

# D R A F T

## SUMMARY

Establishes standards and criteria for mandatory licensing, certification or authorization of child-caring agencies by Department of Human Services. Authorizes department to place conditions on license, certificate or authorization. Establishes conditions for determining full compliance and per se insubstantial compliance.

Authorizes child-caring agency to certify family foster homes upon certification by department.

Permits Director of Human Services to issue interim emergency order or to enjoin operations of child-caring agency if condition exists that seriously endangers or places at risk health, safety or welfare of child.

Establishes standards and requirements for supervision and inspection of premises, books and financial statements of child-caring agencies.

Creates definition of “abuse” of child in care of child-caring agency. Mandates that department immediately notify certain persons and entities and commence investigation upon obtaining knowledge of suspected abuse. Defines findings of substantiated, unsubstantiated and inconclusive abuse.

Becomes operative on July 1, 2016.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to child welfare; creating new provisions; amending ORS 30.260, 109.070, 109.319, 128.640, 278.322, 418.205, 418.210, 418.215, 418.240, 418.246, 418.250, 418.255, 418.260, 418.263, 418.265, 418.270, 418.275, 418.280, 418.285, 418.290, 418.295, 418.305, 418.306, 418.312, 418.325, 418.327, 418.475, 418.485, 418.495, 418.625, 418.647, 418.950, 418.990, 418.992, 418.993, 418.995, 418.998, 419A.004, 419B.005, 419B.100, 419B.371, 441.277, 443.830, 479.210, 479.217, 497.162, 609.652 and 657.060; and declaring an emergency.

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

**CHILD-CARING AGENCIES**

**SECTION 1.** ORS 418.205 is amended to read:

418.205. As used in ORS 418.205 to ~~[418.310]~~ **418.327, 418.470, 418.475, 418.950 to 418.970** and 418.992 to 418.998, unless the context requires otherwise:

(1) “Child” means an unmarried person under ~~[18]~~ **21** years of age.

(2)(a) “Child-caring agency”:

(A) Means any ~~[private]~~ school, ~~[private]~~ agency or ~~[private]~~ organization providing:

~~[(A)]~~ (i) Day treatment for children with emotional disturbances;

~~[(B)]~~ (ii) Adoption placement services;

~~[(C)]~~ (iii) Residential care, including but not limited to foster care or residential treatment for children;

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

~~[(E)]~~ (v) Outdoor youth programs; or

~~[(F)]~~ (vi) Other similar **care or** services for children.

**(B) Includes the following:**

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

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

(iii) **A private residential boarding school; and**

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

(b) “Child-caring agency” does not include:

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

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney

under ORS 109.056. For purposes of this subparagraph, “respite services” means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent’s child;

*[(C) A private residential boarding school as defined in subsection (5)(b) of this section; or]*

*[(D)]* (C) A youth job development organization as defined in ORS 344.415[.];

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

**(E) A foster home subject to ORS 418.625 to 418.645.**

**(3) “Child-caring facility” has the meaning given that term in ORS 418.950.**

**(4) “Family foster home” means a foster home certified by a child-caring agency under section 6 of this 2016 Act that is not subject to ORS 418.625 to 418.645.**

**(5) “Independent residence facility” has the meaning given that term in ORS 418.475.**

*[(3)(a)]* **(6)(a)** “Outdoor youth program” means a program that provides, in an outdoor living setting, services to children who have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.

(b) “Outdoor youth program” does not include any program, facility or activity:

(A) Operated by a governmental entity;

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

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

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

*[(4)]* **(7)** “Private” means not owned, operated or administered by any

governmental agency or unit.

[(5)] (8) “Private residential boarding school” means either of the following as the context requires:

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

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

**(9) “Provider of care or services for children” means a person, entity or organization that provides care or services to children, regardless of whether the child is in the custody of the Department of Human Services, and that does not otherwise meet the definition of, or requirements for, a child-caring agency. “Provider of care or services for children” includes a family foster home certified by a child-caring agency under section 6 of this 2016 Act.**

**(10) “Shelter-care home” has the meaning given that term in ORS 418.470.**

**SECTION 2.** ORS 418.210 is amended to read:

418.210. ORS 418.205 to [418.325] **418.327** shall not apply to:

(1) Homes established and maintained by fraternal organizations wherein only members, their spouses and surviving spouses in marriages and children are admitted as residents;

(2) Any [family] foster home that is subject to ORS 418.625 to 418.645;

(3) Any child care facility that is subject to ORS 329A.030 and 329A.250 to 329A.450;

(4) Any individual, or home of an individual, providing respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

(5) Any private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed

cuted power of attorney under ORS 109.056; or

[(6) A private residential boarding school as defined in ORS 418.205 (5)(b).]

**(6) A shelter-care home that is subject to ORS 418.625 to 418.645.**

**SECTION 3.** ORS 418.215 is amended to read:

418.215. *[No private child-caring agency shall provide or engage in any care or service described in ORS 418.205 unless the agency is at the time:]*

*[(1) Duly incorporated under the corporation laws of any state; and]*

*[(2) Licensed to provide or engage in the care or service by the Department of Human Services under the provisions of ORS 418.205 to 418.325.]*

**(1) A child-caring agency may not provide or engage in any care or services described in ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 unless the agency is licensed, certified or otherwise authorized to provide or engage in the provision of care or services to a child by the Department of Human Services under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.**

**(2) A child-caring agency that provides care or services to a child that is not committed to the custody of the department may not be licensed, certified or authorized under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 unless the agency is duly incorporated under the corporation laws of any state.**

**SECTION 4.** ORS 418.240 is amended to read:

418.240. *[(1) All private child-caring agencies subject to ORS 418.205 to 418.325 shall obtain from the Department of Human Services a license authorizing their work. The department shall use the criteria designated in this subsection, and such rules pursuant thereto as the department may develop subject to ORS chapter 183, as the basis of judgment in granting, withholding, suspending or revoking such licenses. The criteria are as follows:]*

**(1) All child-caring agencies shall obtain from the Department of Human Services a license, certification or other authorization to provide care or services to children under ORS 418.205 to 418.327, 418.470,**

1 **418.475 or 418.950 to 418.970. The criteria for issuance, renewal, sus-**  
 2 **pension or revocation of, or for placing conditions on, a license, cer-**  
 3 **tification or authorization under this section must:**

4 (a) **Be set forth in rules adopted by the department;**

5 (b) **Include the full compliance requirements set forth in subsection**  
 6 **(2) of this section; and**

7 (c) **Include, but are not limited to, the following:**

8 [(a)] (A) **The fitness of the [applicant] child-caring agency.**

9 [(b)] (B) **The employment of capable, trained or experienced staff [who are**  
 10 **not applicants for the approval] that meet minimum staffing require-**  
 11 **ments.**

12 [(c)] (C) **Sufficient financial backing to [insure] ensure effective [work]**  
 13 **operations.**

14 [(d)] (D) **The probability of permanence in the [proposed organization]**  
 15 **child-caring agency.**

16 [(e)] (E) **The care and services provided to the children served will be in**  
 17 **their best interests and that of society.**

18 [(f)] (F) **That the child-caring agency is or will be in compliance with**  
 19 **the standards of care and treatment established in rules adopted by the de-**  
 20 **partment.**

21 [(2) *In addition to the licensing requirements of subsection (1) of this sec-*  
 22 *tion, a private child-caring agency shall submit written proof of compliance*  
 23 *with ORS 336.575 to the department.*]

24 (2)(a) **The department may not issue or renew a license, certifica-**  
 25 **tion or other authorization to a child-caring agency unless the de-**  
 26 **partment finds the agency is or will be in full compliance with all of**  
 27 **the following:**

28 (A) **The agency ensures child and family rights.**

29 (B) **The agency complies with abuse reporting and investigation**  
 30 **requirements.**

31 (C) **The agency engages in and applies appropriate behavior man-**

1   **agement techniques.**

2       **(D) The agency provides adequate furnishings and personal items**  
3   **for children.**

4       **(E) The agency provides appropriate food services.**

5       **(F) The agency ensures the safety of children.**

6       **(G) The agency utilizes approved procedures and protocols for use**  
7   **of medications for children receiving care or services from the agency.**

8       **(H) The agency or the agency's employees or agents have not en-**  
9   **gaged in financial mismanagement.**

10      **(I) The agency fully and timely corrects violations and maintains**  
11   **standards in accordance with any plan of correction imposed by the**  
12   **department.**

