 9 govern all issues relating to the adoption of the child and the court in which the adoption
 10 proceeding is filed shall have subject matter jurisdiction regarding all substantive issues re-
 11 lating to the adoption, except:

12 1. When the child is a ward of another court that established jurisdiction over the child
 13 prior to the placement; or

14 2. When the child is in the legal custody of a public agency in the sending state; or

15 3. When a court in the sending state has otherwise appropriately assumed jurisdiction
 16 over the child, prior to the submission of the request for approval of placement.

17 I. A final decree of adoption shall not be entered in any jurisdiction until the placement
 18 is authorized as an “approved placement” by the public child placing agency in the receiving
 19 state.

20 **ARTICLE V**

21 **PLACEMENT EVALUATION**

22 A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving
 23 state, the public child placing agency shall provide a written request for assessment to the
 24 receiving state.

25 B. For placements by a private child placing agency, a child may be sent or brought, or
 26 caused to be sent or brought, into a receiving state, upon receipt and immediate review of
 27 the required content in a request for approval of a placement in both the sending and re-
 28 ceiving state public child placing agency. The required content to accompany a request for
 29 approval shall include all of the following:

30 1. A request for approval identifying the child, birth parent(s), the prospective adoptive
 31 parent(s), and the supervising agency, signed by the person requesting approval; and

32 2. The appropriate consents or relinquishments signed by the birth parents in accordance
 33 with the laws of the sending state, or where permitted the laws of the state where the
 34 adoption will be finalized; and

35 3. Certification by a licensed attorney or authorized agent of a private adoption agency
 36 that the consent or relinquishment is in compliance with the applicable laws of the sending
 37 state, or where permitted the laws of the state where finalization of the adoption will occur;
 38 and

39 4. A home study; and

40 5. An acknowledgment of legal risk signed by the prospective adoptive parents.

41 C. The sending state and the receiving state may request additional information or doc-
 42 uments prior to finalization of an approved placement, but they may not delay travel by the
 43 prospective adoptive parents with the child if the required content for approval has been
 44 submitted, received and reviewed by the public child placing agency in both the sending state
 45 and the receiving state.

1 a. The ongoing support and maintenance for the child during the period of the placement,
 2 unless otherwise provided for in the receiving state; and

3 b. As determined by the public child placing agency in the sending state, services for the
 4 child beyond the public services for which the child is eligible in the receiving state.

5 2. The receiving state shall only have financial responsibility for:

6 a. Any assessment conducted by the receiving state; and

7 b. Supervision conducted by the receiving state at the level necessary to support the
 8 placement as agreed upon by the public child placing agencies of the receiving and sending
 9 states.

10 3. Nothing in this provision shall prohibit public child placing agencies in the sending
 11 state from entering into agreements with licensed agencies or persons in the receiving state
 12 to conduct assessments and provide supervision.

13 B. For the placement of a child by a private child placing agency preliminary to a possible
 14 adoption, the private child placing agency shall be:

15 1. Legally responsible for the child during the period of placement as provided for in the
 16 law of the sending state until the finalization of the adoption.

17 2. Financially responsible for the child absent a contractual agreement to the contrary.

18 C. The public child placing agency in the receiving state shall provide timely assessments,
 19 as provided for in the rules of the Interstate Commission.

20 D. The public child placing agency in the receiving state shall provide, or arrange for the
 21 provision of, supervision and services for the child, including timely reports, during the pe-
 22 riod of the placement.

23 E. Nothing in this compact shall be construed as to limit the authority of the public child
 24 placing agency in the receiving state from contracting with a licensed agency or person in
 25 the receiving state for an assessment or the provision of supervision or services for the child
 26 or otherwise authorizing the provision of supervision or services by a licensed agency during
 27 the period of placement.

28 F. Each member state shall provide for coordination among its branches of government
 29 concerning the state's participation in, and compliance with, the compact and Interstate
 30 Commission activities, through the creation of an advisory council or use of an existing body
 31 or board.

32 G. Each member state shall establish a central state compact office, which shall be re-
 33 sponsible for state compliance with the compact and the rules of the Interstate Commission.

34 H. The public child placing agency in the sending state shall oversee compliance with the
 35 provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to
 36 the provisions of this compact, prior to placement.

37 I. With the consent of the Interstate Commission, states may enter into limited agree-
 38 ments that facilitate the timely assessment and provision of services and supervision of
 39 placements under this compact.

40 **ARTICLE VIII**
 41 **INTERSTATE COMMISSION FOR THE**
 42 **PLACEMENT OF CHILDREN**

43 The member states hereby establish, by way of this compact, a commission known as the
 44 "Interstate Commission for the Placement of Children." The activities of the Interstate
 45 Commission are the formation of public policy and are a discretionary state function. The

1 Interstate Commission shall:

2 A. Be a joint commission of the member states and shall have the responsibilities, powers
3 and duties set forth herein, and such additional powers as may be conferred upon it by sub-
4 sequent concurrent action of the respective legislatures of the member states.

5 B. Consist of one commissioner from each member state who shall be appointed by the
6 executive head of the state human services administration with ultimate responsibility for
7 the child welfare program. The appointed commissioner shall have the legal authority to vote
8 on policy related matters governed by this compact binding the state.

9 1. Each member state represented at a meeting of the Interstate Commission is entitled
10 to one vote.

11 2. A majority of the member states shall constitute a quorum for the transaction of
12 business, unless a larger quorum is required by the bylaws of the Interstate Commission.

13 3. A representative shall not delegate a vote to another member state.

14 4. A representative may delegate voting authority to another person from their state for
15 a specified meeting.

16 C. In addition to the commissioners of each member state, the Interstate Commission
17 shall include persons who are members of interested organizations as defined in the bylaws
18 or rules of the Interstate Commission. Such members shall be ex officio and shall not be
19 entitled to vote on any matter before the Interstate Commission.

20 D. Establish an executive committee which shall have the authority to administer the
21 day-to-day operations and administration of the Interstate Commission. It shall not have the
22 power to engage in rulemaking.

23 **ARTICLE IX**
24 **POWERS AND DUTIES OF THE**
25 **INTERSTATE COMMISSION**

26 The Interstate Commission shall have the following powers:

27 A. To promulgate rules and take all necessary actions to effect the goals, purposes and
28 obligations as enumerated in this compact.

29 B. To provide for dispute resolution among member states.

30 C. To issue, upon request of a member state, advisory opinions concerning the meaning
31 or interpretation of the interstate compact, its bylaws, rules or actions.

32 D. To enforce compliance with this compact or the bylaws or rules of the Interstate
33 Commission pursuant to Article XII.

34 E. Collect standardized data concerning the interstate placement of children subject to
35 this compact as directed through its rules which shall specify the data to be collected, the
36 means of collection and data exchange and reporting requirements.

37 F. To establish and maintain offices as may be necessary for the transacting of its busi-
38 ness.

39 G. To purchase and maintain insurance and bonds.

40 H. To hire or contract for services of personnel or consultants as necessary to carry out
41 its functions under the compact and establish personnel qualification policies, and rates of
42 compensation.

43 I. To establish and appoint committees and officers including, but not limited to, an
44 executive committee as required by Article X.

45 J. To accept any and all donations and grants of money, equipment, supplies, materials,

1 and services, and to receive, utilize, and dispose thereof.

2 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
3 improve or use any property, real, personal, or mixed.

4 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
5 any property, real, personal or mixed.

6 M. To establish a budget and make expenditures.

7 N. To adopt a seal and bylaws governing the management and operation of the Interstate
8 Commission.

9 O. To report annually to the legislatures, governors, the judiciary, and state advisory
10 councils of the member states concerning the activities of the Interstate Commission during
11 the preceding year. Such reports shall also include any recommendations that may have been
12 adopted by the Interstate Commission.

13 P. To coordinate and provide education, training and public awareness regarding the
14 interstate movement of children for officials involved in such activity.

15 Q. To maintain books and records in accordance with the bylaws of the Interstate Com-
16 mission.

17 R. To perform such functions as may be necessary or appropriate to achieve the purposes
18 of this compact.

19 **ARTICLE X**
20 **ORGANIZATION AND OPERATION OF THE**
21 **INTERSTATE COMMISSION**

22 **A. Bylaws**

23 1. Within 12 months after the first Interstate Commission meeting, the Interstate Com-
24 mission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry
25 out the purposes of the compact.

26 2. The Interstate Commission's bylaws and rules shall establish conditions and proce-
27 dures under which the Interstate Commission shall make its information and official records
28 available to the public for inspection or copying. The Interstate Commission may exempt
29 from disclosure information or official records to the extent they would adversely affect
30 personal privacy rights or proprietary interests.

31 **B. Meetings**

32 1. The Interstate Commission shall meet at least once each calendar year. The chair-
33 person may call additional meetings and, upon the request of a simple majority of the
34 member states shall call additional meetings.

35 2. Public notice shall be given by the Interstate Commission of all meetings and all
36 meetings shall be open to the public, except as set forth in the rules or as otherwise provided
37 in the compact. The Interstate Commission and its committees may close a meeting, or
38 portion thereof, where it determines by two-thirds vote that an open meeting would be likely
39 to:

40 a. Relate solely to the Interstate Commission's internal personnel practices and proce-
41 dures; or

42 b. Disclose matters specifically exempted from disclosure by federal law; or

43 c. Disclose financial or commercial information which is privileged, proprietary or confi-
44 dential in nature; or

45 d. Involve accusing a person of a crime, or formally censuring a person; or

1 e. Disclose information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy or physically endanger one or more persons; or

3 f. Disclose investigative records compiled for law enforcement purposes; or

4 g. Specifically relate to the Interstate Commission's participation in a civil action or
5 other legal proceeding.

6 3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Inter-
7 state Commission's legal counsel or designee shall certify that the meeting may be closed
8 and shall reference each relevant exemption provision. The Interstate Commission shall keep
9 minutes which shall fully and clearly describe all matters discussed in a meeting and shall
10 provide a full and accurate summary of actions taken, and the reasons therefore, including
11 a description of the views expressed and the record of a roll call vote. All documents con-
12 sidered in connection with an action shall be identified in such minutes. All minutes and
13 documents of a closed meeting shall remain under seal, subject to release by a majority vote
14 of the Interstate Commission or by court order.

15 4. The bylaws may provide for meetings of the Interstate Commission to be conducted
16 by telecommunication or other electronic communication.

17 C. Officers and Staff

18 1. The Interstate Commission may, through its executive committee, appoint or retain
19 a staff director for such period, upon such terms and conditions and for such compensation
20 as the Interstate Commission may deem appropriate. The staff director shall serve as sec-
21 retary to the Interstate Commission, but shall not have a vote. The staff director may hire
22 and supervise such other staff as may be authorized by the Interstate Commission.