13      **(J) The agency provides access as required under ORS 418.305 to a**  
14   **child or the agency's premises to the department or the department's**  
15   **employees, investigators, court appointed special advocates, attorneys**  
16   **for a child or other authorized persons or entities.**

17      **(b) The department may suspend, revoke or place conditions on a**  
18   **license, certification or authorization of a child-caring agency if the**  
19   **department finds the agency is not in full compliance with any one**  
20   **or more of the full compliance requirements listed in paragraph (a)**  
21   **of this subsection.**

22      **(c) The following circumstances shall be the basis for a per se**  
23   **finding of insubstantial compliance, and the department may not is-**  
24   **sue, renew or place conditions on a license, certificate or authorization**  
25   **of a child-caring agency but must take immediate steps to suspend or**  
26   **revoke the license, certification or other authorization of the child-**  
27   **caring agency, if any of the following are found to exist:**

28      **(A) There has been the death of a child as a result of abuse or**  
29   **neglect on the part of the agency or any of the agency's employees or**  
30   **agents.**

31      **(B) There has been sexual or physical abuse or neglect of a child in**

1 the agency's care or custody that was known to the agency and the  
2 agency did not take immediate steps to report the abuse or neglect and  
3 to ensure the child's safety.

4 (C) The agency failed to cooperate fully with any local, state or  
5 federal regulatory entity's investigation of the agency or the agency's  
6 operations or employees.

7 (D) The agency failed to provide reports or financial statements as  
8 required under ORS 418.255 and 418.265.

9 (d) It is grounds to deny issuance or renewal, suspend, revoke or  
10 place conditions on a license, certification or other authorization if a  
11 child-caring agency, or the owner or operator of the agency, has been  
12 found by other state or federal entities to have engaged in financial,  
13 civil or criminal misconduct.

14 (3) The department may place conditions on any license, certifica-  
15 tion or authorization issued under this section, including but not lim-  
16 ited to placing full or partial restrictions on admission of children,  
17 temporary suspension, limitation of operations subject to an intent to  
18 revoke and limitation of operations subject to correction of violations  
19 as specified in a plan of correction imposed by the department.

20 (4) If applicable, an applicant shall submit written proof of compli-  
21 ance with the notification requirements in ORS 336.575.

22 [(3)] (5) *[The department shall charge no fee for its own inspections leading*  
23 *to its decisions regarding such licensing, nor for issuance of such licenses,]*  
24 **The department may not charge a fee for inspections leading to deci-**  
25 **sions regarding, and issuance of, licenses, certifications or authori-**  
26 **zations under this section,** but may impose fees to cover costs of related  
27 inspections done for the department by other governmental agencies.

28 [(4)] (6) A license, **certification or authorization** issued by the depart-  
29 ment under this section shall be valid for a period of two years, unless sus-  
30 pended or revoked sooner by the department. However, the department at  
31 any time may require amendments to an existing license, **certificate or**



**authorization** to accommodate changes in the factors upon which [*an existing license*] **the issuance** was based.

**(7) When a condition exists that seriously endangers or places at risk the health, safety or welfare of a child who is receiving care or services at a child-caring agency:**

**(a) The Director of Human Services shall issue an interim emergency order without notice, or with reasonable notice under the circumstances, requiring the agency to correct the conditions and ensure the safety of children in the care of the agency. The interim emergency order shall remain in force until a final order, after a hearing, has been entered in accordance with ORS chapter 183.**

**(b) The director may commence an action to enjoin operation of a child-caring agency:**

**(A) If the agency is being operated without a valid license, certificate or other authorization issued under this section; or**

**(B) If the agency fails to comply with a plan of correction imposed by the department or to correct conditions not in conformity with standards as set out in an order issued under paragraph (a) of this subsection, within the time specified in the order.**

**(8) If the director, the director's designee or the department becomes aware through any means that a child-caring agency, or an owner, operator or employee of a child-caring agency, is the subject of an investigation by another state agency, law enforcement agency or federal agency, the director or director's designee shall take immediate steps to cause an investigation to take place into the circumstances surrounding the investigation and whether there is a threat to a child, or whether a child is at risk, at the child-caring agency. Upon determination of the level of threat or risk to children at the agency, the director shall take appropriate steps to protect and ensure the health, safety and welfare of children as necessary under the circumstances. Failure to comply with the requirements of this**

subsection constitutes grounds for a charge of official misconduct in the second degree under ORS 162.405.

(9) If the Department of Justice, Department of Revenue or Bureau of Labor and Industries commences an investigation of a child-caring agency or an owner, operator or employee of a child-caring agency, the Department of Justice, Department of Revenue or Bureau of Labor and Industries shall notify, inform and regularly update the director, the director's designee or such other personnel in the department designated to receive such information regarding the investigation. The director and the department shall immediately undertake the responsive action required by subsection (8) of this section upon receiving such notification. Interference with, discouragement of or impediment to the receipt of the notification, information and updates required under this subsection constitutes official misconduct in the second degree under ORS 162.405.

(10) The Department of Human Services shall adopt rules to implement the provisions of this section.

**SECTION 5.** Sections 6 and 7 of this 2016 Act are added to and made a part of ORS 418.205 to 418.327.

**SECTION 6.** (1) A child-caring agency may certify a family foster home as a provider of care or services for children. The agency may not certify a family foster home under this section unless the Department of Human Services has certified that the family foster home meets minimum standards as established by rules adopted by the department. The certification of a family foster home by the department and the child-caring agency must take place before placement of a child in the family foster home.

(2) Prior to certification as a family foster home, an applicant shall provide the department and the child-caring agency with a release of information or other written authorization sufficient to enable the department and the agency to conduct a records check of the appli-

1 **cant. Results of a records check are confidential and are subject to**  
2 **inspection only by the department, by the agency or pursuant to a**  
3 **court order. An applicant must disclose to the department and the**  
4 **agency any criminal conviction, imposition of a restraining or protec-**  
5 **tive order against the applicant or abuse investigation of the applicant**  
6 **related to a vulnerable person, including but not limited to a child,**  
7 **elderly person, person with a disability or person residing in a long**  
8 **term care facility as defined in ORS 442.015, a residential facility as**  
9 **defined in ORS 443.400, including but not limited to an assisted living**  
10 **facility, or an adult foster home as defined in ORS 443.705.**

11 **(3) If a decision is made not to certify a family foster home under**  
12 **this section for reasons related to the records check performed under**  
13 **subsection (2) of this section, the department and the agency shall**  
14 **disclose to the applicant the reasons for the denial of certification.**

15 **(4) The department shall adopt rules to implement the provisions**  
16 **of this section.**

17 **SECTION 7. The Department of Human Services shall maintain a**  
18 **staff of a minimum of five full-time equivalent employees who are re-**  
19 **sponsible for the issuance, renewal, suspension or revocation of, or for**  
20 **the placing of conditions on, licenses, certifications or other authori-**  
21 **zations issued under ORS 418.240 and section 6 of this 2016 Act, and for**  
22 **the inspection and investigation of child-caring agencies licensed,**  
23 **certified or otherwise authorized by the department.**

24 **SECTION 8. ORS 418.246 is amended to read:**

25 **418.246. (1) In addition to any requirements for licensure established by**  
26 **the Department of Human Services, each outdoor youth program that is ap-**  
27 **plying for licensure as a child-caring agency shall file with the department**  
28 **a bond in the amount of \$50,000 or 50 percent of the program's yearly budget,**  
29 **whichever amount is less. The bond shall be issued by a surety company or**  
30 **an insured institution, as defined in ORS 706.008, authorized to do business**  
31 **in this state.**

(2) The bond required under subsection (1) of this section shall be continuous until canceled and shall remain in full force and unimpaired at all times to comply with this section. The surety or insured institution shall give the department at least 30 days' written notice before it cancels or terminates its liability under the bond.

(3) An action on the bond may be brought by any person aggrieved by the misconduct of an outdoor youth program required to be licensed under ORS 418.205 to ~~418.310~~ **418.327**.

**SECTION 9.** ORS 418.250 is amended to read:

418.250. *[(1) In order to enable it to supervise all child-caring agencies and institutions in this state, public and private, and also all homeless or neglected children in this state, whether kept in such agencies or institutions or not, the Department of Human Services may require such agencies or institutions, and also any court functioning as a juvenile court, to furnish at any time, on blanks prepared or recommended by the department, such information as the department in its judgment may require in regard to each child in any such agency or institution or any record of each child that has been placed out under order of any such court. The agency, institution or court shall furnish such information to the department upon request. All such information so requested and received by the department shall be considered and treated at all times as confidential and not as a public record.]*

*[(2) No employee of the department shall disclose any such information contrary to the provisions of subsection (1) of this section.]*

**In order to enable the Department of Human Services to supervise and monitor all child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970 and all providers of care or services to children in this state, and to safeguard children receiving care or services from such agencies or providers, the department may require the child-caring agency or provider, and any juvenile court as defined in ORS 419A.004, to provide at any time, in the manner prescribed by rules adopted by the department, such information as the**

department requires with respect to a child who is receiving care or services from the agency or provider, or who is the subject of an order entered by the juvenile court. All information requested or received by the department under this section is confidential and not subject to public disclosure or inspection.

**SECTION 10.** ORS 418.255 is amended to read:

418.255. *[(1) The Department of Human Services shall inspect and supervise all private child-caring agencies, whether incorporated or not, within this state, and may inspect and supervise public child-caring agencies within this state. The department is given right of entrance, privilege of inspection, and access to all accounts and records of work and children, for the purpose of ascertaining the kind and quality of work done and to obtain a proper basis for its decisions and recommendations.]*

*[(2) Inspection and visitation of child-caring agencies by the department shall be made at unexpected times, with irregular intervals between visits, and without previous notice to the agency visited. In addition to such official inspection, many other informal visits shall be made.]*

*[(3) The department shall advise agency and institution officers and workers in regard to approved methods of child care, best types of housing and equipment and adequate records of agency or institutional work. The principal purpose of such advice shall be to offer friendly counsel and assistance on child welfare problems and advice on progressive methods and improvement of the service.]*

**(1) The Department of Human Services shall inspect and supervise all child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970 as provided in this section.**

**(2) Inspections of the premises of a child-caring agency shall occur no less frequently than once per year and shall be made at unexpected times, with irregular intervals between inspections and without previous notice to the agency. The inspection must include inspection of all areas where children reside or receive care or services including,**

1 but not limited to, common areas, children's personal living spaces  
2 and bathrooms.

3 (3)(a) A child-caring agency subject to ORS 418.205 to 418.327,  
4 418.470, 418.475 and 418.950 to 418.970 that has annual revenues in excess  
5 of \$1 million must provide the department with annual financial  
6 statements that have been audited by an independent certified public  
7 accountant at such times as the department specifies by rule.

8 (b) All child-caring agencies subject to ORS 418.205 to 418.327,  
9 418.470, 418.475 or 418.950 to 418.970 that are not described in paragraph  
10 (a) of this subsection shall provide the department, upon request or  
11 at such times as prescribed in rules adopted by the department, with  
12 financial statements that have been reviewed by an independent cer-  
13 tified public accountant.

14 (c) Information in financial statements submitted to the depart-  
15 ment under this subsection is a public record and open for inspection  
16 by any person without order of a court.

17 (4) The department may conduct an audit, including a forensic au-  
18 dit, of any child-caring agency subject to ORS 418.205 to 418.327,  
19 418.470, 418.475 or 418.950 to 418.970 to determine compliance with ORS  
20 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970. The department  
21 may, upon request at any time, inspect and audit the books and re-  
22 cords, including but not limited to financial records, of the agency.  
23 An audit or inspection under this subsection shall be at the expense  
24 of the department.

25 (5) Failure to permit an inspection, whether of the premises or of  
26 the books and records of the child-caring agency, or failure to provide  
27 the financial statements, as required by this section is grounds for a  
28 finding of per se insubstantial compliance under ORS 418.240 and for  
29 denial, revocation or suspension of a license, certificate or other au-  
30 thorization issued by the department.

31 (6) The department may advise the operators, owners and employ-

**ees of child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 and 418.950 to 418.970 in regard to approved methods of child care, recommended housing and equipment and appropriate methods to maintain adequate records of operations.**

[(4)] (7) In addition to advice provided under subsection [(3)] (6) of this section, the department shall provide training regarding appropriate ethnic hair and skin care for children of African-American, Hispanic, Native American, Asian-American or multiracial descent to:

(a) Child-caring agencies;

(b) Persons providing treatment, care or services under the supervision of a child-caring agency; and

(c) Prospective adoptive parents of a child in foster care.

**(8) The department shall adopt rules to implement the provisions of this section.**

**SECTION 11.** ORS 418.260 is amended to read:

418.260. *If any abuses, derelictions or deficiencies are made known to the Department of Human Services or its agents during their inspection of any child-caring agency or institution, or at any time are reported to the department, the department shall at once carefully investigate the reports or rumors and take such action as the matters require. If any abuses, derelictions or deficiencies are found in any state child-caring institution or agency, they shall be reported at once in writing to the responsible state agency. If any such abuses, derelictions or deficiencies are found in any other public institution, they shall be reported in like manner to the proper authority or governing board. In either case, if such abuses, derelictions or deficiencies are not corrected in a reasonable time, the same shall be reported in writing to the legislature or the appropriate interim committee if the legislature is not in session. If any such abuses, derelictions or deficiencies are found in any private child-caring agency, they shall be brought at once to the attention of its trustees or managers. If they are not corrected in a reasonable time, the department shall suspend or revoke its approval of such agency. However, if the*

1 *abuses, derelictions or deficiencies found in a private child-caring agency are*  
2 *determined by the department to be or threaten a serious danger to any child*  
3 *or to the public, the department may immediately suspend or revoke the*  
4 *agency's license, subject to the provisions of ORS 183.430.]*

5     **(1) If the Department of Human Services becomes aware of any**  
6 **suspected or founded abuses, deficiencies or violations, including but**  
7 **not limited to the failure to comply with the full compliance require-**  
8 **ments described in ORS 418.240, occurring in a child-caring agency,**  
9 **whether as a part of the inspections undertaken pursuant to ORS**  
10 **418.255 or otherwise, the department shall immediately investigate and**  
11 **take appropriate action, with primary concern given to the health,**  
12 **safety and welfare of the children for whom the child-caring agency**  
13 **is responsible. The department shall immediately report the alleged**  
14 **abuses, deficiencies or violations to the state agency, governing board,**  
15 **trustees, owners, managers or operators or other appropriate author-**  
16 **ity responsible for the child-caring agency. The department may notify**  
17 **law enforcement agencies as necessary to coordinate and assist in the**  
18 **investigation and enforcement of corrective actions undertaken by the**  
19 **department.**

20     **(2) If the department finds, after investigation by the department**  
21 **or law enforcement agencies, that the abuses, deficiencies, violations**  
22 **or insubstantial compliance are founded, the department may suspend,**  
23 **revoke or place conditions on the license, certificate or other author-**  
24 **ization of the child-caring agency. The conditions placed on a license,**  
25 **certificate or authorization may include, but are not limited to, plac-**  
26 **ing full or partial restrictions on admission of children, temporary**  
27 **suspension, limitation of operations subject to an intent to revoke or**  
28 **limitation of operations subject to correction of violations as specified**  
29 **in a plan of correction. If the department imposes a plan of correction,**  
30 **and the corrections are not made within 45 days from the effective**  
31 **date of the plan of correction, the department may immediately sus-**



pend or revoke the license, certificate or authorization of the child-caring agency.

(3) If the department determines at any time during or after an investigation that the abuses, deficiencies, violations or insubstantial compliance are or threaten a serious danger to any child or to the public, or place a child at risk with respect to the child's health, safety or welfare, the department may immediately suspend or revoke the child-caring agency's license, certificate or authorization, subject to the provisions of ORS chapter 183.

(4) If the department determines that the abuses, deficiencies, violations or insubstantial compliance are founded and the department imposes a plan of correction that the child-caring agency does not comply with in the time allotted for correction, the department shall immediately notify the following of the failure of the agency to comply with the plan of correction:

(a) The Legislative Assembly or the interim committees of the Legislative Assembly relating to child welfare.

(b) The state agency, governing board, trustees, owners, managers or operators or other appropriate authority responsible for the child-caring agency.