23 2. The Interstate Commission shall elect, from among its members, a chairperson and a
24 vice chairperson of the executive committee and other necessary officers, each of whom shall
25 have such authority and duties as may be specified in the bylaws.

26 D. Qualified Immunity, Defense and Indemnification

27 1. The Interstate Commission's staff director and its employees shall be immune from
28 suit and liability, either personally or in their official capacity, for a claim for damage to or
29 loss of property or personal injury or other civil liability caused or arising out of or relating
30 to an actual or alleged act, error, or omission that occurred, or that such person had a
31 reasonable basis for believing occurred within the scope of Interstate Commission employ-
32 ment, duties, or responsibilities; provided, that such person shall not be protected from suit
33 or liability for damage, loss, injury, or liability caused by a criminal act or the intentional
34 or willful and wanton misconduct of such person.

35 a. The liability of the Interstate Commission's staff director and employees or Interstate
36 Commission representatives, acting within the scope of such person's employment or duties
37 for acts, errors, or omissions occurring within such person's state may not exceed the limits
38 of liability set forth under the Constitution and laws of that state for state officials, em-
39 ployees, and agents. The Interstate Commission is considered to be an instrumentality of the
40 states for the purposes of any such action. Nothing in this subsection shall be construed to
41 protect such person from suit or liability for damage, loss, injury, or liability caused by a
42 criminal act or the intentional or willful and wanton misconduct of such person.

43 b. The Interstate Commission shall defend the staff director and its employees and, sub-
44 ject to the approval of the Attorney General or other appropriate legal counsel of the mem-
45 ber state shall defend the commissioner of a member state in a civil action seeking to impose

1 liability arising out of an actual or alleged act, error or omission that occurred within the
 2 scope of Interstate Commission employment, duties or responsibilities, or that the defendant
 3 had a reasonable basis for believing occurred within the scope of Interstate Commission
 4 employment, duties, or responsibilities, provided that the actual or alleged act, error, or
 5 omission did not result from intentional or willful and wanton misconduct on the part of
 6 such person.

7 c. To the extent not covered by the state involved, member state, or the Interstate
 8 Commission, the representatives or employees of the Interstate Commission shall be held
 9 harmless in the amount of a settlement or judgment, including attorney's fees and costs,
 10 obtained against such persons arising out of an actual or alleged act, error, or omission that
 11 occurred within the scope of Interstate Commission employment, duties, or responsibilities,
 12 or that such persons had a reasonable basis for believing occurred within the scope of
 13 Interstate Commission employment, duties, or responsibilities, provided that the actual or
 14 alleged act, error, or omission did not result from intentional or willful and wanton miscon-
 15 duct on the part of such persons.

16 **ARTICLE XI**
 17 **RULEMAKING FUNCTIONS OF THE**
 18 **INTERSTATE COMMISSION**

19 A. The Interstate Commission shall promulgate and publish rules in order to effectively
 20 and efficiently achieve the purposes of the compact.

21 B. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-
 22 laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to
 23 the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws
 24 Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate
 25 Commission deems appropriate consistent with due process requirements under the United
 26 States Constitution as now or hereafter interpreted by the United States Supreme Court.
 27 All rules and amendments shall become binding as of the date specified, as published with
 28 the final version of the rule as approved by the Interstate Commission.

29 C. When promulgating a rule, the Interstate Commission shall, at a minimum:

- 30 1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and
- 31 2. Allow and invite any and all persons to submit written data, facts, opinions and argu-
 32 ments, which information shall be added to the record, and be made publicly available; and
- 33 3. Promulgate a final rule and its effective date, if appropriate, based on input from state
 34 or local officials, or interested parties.

35 D. Rules promulgated by the Interstate Commission shall have the force and effect of
 36 administrative rules and shall be binding in the compacting states to the extent and in the
 37 manner provided for in this compact.

38 E. Not later than 60 days after a rule is promulgated, an interested person may file a
 39 petition in the United States District Court for the District of Columbia or in the Federal
 40 District Court where the Interstate Commission's principal office is located for judicial re-
 41 view of such rule. If the court finds that the Interstate Commission's action is not supported
 42 by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and
 43 set it aside.

44 F. If a majority of the legislatures of the member states rejects a rule, those states may
 45 by enactment of a statute or resolution in the same manner used to adopt the compact cause

1 that such rule shall have no further force and effect in any member state.

2 G. The existing rules governing the operation of the Interstate Compact on the Place-
 3 ment of Children superseded by the Interstate Compact for the Placement of Children, as set
 4 forth in this section, shall be null and void no less than 12, but no more than 24 months after
 5 the first meeting of the Interstate Commission created hereunder, as determined by the
 6 members during the first meeting.

7 H. Within the first 12 months of operation, the Interstate Commission shall promulgate
 8 rules addressing the following:

- 9 1. Transition rules
- 10 2. Forms and procedures
- 11 3. Time lines
- 12 4. Data collection and reporting
- 13 5. Rulemaking
- 14 6. Visitation
- 15 7. Progress reports/supervision
- 16 8. Sharing of information/confidentiality
- 17 9. Financing of the Interstate Commission
- 18 10. Mediation, arbitration and dispute resolution
- 19 11. Education, training and technical assistance
- 20 12. Enforcement
- 21 13. Coordination with other interstate compacts

22 I. Upon determination by a majority of the members of the Interstate Commission that
 23 an emergency exists:

24 1. The Interstate Commission may promulgate an emergency rule only if it is required
 25 to:

- 26 a. Protect the children covered by this compact from an imminent threat to their health,
 27 safety and well-being; or
- 28 b. Prevent loss of federal or state funds; or
- 29 c. Meet a deadline for the promulgation of an administrative rule required by federal law.

30 2. An emergency rule shall become effective immediately upon adoption, provided that
 31 the usual rulemaking procedures provided hereunder shall be retroactively applied to said
 32 rule as soon as reasonably possible, but no later than 90 days after the effective date of the
 33 emergency rule.

34 3. An emergency rule shall be promulgated as provided for in the rules of the Interstate
 35 Commission.

36 **ARTICLE XII**

37 **OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT**

38 **A. Oversight**

39 1. The Interstate Commission shall oversee the administration and operation of the
 40 compact.

41 2. The executive, legislative and judicial branches of state government in each member
 42 state shall enforce this compact and the rules of the Interstate Commission and shall take
 43 all actions necessary and appropriate to effectuate the compact's purposes and intent. The
 44 compact and its rules shall be binding in the compacting states to the extent and in the
 45 manner provided for in this compact.

1 of any of the member states, except by and with the authority of the member state.

2 D. The Interstate Commission shall keep accurate accounts of all receipts and disburse-
3 ments. The receipts and disbursements of the Interstate Commission shall be subject to the
4 audit and accounting procedures established under its bylaws. However, all receipts and dis-
5 bursements of funds handled by the Interstate Commission shall be audited yearly by a cer-
6 tified or licensed public accountant and the report of the audit shall be included in and
7 become part of the annual report of the Interstate Commission.

8 ARTICLE XIV

9 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

10 A. Any state is eligible to become a member state.

11 B. The compact shall become effective and binding upon legislative enactment of the
12 compact into law by no less than 35 states. The effective date shall be the later of July 1,
13 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall be-
14 come effective and binding as to any other member state upon enactment of the compact
15 into law by that state. The executive heads of the state human services administration with
16 ultimate responsibility for the child welfare program of non-member states or their designees
17 shall be invited to participate in the activities of the Interstate Commission on a non-voting
18 basis prior to adoption of the compact by all states.

19 C. The Interstate Commission may propose amendments to the compact for enactment
20 by the member states. No amendment shall become effective and binding on the member
21 states unless and until it is enacted into law by unanimous consent of the member states.

22 ARTICLE XV

23 WITHDRAWAL AND DISSOLUTION

24 A. Withdrawal

25 1. Once effective, the compact shall continue in force and remain binding upon each and
26 every member state; provided that a member state may withdraw from the compact specifi-
27 cally repealing the statute which enacted the compact into law.

28 2. Withdrawal from this compact shall be by the enactment of a statute repealing the
29 same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

30 3. The withdrawing state shall immediately notify the president of the Interstate Com-
31 mission in writing upon the introduction of legislation repealing this compact in the with-
32 drawing state. The Interstate Commission shall then notify the other member states of the
33 withdrawing state's intent to withdraw.

34 4. The withdrawing state is responsible for all assessments, obligations and liabilities in-
35 curred through the effective date of withdrawal.

36 5. Reinstatement following withdrawal of a member state shall occur upon the with-
37 drawing state reenacting the compact or upon such later date as determined by the members
38 of the Interstate Commission.

39 B. Dissolution of Compact

40 1. This compact shall dissolve effective upon the date of the withdrawal or default of the
41 member state which reduces the membership in the compact to one member state.

42 2. Upon the dissolution of this compact, the compact becomes null and void and shall be
43 of no further force or effect, and the business and affairs of the Interstate Commission shall
44 be concluded and surplus funds shall be distributed in accordance with the bylaws.

45 ARTICLE XVI

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII

INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

SECTION 2. ORS 417.210 is amended to read:

417.210. (1) Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact [on] **for the Placement of Children as set forth in section 1 of this 2023 Act** shall be determined in accordance with the provisions of Article [V] **VII** thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of ORS chapter 110 and any other applicable laws also may be invoked.

[(2) The “appropriate public authorities” as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the Department of Human Services and the department shall receive and act with reference to notices required by Article III thereof.]

[(3) As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase “appropriate authority in the receiving state” with reference to this state shall mean the Department of Human Services.]

(2) As used in Article II of the Interstate Compact for the Placement of Children as set forth in section 1 of this 2023 Act, “public child placing agency” with reference to this state means the Department of Human Services.

SECTION 3. ORS 417.220 is amended to read:

1 417.220. The officers and agencies of this state and its subdivisions having authority to place
 2 children are authorized to enter into agreements with appropriate officers or agencies of or in other
 3 party states pursuant to [*paragraph (b) of Article V*] **Article VII, Section A, paragraph three, and**
 4 **Section E** of the Interstate Compact [*on*] **for the Placement of Children as set forth in section 1**
 5 **of this 2023 Act**. Any such agreement which contains a financial commitment or imposes a financial
 6 obligation on this state or subdivision or agency thereof shall not be binding unless it has the ap-
 7 proval in writing of the State Treasurer in the case of the state and of the chief local fiscal officer
 8 in the case of a subdivision of the state.