(5) Any employee of the department that has reasonable cause to believe that a child-caring agency has committed an abuse, incurred a deficiency or violation or is in insubstantial compliance, and that such abuse, deficiency, violation or insubstantial compliance is or threatens a serious danger to any child at the agency or to the public, or places a child at risk with respect to the child's health, safety or welfare, is required to immediately inform the Director of Human Services, the director's designee or such other personnel in the department designated to receive such information. Upon receipt of an employee report under this subsection, the director and department personnel shall immediately commence an investigation and take all

1 **reasonably prudent and necessary actions to ensure the health, safety**  
 2 **and welfare of children at the agency. Failure to commence an inves-**  
 3 **tigation and take actions as required by this subsection constitutes**  
 4 **official misconduct in the second degree under ORS 162.405.**

5 **SECTION 12.** ORS 418.263 is amended to read:

6 418.263. There is established in the State Treasury, separate and distinct  
 7 from the General Fund, the [*Private*] Child-Caring Agencies Fund. The fund  
 8 consists of moneys received by the Department of Human Services under  
 9 ORS 418.998 (2) and such other moneys as may be otherwise made available  
 10 by law. Interest earned on the fund shall be credited to the fund. Moneys in  
 11 the fund are continuously appropriated to the department and must be used  
 12 only for the administration and enforcement of ORS 418.205 to [418.310]  
 13 **418.327, 418.470, 418.475, 418.950 to 418.970 or 418.992 to 418.998.**

14 **SECTION 13.** ORS 418.265 is amended to read:

15 418.265. [(1) *At the request of the Department of Human Services, each*  
 16 *public or private child-caring agency or institution within this state shall make*  
 17 *a report of its work to the department in such form and detail as the depart-*  
 18 *ment prescribes.*]

19 [(2) *The reports may include detailed statistics of all children served, fi-*  
 20 *nancial statements of the expense of their care, the number and kind of workers*  
 21 *employed, the value and conditions of the plant owned or used, the amount of*  
 22 *the endowment or invested funds and any other essential matters that may be*  
 23 *indicated by the requirements of the department.*]

24 [(3) *The department shall prepare and supply to the various child-caring*  
 25 *agencies and institutions the necessary printed blanks to record the desired*  
 26 *information. Within any year, the department may require such further de-*  
 27 *tailed information and audit of the financial affairs of such agency or insti-*  
 28 *tution as it deems to be in the public interest and may make such inspection*  
 29 *of the books and records of such agency or institution as it deems necessary.*  
 30 *Such audit and inspection of books and records of such agencies and insti-*  
 31 *tutions shall be at the expense of the department.*]

1     *[(4) All such agencies or institutions shall conform their records to the*  
 2     *statutory fiscal year of the state.]*

3     *[(5) All reports required of agencies and institutions shall be filed with the*  
 4     *department not later than 60 days from the date of request.]*

5     **(1) All child-caring agencies subject to ORS 418.205 to 418.327,**  
 6     **418.470, 418.475 and 418.950 to 418.970 shall report to the Department of**  
 7     **Human Services at such times and with such information as the de-**  
 8     **partment prescribes in rules adopted by the department. At a mini-**  
 9     **mum, the reports must be required at least once every two years and**  
 10    **must contain information regarding the number of children served,**  
 11    **the type of care and services provided, financial information about the**  
 12    **cost to provide care and services, the value and condition of any real**  
 13    **property owned, leased or used by the agency and any other informa-**  
 14    **tion required under rules adopted by the department.**

15    **(2) Information submitted in reports under this section is a public**  
 16    **record and open for inspection by any person without order of a court.**

17    **(3) Failure to provide the reports required under this section is**  
 18    **grounds for a finding of per se insubstantial compliance under ORS**  
 19    **418.240 and for denial, revocation or suspension of a license, certificate**  
 20    **or other authorization issued by the department.**

21    **SECTION 14.** ORS 418.270 is amended to read:

22    418.270. (1) If licensed for such purposes by the Department of Human  
 23    Services, a [*private*] child-caring agency may receive children from [*their*] **the**  
 24    **children's** parents or legal guardians for special, temporary or continued  
 25    care. The parents or guardians may sign releases or surrenders giving to  
 26    [*such agencies*] **the agency** guardianship and control of the [*persons of*  
 27    *such*] children during the period of [*such*] care, which may be extended until  
 28    the children arrive at legal age. [*Such*] Releases do not surrender the rights  
 29    of [*such*] parents or guardians in respect to the adoption of [*such*] children  
 30    and do not entitle [*such organization*] **the agency** to give consent to the  
 31    adoption of the children unless the release or surrender expressly recites that

[it] **the release or surrender** is given for the purpose of adoption. [Private] Child-caring agencies are authorized to place children for adoption or **family** foster care only if authorized by the department in the license issued by the department **to the agency**.

(2) [Any entire] Severance of family ties [of such] **with** children by adoption or otherwise [shall] **may** be accomplished only by the order of a court of competent jurisdiction.

(3) In the absence of the certificate provided for in subsection (4) of this section, it is unlawful to present a child **released or** surrendered to [an] **a child-caring** agency by a parent, parents or guardian for a court to pass upon the adoption of the child until at least six months have elapsed after signing the **release or** surrender.

(4) [Parents or legal guardians of children whom they have by release or surrender agreement given into the guardianship of incorporated child-caring agencies] **Parents or guardians who have given a child into the guardianship of a child-caring agency by release or surrender under this section** for the purpose of adoption may, concurrently or subsequently and without any adoption proceeding having been initiated, agree that the release or surrender shall become irrevocable as soon as the child is placed by the agency in the physical custody of a person or persons for the purpose of adoption [by them], and waive their right to personal appearance in court in matters of adoption of [such children] **the child**, by a duly signed and attested certificate. From and after [such] physical placement for adoption, **the** [such] certificate of irrevocability and waiver and the release or surrender may not be revoked by the parent or guardian unless fraud or duress is affirmatively proved.

(5) No agreement to release or surrender a child for adoption, or other agreement or waiver of rights having the same effect, executed before March 24, 1971, in connection with the surrender of a child into the guardianship of a child-caring agency for purposes of adoption, may be revoked or held invalid for any reason except upon affirmative proof of fraud or duress.

**SECTION 15.** ORS 418.275 is amended to read:

418.275. (1) A *[private]* child-caring agency shall be the guardian of each child released or surrendered to *[it]* **the agency** under the conditions provided in ORS 418.270 and of each child committed to *[it through a permanent]* **the agency by** order of a court of competent jurisdiction.

(2) The **child-caring** agency may retain *[children]* **a child** released, surrendered or committed to *[it]* **the agency** in institutional care, or may place *[them in private family]* **the child in family foster** homes temporarily or as *[members of families.]* **a member of a family. An agency maintains custody, control and guardianship of, and responsibility for, a child placed with a family foster home by the agency.** If the agency deems the action proper and desirable, *[it]* **the agency** may consent in loco parentis to the legal *[adoptions]* **adoption** of the *[children]* **child**, subject to the conditions provided in ORS 418.270.

**SECTION 16.** ORS 418.280 is amended to read:

418.280. *[Private child-caring agencies, in placing children in private families, shall:]*

(1) **A child-caring agency may not place a child with a family foster home unless the home has been certified by the Department of Human Services and the agency pursuant to section 6 of this 2016 Act.**

(2) **In placing a child with a family foster home that has been certified by the department and a child-caring agency under this section and section 6 of this 2016 Act, the agency shall:**

*[(1)]* (a) Safeguard the welfare of the *[children]* **child** by the thorough investigation of each applicant and home and its environment;

*[(2)]* (b) Carefully select the child to suit the new relationship and location;

*[(3)]* (c) Personally and adequately supervise *[each]* **the** home and child until the *[latter]* **child** returns to the direct care of the agency or, if permanently placed, receives legal adoption or attains legal age; and

*[(4)]* (d) So far as practicable, place *[such children in families]* **the child**

1 **in a family** of the same religious faith as that held by the [*children or their*  
2 *parents*] **child or the child's parents.**

3 **(3) A child-caring agency maintains custody, control and**  
4 **guardianship of, and responsibility for, a child placed with a family**  
5 **foster home by the agency.**

6 **SECTION 17.** ORS 418.285 is amended to read:

7 418.285. In addition to [*its*] other powers and responsibilities **of the De-**  
8 **partment of Human Services**, the [*Department of Human Services*] **de-**  
9 **partment** has the same authority as a [*private*] child-caring agency under  
10 ORS 418.270 to 418.280. In exercising this authority, the department shall  
11 comply with the provisions of ORS 418.270 to 418.280 **in** the same **manner**  
12 as a [*private*] child-caring agency.