9 **SECTION 4.** ORS 417.230 is amended to read:

10 417.230. Any requirements for visitation, inspection or supervision of children, homes, insti-
 11 tutions or other agencies in another party state which may apply under ORS 418.250, 418.255 and
 12 418.260 shall be considered to be met if performed pursuant to an agreement entered into by ap-
 13 propriate officers or agencies of this state or a subdivision thereof as contemplated by [*paragraph*
 14 (*b) of Article V*] **Article VII, Section A, paragraph three, and Section E** of the Interstate Com-
 15 pact [*on*] **for the Placement of Children as set forth in section 1 of this 2023 Act**.

16 **SECTION 5.** ORS 417.240 is amended to read:

17 417.240. Any court having jurisdiction pursuant to ORS 419B.100 or 419C.005 to place children
 18 may place a child in an institution in another state [*pursuant to Article VI of*] **subject to** the
 19 Interstate Compact [*on*] **for the Placement of Children as set forth in section 1 of this 2023 Act**
 20 and shall retain jurisdiction as provided in Article [*V*] **IV** thereof.

21 **SECTION 6.** ORS 417.260 is amended to read:

22 417.260. The provisions of ORS 418.290 do not apply to a child placed or proposed to be placed
 23 in Oregon pursuant to the Interstate Compact [*on*] **for the Placement of Children**. [*Application of*
 24 *the requirement contained in paragraph (d) of Article III of the Interstate Compact on the Placement*
 25 *of Children shall be in lieu of the requirements of ORS 418.290.*]

26 **SECTION 7.** ORS 417.990 is amended to read:

27 417.990. The sending, bringing, or causing to be sent or brought into any receiving state of a
 28 child in violation of the terms of the Interstate Compact [*on*] **for the Placement of Children as set**
 29 **forth in section 1 of this 2023 Act** is a Class A misdemeanor.

30 **SECTION 8.** ORS 341.522, as amended by section 18, chapter 81, Oregon Laws 2022, is amended
 31 to read:

32 341.522. (1) The Office of Student Access and Completion shall administer the Oregon Promise
 33 program as provided by this section.

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

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

38 (a) Is enrolled in courses that are:

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

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

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

44 (ii) An associate degree; or

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

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

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

5 (A) Receiving a diploma under ORS 329.451;

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

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

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

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

14 (e) Earned a cumulative grade point average of 2.0 or better in high school or otherwise dem-
15 onstrated an equivalent academic ability, as determined by the office according to rules adopted by
16 the commission;

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

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

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

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

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

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

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

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

1 level of education described in subsection (3)(c) of this section.

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

5 (C) As used in this paragraph:

6 (i) “Adjudicated youth,” “detention facility,” “young person” and “youth” have the meanings
7 given those terms in ORS 419A.004.

8 (ii) “Correctional facility” means any place used for the confinement of young persons, youths
9 or adjudicated youths or persons charged with or convicted of a crime or otherwise confined under
10 a court order, including a:

11 (I) Youth correction facility;

12 (II) Detention facility;

13 (III) Department of Corrections institution;

14 (IV) Local correctional facility; or

15 (V) State hospital or a secure intensive community inpatient facility, with respect to persons
16 detained therein who are youths or adjudicated youths, who are charged with or convicted of a
17 crime or who are detained therein after having been found guilty except for insanity of a crime
18 under ORS 161.290 to 161.373 or having been found responsible except for insanity under ORS
19 419C.411.

20 (iii) “Department of Corrections institution” has the meaning given that term in ORS 421.005.

21 (iv) “Local correctional facility” has the meaning given that term in ORS 169.005.

22 (v) “Youth correction facility” has the meaning given that term in ORS 420.005.

23 (c)(A) If a person was a foster child:

24 (i) The person shall be treated as meeting the residency criteria for eligibility under subsection
25 (3)(b) of this section if, but for the person’s placement in out-of-state foster care, the person other-
26 wise meets the requirements of subsection (3)(b) of this section.

27 (ii) The person shall be treated as attaining the person’s highest level of education in this state
28 under subsection (3)(c) of this section if the person attained the person’s highest level of education
29 while placed in out-of-state foster care and the person’s highest level of education substantially
30 meets the requirements under subsection (3)(c) of this section.

31 (iii) The person is not required to comply with the criteria set forth in subsection (3)(d) of this
32 section in order to receive a grant provided that the person completes the highest level of education
33 as described in subparagraph (A)(ii) of this paragraph while in a treatment program and the person
34 first enrolls in courses described in subsection (3)(a) of this section within 12 months after the date
35 on which the person is released from the treatment program.

36 (B) Upon request from the commission, the Department of Human Services shall provide doc-
37 umentation of the placement status of a person described in paragraph (c)(A) of this subsection.

38 (C) As used in this paragraph:

39 (i) “Foster care” means substitute care for children placed by the Department of Human Ser-
40 vices or a tribal child welfare agency away from the child’s parents and for whom the department
41 or agency has placement and care responsibility, including placements in foster family homes, foster
42 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and
43 preadoptive homes.

44 (ii) “Foster child” means a child over whom the Department of Human Services retained juris-
45 diction under [ORS 417.200] **section 1 of this 2023 Act** for the duration of the child’s placement in

1 foster care outside the State of Oregon.

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

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

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

10 (C) Enrolls in courses described in subsection (3)(a) of this section for a sufficient number of
11 credit hours to be considered at least a half-time student each term for at least three terms in each
12 consecutive academic year.