13 **SECTION 18.** ORS 418.290 is amended to read:

14 418.290. No person, agent, agency or institution of another state shall  
15 place a child in [*a family home*] **a child-caring agency or family foster**  
16 **home** in this state without first having furnished the Department of Human  
17 Services such guarantee as the department may require against the child  
18 becoming a public charge within five years from the date of [*such*] **the**  
19 placement.

20 **SECTION 19.** ORS 418.295 is amended to read:

21 418.295. (1) No attorney employed by the State of Oregon shall represent  
22 prospective adoptive parents in [*their*] **the parents'** attempt to adopt a child  
23 being cared for under the provisions of ORS 412.001 to 412.161, 418.005 to  
24 418.025, 418.205 to [~~418.315~~] **418.327**, 418.625 to 418.685 and 418.647.

25 (2) No employee of the Department of Human Services shall recommend  
26 any attorney to serve as counsel for prospective adoptive parents.

27 **SECTION 20.** ORS 418.305 is amended to read:

28 418.305. [*The Department of Human Services may require any child-caring*  
29 *agency to divulge the location and relationship of any of its placed-out chil-*  
30 *dren. The department or its agents may visit the location to ascertain the*  
31 *condition of such children or the quality of the child-placing work done. The*

*location and relationship of each placed-out child shall be confidentially held by the department and its agents and revealed only when the welfare of the child requires such action on order of a court of competent jurisdiction.]*

**(1) The Department of Human Services may require any child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 to disclose to the department the location and circumstances of any child for whom the agency is providing care or services.**

**(2) The child-caring agency shall permit immediate access to a child receiving care or services, and to any area of the premises upon which the child receives care or services, to the following:**

**(a) Employees and representatives of the department;**

**(b) The child's attorney;**

**(c) The child's court appointed special advocate;**

**(d) The parent or legal guardian of the child if the child has not been committed to the custody of the department; and**

**(e) Any other person authorized by the department.**

**(3) The purposes for which access to a child or premises under this section may be allowed include, but are not limited to, the following:**

**(a) To ascertain the circumstances and condition of a child placed with the child-caring agency.**

**(b) To determine the quality of the care or services provided to a child by the agency.**

**(c) To ensure the health, safety and welfare of a child receiving care or services from the agency.**

**SECTION 21. ORS 418.306 is amended to read:**

**418.306. A child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 that is providing [residential] care or services to a child may [shall] not deny a parent, [or] guardian or sibling of [a] the child [who is under the care of the child-caring agency] the right to visit the child solely as a disciplinary measure against the child.**

1     **SECTION 22.** ORS 418.312 is amended to read:

2     418.312. (1) The Department of Human Services may not require any par-  
3     ent or legal guardian to transfer legal custody of a child in order to have  
4     the child placed **in a child-caring agency** under ORS 418.205 to [418.310,]  
5     **418.327, 418.470, 418.475,** 418.480 to 418.500, **418.950 to 418.970** and 418.992  
6     to 418.998 [*in a foster home, group home or institutional child care setting,*]  
7     when the sole reason for the placement is the need to obtain services for the  
8     child's emotional, behavioral or mental disorder or developmental or physical  
9     disability. In all such cases, the child shall be placed pursuant to a voluntary  
10    placement agreement. When a child is placed pursuant to a voluntary  
11    placement agreement, the department shall have responsibility for the child's  
12    placement and care. When a child remains in voluntary placement for more  
13    than 180 days, the juvenile court shall make a judicial determination, within  
14    the first 180 days of the placement, that the placement is in the best interests  
15    of the child. In addition, the juvenile court shall hold a permanency hearing  
16    as provided in ORS 419B.476 no later than 14 months after the child's ori-  
17    ginal voluntary placement, and not less frequently than once every 12  
18    months thereafter during the continuation of the child's original voluntary  
19    placement, to determine the future status of the child.

20    (2) As used in this section, "voluntary placement agreement" means a  
21    binding, written agreement between the department and the parent or legal  
22    guardian of a minor child that does not transfer legal custody to the de-  
23    partment but that specifies, at a minimum, the legal status of the child and  
24    the rights and obligations of the parent or legal guardian, the child and the  
25    department while the child is in placement.

26    **SECTION 23.** ORS 418.325 is amended to read:

27    418.325. (1) A child-caring agency **that is subject to ORS 418.205 to**  
28    **418.327, 418.470, 418.475 or 418.950 to 418.970** shall safeguard the health of  
29    each **child**, ward or other dependent or delinquent child [*in its care*] **to**  
30    **whom the agency provides care or services** by providing for medical ex-  
31    aminations of each child by a qualified physician at the following intervals:



(a) Three examinations during the first year of the child's life;

(b) One examination during the second year of the child's life;

(c) One examination at the age of four;

(d) One examination at the age of six;

(e) One examination at the age of nine; and

(f) One examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child's health or by any particular condition.

(4) Within 90 days of obtaining guardianship over a child under six years of age, a child-caring agency shall provide for *[such]* **the** child to be:

(a) Inoculated as determined appropriate by the local health department; and

(b) Tested for:

(A) Phenylketonuria pursuant to ORS 433.285;

(B) Visual and aural acuity consistent with the child's age;

(C) Sickle-cell anemia;

(D) Effects of rubella, if any;

(E) Effects of parental venereal disease, if any; and

(F) The hereditary or congenital effects of parental use of drugs or controlled substances.

(5) Within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, the child-caring agency shall provide for such child to have a

complete physical examination by a physician, including but not limited to inspection for evidence of child abuse in accordance with rules of the Department of Human Services, and be tested for visual and aural acuity consistent with the child's age.

(6) A child-caring agency shall record the results of tests provided a child pursuant to subsections (1) to (5) of this section in the child's health record. The child's health record shall be kept as a part of the agency's total records of that child. The child's health record shall be made available to both natural parents and to both prospective foster or adoptive parents of that child. A qualified member of a child-caring agency under the supervision of a qualified physician shall explain to adoptive parents the medical factors possible as a result of a child's birth history, hereditary or congenital defects, or disease or disability experience.

*[(7) This section does not apply to a private residential boarding school as defined in ORS 418.205 (5)(a).]*

**SECTION 24.** ORS 418.327 is amended to read:

418.327. *[(1) Inspections and reviews of private residential boarding schools that are primarily engaged in educational work or other organizations offering residential programs for children may be conducted by the Department of Human Services at times and frequencies of the department's choosing. The department shall consult with representatives of the private residential boarding schools and organizations in developing the standards that shall be the basis for inspections and reviews.]*

*[(2)]* **(1)** Upon finding that the facilities and operation of a *[school or organization described in subsection (1) of this section]* **private residential boarding school** meet the standards of the department for the physical health, care and safety of the children, the department shall issue a license to operate the *[residential program]* **school**. The license shall be valid for a period of two years, unless sooner suspended or revoked by the department **pursuant to the provisions of ORS 418.240**. However, the department **at any time** may require *[that application be made for amendment]* **amend-**

ments to an existing license [*when changes in a facility or program are to occur*] **to accommodate changes in the factors upon which the issuance was based.**

(2) [*The department shall charge no fee for its own inspections or reviews, nor for issuing licenses,*] **The department may not charge a fee for inspections leading to decisions regarding, and issuance of, licenses under this section,** but may charge fees to cover costs of inspections done by other governmental agencies for the department.

(3) **The department may place conditions on any license issued under this section in accordance with the provisions of ORS 418.240, including but not limited to placing full or partial restrictions on admission of children, temporary suspension, limitation of operations subject to an intent to revoke and limitation of operations subject to correction of violations as specified in a plan of correction imposed by the department.**

[(3)] (4) No person or organization shall operate a [*facility described in subsection (1) of this section*] **private residential boarding school** without having a current, valid license issued by the department.

[(4)] (5) Any person, including the Director of Human Services, may file a complaint with the department alleging that children attending a private residential boarding school [*described in subsection (1) of this section*], or that children within the control of any other organization that provides boarding or residential programs, are not receiving shelter, food, guidance, training or education necessary to the health, safety, welfare or social growth of the children or necessary to serve the best interests of society.

[(5)] (6) The department shall **immediately** investigate complaints made under subsection [(4)] (5) of this section **in the manner provided under ORS 418.205 to 418.327.** [*and, if a reasonable basis for sustaining the complaint appears, shall set a hearing to examine publicly the complaint. The department shall conduct its investigation under the standards and authority provided under ORS 418.215 to 418.325. Except as provided in subsection (7)*]

*of this section, at least two weeks' written notice of the hearing and substance of the complaint and the evidence in support thereof shall be provided to the operator of the school or organization. The parents of the child or children involved shall be notified if such persons can be conveniently located. Notice shall be served personally on the operator of the school or organization, but may be served by mail at the last-known or determined address of the parent or other adult responsible for the child.]*

*[(6) The hearing shall comply with the provisions of ORS chapter 183 as to procedures, findings and orders. Where the evidence at the hearing justifies such an order, the department is authorized to order the school or organization to correct the conditions not in conformity with standards. If corrections are not made within time limits set by the department, the department may suspend or revoke the license or may refuse to renew the license and is empowered to make any other lawful orders necessary to the protection of the child or children involved.]*

*[(7) Where a condition exists that immediately endangers the health or safety of a child, the Director of Human Services may issue an interim order without any notice, or with such notice as is practical under the circumstances, requiring the school or organization to alter the conditions under which the child lives or receives schooling. Such interim emergency order shall remain in force until a final order, after a hearing as provided in subsection (5) of this section, is entered.]*

*[(8) Any school or organization shall cooperate with the department in making any inspection or review or investigating any complaint made under this section.]*

*[(9)] (7) The Superintendent of Public Instruction shall cooperate with the department upon request by advising the department as to whether or not the educational program conducted at the [school or organization] **private residential boarding school** meets minimum standards required of public educational institutions.*

*[(10)] (8) Nothing in this section applies to public or private institutions*

of higher education, community colleges, common or union high school districts that provide board and room in lieu of transportation or any other child-caring program already subject to state licensing procedures by any agency of this state.

*[(11) Subject to ORS chapter 183, the department may adopt rules to implement this section.]*

*[(12) In addition to remedies otherwise provided under this section and under ORS 418.990, the department may commence an action to enjoin operation of a private residential boarding school described in subsection (1) of this section or other organization offering residential programs for children:]*

*[(a) If the school or organization is being operated without a valid license issued under subsection (2) of this section; or]*

*[(b) If the school or organization fails to correct the conditions not in conformity with standards, as set out in an order issued under subsection (6) of this section, within the time specified in the order.]*

**SECTION 25.** ORS 418.475 is amended to read:

418.475. (1) Within the limit of moneys appropriated therefor, the Department of Human Services may establish or certify independent residence facilities for minors who:

(a) Are 16 years of age or older;

(b) Have been placed in at least one substitute care resource;

(c) Have been determined by the department to be unsuitable for placement in a substitute care resource;

(d) Have received permission from the appropriate juvenile court, if they are wards of the court; and

(e) Have been determined by the department to be suitable for an independent *[resident]* **living** program.

(2) **Independent** residence facilities shall provide independent housing arrangements with counseling services and minimal supervision available from at least one counselor. All *[residential]* **independent residence** facilities having six or more residents shall be licensed by the department under

1 ORS 443.400 to 443.455.

2 (3) Each resident shall be required to maintain a program of education  
3 or employment, or a combination thereof, amounting to full-time activity and  
4 shall be required to pay a portion or all of the resident's housing expenses  
5 and other support costs.

6 (4) The department may make payment grants directly to minors enrolled  
7 in an independent living program for food, shelter, clothing and incidental  
8 expenses. The payment grants shall be subject to an agreement between the  
9 minor and the department that establishes a budget of expenses.

10 (5) The department may establish cooperative financial management  
11 agreements with a minor and for that purpose may enter into joint bank  
12 accounts requiring two signatures for withdrawals. The management agree-  
13 ments or joint accounts may not subject the department or any counselor  
14 involved to any liability for debts or other responsibilities of the minor.

15 (6) The department shall make periodic reports to the juvenile court as  
16 required by the court regarding any minor who is a ward of the court en-  
17 rolled in an independent living program.

18 (7) The enrollment of a minor in an independent living program in ac-  
19 cordance with the provisions of subsection (1) of this section does not remove  
20 or limit in any way the obligation of the parent of the minor to pay support  
21 as ordered by a court under the provisions of ORS 419B.400 or 419C.590.

22 **SECTION 26.** ORS 418.495 is amended to read:

23 418.495. (1) Within the limits of funds available therefor, the Department  
24 of Human Services may enter into agreements and contracts with [*licensed*]  
25 child-caring agencies, Strengthening, Preserving and Reunifying Families  
26 programs under ORS 418.575 to 418.598, [*and*] other appropriate **providers**  
27 **of care or services to children and** facilities, including youth care centers,  
28 for the purchase of care for children who require and are eligible for such  
29 care, regardless of whether the [*children are wards*] **child is a ward** of the  
30 state, [*or*] whether the department is [*their*] **the child's** guardian or has  
31 [*their*] custody **of the child**, or whether the [*children are*] **child has been**

1 **released or** surrendered to a child-caring agency **pursuant to ORS 418.270**  
2 or to a Strengthening, Preserving and Reunifying Families program under  
3 ORS 418.575 to 418.598 or committed thereto by order of a court under ORS  
4 chapter 419B or 419C. The agreement shall prescribe the procedures for  
5 payment and the rate of payment and may contain such other conditions as  
6 the department and the agency, facility or program may agree. **Payment**  
7 **must be made by electronic funds transfer from the department to the**  
8 **payee and may not be made by check.**

9 (2) The department shall by rule adopt payment standards for foster care  
10 **that is provided under ORS 418.625 to 418.645.** In establishing standards,  
11 the department may take into account the income, resources and maintenance  
12 available to and the necessary expenditures of a foster parent who is  
13 a relative, as defined by rule, of the child placed in care.

14 **SECTION 27.** ORS 418.625 is amended to read:

15 418.625. As used in ORS 418.625 to 418.645:

16 (1) "Certificate" means a written approval to operate a foster home issued  
17 by the Department of Human Services on a form prescribed by the department  
18 that states the name of the foster parent, the address of the premises  
19 to which the certificate applies and the maximum number of children to be  
20 maintained or boarded in the foster home at any one time.

21 (2) "Department" means the Department of Human Services.

22 (3) "Foster home" means any home maintained by a person who has under  
23 the care of the person in the home any child under the age of 21 years un-  
24 attended by the child's parent or guardian, for the purpose of providing the  
25 child with care, food and lodging, but does not include:

26 (a) Any boarding school that is essentially and primarily engaged in educational  
27 work;

28 (b) Any home in which a child is provided board and room by a school  
29 board;

30 (c) Any foster home under the direct supervision of a [*private*] child-caring  
31 agency or institution certified by the department;

(d) Any home under the direct supervision of a custodial parent for the purpose of providing respite care as defined by rule;

(e) Any developmental disability child foster home as defined in ORS 443.830; or

(f) Any home of a provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

**SECTION 28.** ORS 418.647 is amended to read:

418.647. (1) With respect to any period for which federal funds are made available to this state in aid of a state-administered program of aid to any child defined in and meeting the requirements of this section, the Department of Human Services may provide foster care payments in behalf of a child in the foster home of any individual or in a [*licensed private*] child-caring agency who:

(a) Is a needy child meeting the requirements of ORS 412.001 (3)(b)(A) or (B) who has been deprived of parental support or care by reason of the continued absence from the home, the physical or mental incapacity or the unemployment or underemployment of a parent or parents;

(b) Would meet the requirements of ORS 412.006 except for the removal of the child from the home of a caretaker relative as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

(c) Has been accepted for placement and care by the department;

(d) Has been placed in a foster home or [*licensed private*] child-caring agency as a result of such determination; and

(e) Received aid in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a caretaker relative as defined in ORS 412.001 within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month



the child had been living with and removed from the home of such a relative and application had been made therefor.

(2) **As used in this section:**

(a) **“Child-caring agency” has the meaning given that term in ORS 418.205.**

(b) “Foster home” means a foster home [*which*] **that** is certified by this state or **that** has been approved, by the agency of this state responsible for the certification of foster homes, as meeting the standards established for such certification.