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

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

22 (A) Except as provided by paragraph (b) of this subsection, not less than the greater of:

23 (i) \$2,000, adjusted for inflation based on the increase of the average cost of tuition at a com-
24 munity college operated under ORS chapter 341 in a manner determined by the commission by rule;
25 and

26 (ii) The person's actual cost for tuition.

27 (B) Not more than the lesser of:

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

30 (ii) The person's actual cost for tuition.

31 (b)(A) If the office determines both that the person's actual cost for tuition exceeds the amount
32 set forth in paragraph (a)(A)(i) of this subsection and that the person's actual cost for tuition ex-
33 ceeds the average cost of tuition at a community college in this state, the person shall be eligible
34 for a grant in an amount that equals the average cost of tuition at a community college in this state.

35 (B) If the office determines that the person's actual cost for tuition is less than the amount set
36 forth in paragraph (a)(A)(i) of this subsection, the person shall be eligible for a grant in an amount
37 that equals the amount set forth in paragraph (a)(A)(i) of this subsection.

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

42 (d) The commission may prescribe by rule whether to include fees, and any limitations related
43 to the inclusion of fees, when determining the actual cost of tuition or the average cost of tuition
44 under this subsection.

45 (8) The commission may adopt by rule the priority by which grants are awarded, which may

1 allow for preference to be given to persons enrolled in school districts or high schools that meet
2 specified criteria.

3 (9) Prior to the start of the fall term of each academic year, the commission shall determine
4 whether there are sufficient moneys to award a grant under this section to each person who meets
5 the criteria described in subsections (3) to (6) of this section. When making a determination under
6 this subsection, the commission may consider both projected resources and statutory modifications
7 that will take effect during the current biennium. On the basis of this determination the commission
8 may:

9 (a) Limit eligibility to receive a grant under this section to a person whose financial resources,
10 as determined by the commission by rule, are at or below the level the commission determines is
11 necessary to allow the commission to operate the Oregon Promise program with available moneys;
12 or

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

15 (10)(a) If at any time the commission determines that there are insufficient moneys to provide
16 a grant to each person who has been awarded a grant under this section, the commission may de-
17 crease the total amount of the grant awarded.

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

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

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

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

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

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

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

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

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

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

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

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

45 (d) The financial impact and the enrollment impact of the program on community colleges and

1 public universities in this state; and

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

3 **SECTION 9.** ORS 418.321 is amended to read:

4 418.321. (1) Subject to ORS 418.322, the Department of Human Services may place a child in an
5 out-of-state child-caring agency only if:

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

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

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

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

15 (b) Notwithstanding [*paragraph (b) of Article V*] **Article VII, Section A, paragraph three** of
16 the Interstate Compact [*on*] **for the Placement of Children as set forth in section 1 of this 2023**
17 **Act** and ORS 417.230, the department may not delegate the department's licensing, visitation, in-
18 spection, investigation or supervision of an out-of-state child-caring agency licensed by the depart-
19 ment to provide care or services to an Oregon child.

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

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

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

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

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

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

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

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

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

45 (i) Any time a child from any state who is in the care of the child-caring agency dies, is sexually

1 assaulted or suffers serious physical injury; or

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

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

12 (I) The child-caring agency must ensure staffing ratio and staff training and education require-
13 ments that meet, at a minimum, the standards set by the department by rule for intensive behavioral
14 support services.

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

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

19 (L) The child-caring agency must identify a child by the child's preferred name and pronouns
20 and may not implement a dress code that prohibits or requires clothing on the basis of biological
21 sex.

22 (M) Genetic testing, including testing for psychopharmacological purposes, must be approved by
23 a court and may not be included as a standing order for a child in care.

24 (N) Neither the child-caring agency nor its contractors or volunteers may use chemical or me-
25 chanical restraints on a child, including during secure transport.

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

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

32 (a) Identify a process for expediting review of the child's eligibility for developmental disability
33 services.

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

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

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

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

44 (b) Notwithstanding paragraph (a) of this subsection, if a child placed in an out-of-state child-
45 caring agency requires secure transport from the out-of-state placement due to an emergency, a de-

1 department child welfare services employee is not required to accompany the child if the time it would
 2 take for the employee to travel to the child's out-of-state location would pose a risk to the health,
 3 safety or welfare of the child. If a department child welfare services employee does not accompany
 4 a child transported to an alternate out-of-state placement, as provided in this paragraph, the child
 5 welfare services employee must immediately travel to meet the child at the new out-of-state facility.

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

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

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

13 (A) The child-caring agency is a qualified residential treatment program licensed by the de-
 14 partment;

15 (B) The child-caring agency maintains site-specific accreditation from a nationally recognized
 16 organization;

17 (C) The child being placed is a juvenile offender; and

18 (D) Prior to the hearing to approve the placement, the court and all parties to the dependency
 19 case have been informed of the nature of the services offered by the program and of the population
 20 served by the program, and the court, having considered the nature of the services and composition
 21 of the facility population and the report of the qualified individual, has found that placement in the
 22 facility is the least restrictive setting available to appropriately meet the child's treatment needs.

23 **SECTION 10.** ORS 109.283 is amended to read:

24 109.283. (1) The Department of Human Services shall accept and may approve an application for
 25 a home study as defined in ORS 109.266 that is submitted by an Oregon resident seeking to adopt
 26 a child in the custody of:

27 (a) The department;

28 (b) A public child welfare agency in another state, following receipt of a request from the
 29 agency in the other state under the Interstate Compact [on] **for the Placement of Children as set**
 30 **forth in section 1 of this 2023 Act;** or

31 (c) A public child welfare agency in another country, following receipt of an appropriate request
 32 from the agency in the other country.