**SECTION 29.** ORS 418.950 is amended to read:

418.950. As used in ORS 418.950 to 418.970, unless the context requires otherwise:

(1) “Agency” means any person or organization providing substitute residential care for an average daily population of eight or fewer children. “Agency” includes but is not limited to:

(a) Child-caring agencies licensed, **certified or otherwise authorized** by the Department of Human Services under ORS 418.205 to [*418.325*] **418.327**;

(b) Foster homes as defined in ORS 418.625 providing care for more than four children; and

(c) Youth care centers as defined in ORS 420.855.

(2) “Average daily population” means the sum of days in residence of all children residing in a child-caring facility during a certain period divided by the number of days in the period.

(3) “Child-caring facility” means a residence or building used by an agency to provide substitute residential care for children.

**SECTION 30.** ORS 418.990 is amended to read:

418.990. (1) A person who violates ORS [*418.250 (2),*] 418.255, 418.290 or 418.300 commits a Class D violation.

(2) A person who violates ORS 418.630 commits a Class B misdemeanor.

(3) Violation of ORS 418.215, 418.250 [*(1)*] or 418.327 [*(3)*] **(4)** is a Class A misdemeanor. Each day of violation is a separate offense.

**SECTION 31.** ORS 418.992 is amended to read:

418.992. (1) In addition to any other liability or penalty provided by law, the Director of Human Services may impose a civil penalty on a [private] child-caring agency **that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970** for any of the following:

(a) Violation of any of the terms or conditions of a license, **certificate or other authorization** issued under ORS 418.205 to [418.310] **418.327, 418.470, 418.475 or 418.950 to 418.970.**

(b) Violation of any rule **adopted by**, or general order of, the Department of Human Services that pertains to a [private] child-caring agency.

(c) Violation of any final order of the director that pertains specifically to the [private] child-caring agency.

(d) **Violation of the requirement to have a license, certificate or other authorization under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.**

(2) **The director shall impose a civil penalty not to exceed \$500, unless otherwise required by law, on any child-caring agency for falsifying records, reports, documents or financial statements or for causing another person to do so.**

(3) **The director shall impose a civil penalty of not less than \$250 nor more than \$500, unless otherwise required by law, on a child-care facility that assumes care or custody of, or provides care or services to, a child knowing that the child's care needs exceed the license, certificate or authorization classification of the child-care agency if the assumption of care or custody, or provision of care or services, places that child's health, safety or welfare at risk.**

*[(2) A civil penalty may not be imposed under this section:]*

*[(a) For violations other than those involving direct care or feeding of children, staff to child ratio or sanitation involving direct care; or]*

*[(b) Unless a violation is found on two consecutive surveys of the private child-caring agency.]*

1     ~~[(3)]~~ **(4) Unless the health, safety or welfare of a child is at risk,** the  
 2 director in every case shall prescribe a reasonable time for elimination of a  
 3 violation:

4     (a) Not to exceed ~~[30]~~ **45** days after first notice of a violation; or

5     (b) In cases where the violation requires more than ~~[30]~~ **45** days to cor-  
 6 rect, such time as is specified in a plan of correction found acceptable by the  
 7 director.

8     ~~[(4)]~~ **(5)** A civil penalty imposed under this section may be remitted or  
 9 reduced upon such terms and conditions as the director considers proper and  
 10 consistent with the public health and safety.

11     **(6) The department shall adopt rules establishing objective criteria**  
 12 **for the imposition and amount of civil penalties under ORS 418.992 to**  
 13 **418.998.**

14     **SECTION 32.** ORS 418.993 is amended to read:

15     418.993. (1) Any civil penalty under ORS 418.992 shall be imposed in the  
 16 manner provided in ORS 183.745.

17     (2) Notwithstanding ORS 183.745, the *[private]* child-caring agency to  
 18 whom the notice is addressed shall have 10 days from the date of service of  
 19 the notice in which to make written application for a hearing before the  
 20 Director of Human Services.

21     **SECTION 33.** ORS 418.995 is amended to read:

22     418.995. In imposing a penalty *[pursuant to the schedule adopted]* pursuant  
 23 to ORS 418.992, the Director of Human Services shall consider the following  
 24 factors:

25     (1) The past history of the *[private]* child-caring agency incurring a pen-  
 26 alty in taking all feasible steps or procedures necessary or appropriate to  
 27 correct any violation.

28     (2) Any prior violations of statutes or rules pertaining to *[private]* child-  
 29 caring agencies.

30     (3) The economic and financial conditions of the *[private]* child-caring  
 31 agency incurring the penalty.

(4) The immediacy and extent to which the violation threatens **or places at risk** the health, safety and well-being of the children.

**SECTION 34.** ORS 418.998 is amended to read:

418.998. (1) Except as provided in subsection (2) of this section, all penalties recovered under ORS 418.992 to 418.998 shall be paid into the State Treasury and credited to the General Fund.

(2) All penalties recovered under ORS 418.992 to 418.998 for violations of any provision of ORS 418.205 to [418.310] **418.327, 418.470, 418.475 or 418.950 to 418.970** shall be paid to the Department of Human Services to be paid into the State Treasury and credited to the [Private] Child-Caring Agencies Fund.

**SECTION 35.** Sections 36 to 38 of this 2016 Act are added to and made a part of ORS 418.205 to 418.327.

**SECTION 36.** As used in sections 36 to 38 of this 2016 Act:

(1) “Abuse” means one or more of the following:

(a) Any physical injury to a child in care caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.

(c) Abandonment, including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker or other person.

(d) Willful infliction of physical pain or injury upon a child in care.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(f) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of a child in care for the convenience of a child-caring agency or caretaker or to discipline the child in care.

(j) A wrongful use of a physical or chemical restraint of a child in care, excluding an act of restraint prescribed by a physician licensed

1 under ORS chapter 677 and any treatment activities that are consist-  
2 ent with an approved treatment plan or in connection with a court  
3 order.

4 (2) "Child in care" means a person under 21 years of age who is  
5 residing in or receiving care or services from a child-caring agency  
6 subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

7 (3) "Child-caring agency" has the meaning given that term in ORS  
8 418.205.

9 (4) "Financial exploitation" means:

10 (a) Wrongfully taking the assets, funds or property belonging to or  
11 intended for the use of a child in care.

12 (b) Alarming a child in care by conveying a threat to wrongfully  
13 take or appropriate moneys or property of the child in care if the child  
14 would reasonably believe that the threat conveyed would be carried  
15 out.

16 (c) Misappropriating, misusing or transferring without authori-  
17 zation any moneys from any account held jointly or singly by a child  
18 in care.

19 (d) Failing to use the income or assets of a child in care effectively  
20 for the support and maintenance of the child in care.

21 (5) "Intimidation" means compelling or deterring conduct by threat.

22 (6) "Law enforcement agency" means:

23 (a) Any city or municipal police department.

24 (b) Any county sheriff's office.

25 (c) The Oregon State Police.

26 (d) Any district attorney.

27 (e) A police department established by a university under ORS  
28 352.121 or 353.125.

29 (7) "Neglect" means:

30 (a) Failure to provide the care, supervision or services necessary to  
31 maintain the physical and mental health of a child in care; or

(b) The failure of a child-caring agency, caretaker or other person to make a reasonable effort to protect a child in care from abuse.

(8) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of a child in care.

(9) "Sexual abuse" means:

(a) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(b) Any sexual contact between an employee of a child-caring agency, caretaker or other person and a child in care;

(c) Any sexual contact between a child in care and a relative of the child in care; or

(d) Any sexual contact that is achieved through force, trickery, threat or coercion.

(10) "Sexual contact" has the meaning given that term in ORS 163.305.

(11) "Verbal abuse" means to threaten significant physical or emotional harm to a child in care through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

**SECTION 37.** (1) When the Department of Human Services becomes aware of a report of suspected child abuse of a child in care, whether in the form of an allegation, complaint, rumor or formal report made under this section, and whether made directly to the Director of Human Services, the department or an employee of the department, to a hotline operated by the department, through the mandatory abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall immediately:

(a) Notify appropriate personnel within the department, including but not limited to employees responsible for licensing, certifying or authorizing child-care agencies.

(b) Commence an investigation to determine whether the report of suspected abuse is substantiated, unsubstantiated or inconclusive under section 38 of this 2016 Act.

(c) Report to a law enforcement agency any crime that the department has reason to believe has occurred with respect to a child in care or at a child-caring agency, even if the suspected crime is not related to a report of abuse made under this section.