33 (2) The department shall also accept and may approve an application for a home study under
 34 this section that is submitted by an Oregon resident who is currently or has previously been under
 35 study or consideration by another public or private agency for placement of a child for adoption.

36 (3) An application submitted under this section may be approved if the application meets the
 37 requirements of the department as established by rule.

38 **SECTION 11.** ORS 109.285 is amended to read:

39 109.285. (1) A petition for adoption of a minor child must be signed by the petitioner and, unless
 40 stated in the petition why the information or statement is omitted, must contain the following:

41 (a) The full name of the petitioner;

42 (b) The state and length of residency in the state of the petitioner and information sufficient to
 43 establish that the residency requirement of ORS 109.276 (2) has been met;

44 (c) The current marital or domestic partnership status of the petitioner;

45 (d) An explanatory statement as to why the petitioner is of sufficient ability to bring up the

1 minor child and furnish suitable nurture and education sufficient for judgment to be entered under
2 ORS 109.350;

3 (e) Information sufficient for the court to establish that the petitioner has complied with the
4 jurisdictional and venue requirements of ORS 109.276 (4) and (5);

5 (f) The full name, gender and date and place of birth of the minor child;

6 (g) The marital or domestic partnership status of the biological mother at the time of conception,
7 at the date of birth and during the 300 days prior to the date of birth of the minor child;

8 (h)(A) A declaration under penalty of perjury and documentation, as described by the Depart-
9 ment of Human Services by rule, of the petitioner's efforts described in ORS 419B.636 (2) to deter-
10 mine whether there is reason to know that the child is an Indian child;

11 (B) A statement that the petitioner has reason to know that the child is an Indian child or does
12 not have reason to know that the child is an Indian child; and

13 (C) If the petitioner has reason to know that the child is an Indian child:

14 (i) A declaration under penalty of perjury and documentation, as described by the department
15 by rule, showing that the proposed adoptive placement complies with the requirements under ORS
16 419B.654 (2); or

17 (ii) A statement that the petitioner is moving the court under ORS 419B.654 (3) for a finding,
18 by clear and convincing evidence, that good cause exists for alternative adoptive placement and a
19 statement describing the details supporting the petitioner's assertion that good cause exists for the
20 alternative placement, as described in ORS 419B.654 (4);

21 (i) The name and relationship to the minor child of any person who has executed a written re-
22 lease or surrender of parental rights or of rights of guardianship of the minor child as provided by
23 ORS 418.270 and the date of the release or surrender;

24 (j) The name and relationship to the minor child of any person who has given written consent
25 as required under ORS 109.301 or 109.302, and the date the consent was given;

26 (k) The name and relationship to the minor child of any person or entity for whom the written
27 consent requirement under ORS 109.301 or 109.302 is waived or not required as provided in ORS
28 109.322, 109.323, 109.324, 109.325, 109.326 and 109.327 or whose written consent may be substituted
29 for the written consent requirement under ORS 109.301 or 109.302 as provided in ORS 109.322,
30 109.323, 109.324, 109.325, 109.326, 109.327, 109.328 and 109.329;

31 (L) The name and relationship to the minor child of all persons who have signed and attested
32 to:

33 (A) A written certificate of irrevocability and waiver as provided in ORS 109.301 (2); or

34 (B) A written certificate stating that a release or surrender under ORS 418.270 (4) becomes
35 irrevocable as soon as the child is placed for the purpose of adoption or, if the child is an Indian
36 child, upon entry of the judgment of adoption;

37 (m) A statement of the facts and circumstances under which the petitioner obtained physical
38 custody of the minor child, including date of placement with the petitioner for adoption and the
39 name and relationship to the minor child of the individual or entity placing the minor child with the
40 petitioner;

41 (n) The length of time that a minor child has been in the physical custody of the petitioner and,
42 if the minor child is not in the physical custody of the petitioner, the reason why, and the date and
43 manner in which the petitioner will obtain physical custody of the minor child;

44 (o) Whether a continuing contact agreement exists under ORS 109.268, including names of the
45 parties to the agreement and date of execution;

1 (p) A statement establishing that the requirements of ORS 109.353 regarding advisement about
 2 the voluntary adoption registry and the registry's services have been met;

3 (q) A statement establishing that the requirements of ORS 109.346 regarding notice of right to
 4 counseling sessions have been met;

5 (r) A statement that the information required by the Uniform Child Custody Jurisdiction and
 6 Enforcement Act under ORS 109.701 to 109.834 has been provided in the Adoption Summary and
 7 Segregated Information Statement under ORS 109.287;

8 (s) A statement that the Interstate Compact [on] **for** the Placement of Children **as set forth in**
 9 **section 1 of this 2023 Act** does or does not apply and, if applicable, a statement of the efforts
 10 undertaken to comply with the compact;

11 (t) Unless waived, a statement that a current home study was completed in compliance with ORS
 12 109.276 (7); and

13 (u) A declaration made under penalty of perjury that the petition, and the information and
 14 statements contained in the petition, are true to the best of the petitioner's knowledge and belief
 15 and that the petitioner understands the petition, and information and statements contained in the
 16 petition, may be used as evidence in court and are subject to penalty for perjury.

17 (2) A petition filed under ORS 109.276 must, if applicable, request the following:

18 (a) Entry of a general judgment of adoption;

19 (b) That the petitioner be permitted to adopt the minor child as the child of the petitioner for
 20 all legal intents and purposes;

21 (c) A finding that the court has jurisdiction over the adoption proceeding, the parties and the
 22 minor child;

23 (d) With respect to the appropriate persons, the termination of parental rights or a determi-
 24 nation of nonparentage;

25 (e) Approval of a change to the minor child's name;

26 (f) A finding that a continuing contact agreement entered into under ORS 109.268 is in the best
 27 interests of the minor child and that, if the minor child is 14 years of age or older, the minor child
 28 has consented to the agreement, and that the court incorporate the continuing contact agreement
 29 by reference into the adoption judgment;

30 (g) That the court require preparation of and certify a report of adoption as provided in ORS
 31 432.223;

32 (h) That all records, papers and files in the record of the adoption case be sealed as provided
 33 under ORS 109.289;

34 (i) A finding that the petitioner complied with the inquiry requirements under ORS 419B.636 (2);

35 (j) A finding of whether there is reason to know that the child is an Indian child;

36 (k) If the court finds that there is reason to know that the child is an Indian child:

37 (A) The determinations required under ORS 419B.621 regarding the Indian child's residence,
 38 domicile and wardship status;

39 (B) A finding that the petitioner complied with the notice requirements under ORS 419B.639 (2);
 40 and

41 (C) A finding that the adoptive placement complies with the placement preferences under ORS
 42 419B.654 (2) or, if not, that, upon the petitioner's motion under ORS 419B.654 (3), good cause exists
 43 for placement contrary to the placement preferences in ORS 419B.654 (2); and

44 (L) Any other relief requested by the petitioner.

45 (3) A petition filed under ORS 109.276 must, if applicable, have the following attached as ex-

1 exhibits:

2 (a) Any written release or surrender of the minor child for adoption, or a written disclaimer of
3 parental rights;

4 (b) Any written consent to the adoption;

5 (c) Any certificate of irrevocability and waiver;

6 (d) Any continuing contact agreement under ORS 109.268;

7 (e) The written disclosure statement required under ORS 109.281; and

8 (f) Any other supporting documentation necessary to comply with the petition requirements in
9 this section and ORS 109.276.

10 (4) The petition and documents filed as exhibits under subsection (3) of this section are confi-
11 dential and may not be inspected or copied except as provided under ORS 109.266 to 109.410 and
12 109.425 to 109.507.

13 (5)(a) Within 30 days after being filed with the court, the petitioner shall serve copies of the
14 petition, the documents filed as exhibits under subsection (3) of this section, the Adoption Summary
15 and Segregated Information Statement described in ORS 109.287, including any amendments and
16 exhibits attached to the statement, and, if applicable, a copy of the declaration of compliance de-
17 scribed in paragraph (d) of this subsection, on the Director of Human Services by either registered
18 or certified mail with return receipt or personal service.

19 (b) In the case of an adoption in which one of the child's parents retains parental rights as es-
20 tablished under ORS 109.065 or 419B.609, the petitioner shall also serve the petition by either reg-
21 istered or certified mail with return receipt or personal service:

22 (A) On all persons whose consent to the adoption is required under ORS 109.301 unless the
23 person's written consent is filed with the court; and

24 (B) On the parents of the party whose parental rights would be terminated, if the names and
25 addresses are known or may be readily ascertained by the petitioner.

26 (c) When a parent of the child is deceased or incapacitated, the petitioner shall also serve the
27 petition on the parents of the deceased or incapacitated parent, if the names and addresses are
28 known or may be readily ascertained by the petitioner. As used in this paragraph:

29 (A) "Incapacitated" means a condition in which a person's ability to receive and evaluate in-
30 formation effectively or to communicate decisions is impaired to such an extent that the person
31 lacks the capacity to meet the essential requirements for the person's physical health or safety.

32 (B) "Meet the essential requirements for the person's physical health or safety" means those
33 actions necessary to provide health care, food, shelter, clothing, personal hygiene and other care
34 without which serious physical injury or illness is likely to occur.

35 (d) If the petitioner has reason to know that the child is an Indian child, within 30 days after
36 filing the petition, the petitioner shall:

37 (A) Serve copies of the petition by registered or certified mail, return receipt requested, together
38 with the notice of proceeding in the form required under ORS 419B.639 (3), to:

39 (i) Each tribe of which the child may be a member or in which the Indian child may be eligible
40 for membership;

41 (ii) The child's parents;

42 (iii) The child's Indian custodian, if applicable; and

43 (iv) The appropriate United States Bureau of Indian Affairs Regional Director listed in 25 C.F.R.
44 23.11(b), if the identity or location of the child's parents, Indian custodian or tribe cannot be ascer-
45 tained.

1 (B) File a declaration of compliance with the court, including a copy of each notice sent, to-
2 gether with any return receipts or other proof of service.

3 (e) Except when the child is an Indian child, service required by this subsection may be waived
4 by the court for good cause.

5 **SECTION 12. ORS 417.200 and 417.250 are repealed.**

6 **SECTION 13. The amendments to statutes by sections 2 to 11 of this 2023 Act and the**
7 **repeal of ORS 417.200 and 417.250 by section 12 of this 2023 Act become operative on the ef-**
8 **fective date described in Article XIV, Section B of the Interstate Compact for the Placement**
9 **of Children as set forth in section 1 of this 2023 Act.**

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