(2) As a condition for issuance or renewal of a license, certification or authorization to a child-caring agency under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970, the department shall require and verify that the agency has procedures and protocols that:

(a) Require employees of the child-caring agency to immediately report suspected abuse of a child in care to the director, to the director's designee or to personnel within the department who have been specifically designated to receive reports of abuse of children in care;

(b) Mandate that the child-caring agency provide an annual training and written materials that include information about the child abuse reporting hotline, and that the agency advise and educate employees of the duty under this section to report abuse of a child in care; and

(c) Inform employees of child-caring agencies that the duty to report abuse of a child in care is personal to the employee and that the duty is not fulfilled by reporting the abuse to the owner, operator or any other employee of the agency even if the owner, operator or other employee reports the abuse of a child in care to the director, the director's designee or the department.

(3) Interference or hindering an investigation of abuse of a child in care, including but not limited to the intimidation of witnesses,

falsification of records or denial or limitation of interviews with the child in care who is the subject of the investigation or with witnesses, may constitute grounds for the revocation, suspension or placing of conditions on the license, certification or other authorization of a child-caring agency.

(4)(a) Anyone, including but not limited to an employee of a child-caring agency, who makes a report of suspected abuse of a child in care to the Governor, the Department of Justice, the Director of Human Services, the director's designee or the department under this section in good faith and who has reasonable grounds for the making of the report shall have immunity:

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

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

(C) With respect to participating in any judicial proceeding resulting from or involving the report.

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

**SECTION 38.** (1) The investigation conducted by the Department of Human Services under section 37 of this 2016 Act must result in one of the following findings:

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

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

(c) That the report is inconclusive. A report is inconclusive when



1 there is some indication that the abuse occurred but there is insuffi-  
 2 cient evidence to conclude that there is reasonable cause to believe  
 3 that the abuse occurred.

4 (2) When a report is received under section 37 of this 2016 Act al-  
 5 leging that a child in a child-caring agency may have been subjected  
 6 to abuse, the department shall notify the attorney for the child, the  
 7 child's court appointed special advocate, the parents or guardians of  
 8 the child and any attorney representing a parent or guardian of the  
 9 child that a report has been received.

10 (3) The department may interview the child in care who is the  
 11 subject of suspected abuse and witnesses without the presence of  
 12 child-caring agency employees or department personnel. The child in  
 13 care may have the child's parent or guardian, if the child has not been  
 14 committed to the custody of the department, or attorney present when  
 15 participating in an interview conducted in the course of an abuse in-  
 16 vestigation.

17 (4) If a report of abuse is substantiated, the report and any docu-  
 18 ments, records or other information compiled as a result of the in-  
 19 vestigation are public records except that all identifying information,  
 20 including but not limited to the names, ages, birth dates, addresses  
 21 and contact information of the child in care who was the subject of  
 22 the abuse and witnesses, must be redacted to protect the  
 23 confidentiality of the child and witnesses.

24 (5) If a report of abuse is substantiated, the department shall notify  
 25 the following of the determination unless to do so would violate a  
 26 provision in a safety plan for the child in care:

27 (a) The Director of Human Services.

28 (b) Personnel in the department responsible for the licensing, cer-  
 29 tification or authorization of child-caring agencies.

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

1       **(d) With respect to the child in care who is the subject of the abuse**  
2 **report and investigation:**

3       **(A) Case managers for the child in care;**

4       **(B) The court appointed special advocate, if any, for the child in**  
5 **care; and**

6       **(C) The attorney for the child in care, if any.**

7       **(e) The parents or guardians of the child in care who is the subject**  
8 **of the abuse report and investigation.**

9       **(f) The parents or guardians of each child in care that is residing,**  
10 **or receiving care or services, at the child-caring agency that is the**  
11 **subject of the report and investigation.**

12       **SECTION 39.** ORS 419B.005 is amended to read:

13       419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-  
14 quires otherwise:

15       (1)(a) “Abuse” means:

16       (A) Any assault, as defined in ORS chapter 163, of a child and any phys-  
17 ical injury to a child which has been caused by other than accidental means,  
18 including any injury which appears to be at variance with the explanation  
19 given of the injury.

20       (B) Any mental injury to a child, which shall include only observable and  
21 substantial impairment of the child’s mental or psychological ability to  
22 function caused by cruelty to the child, with due regard to the culture of the  
23 child.

24       (C) Rape of a child, which includes but is not limited to rape, sodomy,  
25 unlawful sexual penetration and incest, as those acts are described in ORS  
26 chapter 163.

27       (D) Sexual abuse, as described in ORS chapter 163.

28       (E) Sexual exploitation, including but not limited to:

29       (i) Contributing to the sexual delinquency of a minor, as defined in ORS  
30 chapter 163, and any other conduct which allows, employs, authorizes, per-  
31 mits, induces or encourages a child to engage in the performing for people

1 to observe or the photographing, filming, tape recording or other exhibition  
2 which, in whole or in part, depicts sexual conduct or contact, as defined in  
3 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving  
4 a child or rape of a child, but not including any conduct which is part of  
5 any investigation conducted pursuant to ORS 419B.020 or which is designed  
6 to serve educational or other legitimate purposes; and

7 (ii) Allowing, permitting, encouraging or hiring a child to engage in  
8 prostitution as described in ORS 167.007 or a commercial sex act as defined  
9 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413  
10 or to engage in commercial sexual solicitation as described in ORS 167.008.

11 (F) Negligent treatment or maltreatment of a child, including but not  
12 limited to the failure to provide adequate food, clothing, shelter or medical  
13 care that is likely to endanger the health or welfare of the child.

14 (G) Threatened harm to a child, which means subjecting a child to a  
15 substantial risk of harm to the child's health or welfare.

16 (H) Buying or selling a person under 18 years of age as described in ORS  
17 163.537.

18 (I) Permitting a person under 18 years of age to enter or remain in or  
19 upon premises where methamphetamines are being manufactured.

20 (J) Unlawful exposure to a controlled substance, as defined in ORS  
21 475.005, that subjects a child to a substantial risk of harm to the child's  
22 health or safety.

23 (b) "Abuse" does not include reasonable discipline unless the discipline  
24 results in one of the conditions described in paragraph (a) of this subsection.

25 (2) "Child" means an unmarried person who:

26 (a) Is under 18 years of age; or

27 (b) **Is under 21 years of age and residing in or receiving care or**  
28 **services at a child-caring agency as that term is defined in ORS**  
29 **418.205.**

30 (3) "Higher education institution" means:

31 (a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:

(a) A city or municipal police department.

(b) A county sheriff’s office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.121 or 353.125.

(e) A county juvenile department.

(5) “Public or private official” means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.

(c) School employee, including an employee of a higher education institution.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a *[licensed]* child-caring agency **as that term is defined in ORS 418.205** or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 329A.255.

(z) An operator of a school-age recorded program under ORS 329A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) Employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and

(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

(ee) Home care worker, as defined in ORS 410.600.

**SECTION 40.** ORS 128.640 is amended to read:

128.640. (1) ORS 128.610 to 128.769 do not apply to the United States, any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions.

(2) ORS 128.650 to 128.670 and 128.720 do not apply to:

(a) Any religious corporation sole or other religious corporation or organization which holds property for religious purposes, or to any officer, director or trustee thereof who holds property for like purposes;

(b) A cemetery that is registered with the State Mortuary and Cemetery Board under ORS 692.275 or a historic cemetery listed with the Oregon Commission on Historic Cemeteries under ORS 97.782; **or**

(c) A trustee that holds property for charitable purposes in the event that the sole beneficiary of a charitable remainder trust serves as trustee[; or]

*[(d) A child-caring agency regulated under ORS 418.215 to 418.265].*

## CONFORMING AMENDMENTS

**SECTION 41.** ORS 30.260 is amended to read:

30.260. As used in ORS 30.260 to 30.300, unless the context requires otherwise:

(1) “Department” means the Oregon Department of Administrative Services.

(2) “Director” means the Director of the Oregon Department of Administrative Services.

(3) “Governing body” means the group or officer in which the controlling authority of any public body is vested.

(4) “Public body” means:

(a) A public body as defined in ORS 174.109;

(b) Any nonprofit corporation that is organized and existing under ORS chapter 65 and that has only political subdivisions or municipal, quasi-municipal or public corporations in this state as members;

(c) A [*private*] child-caring agency, as defined in ORS 418.205, that meets the criteria specified in ORS 278.322 (1)(a) and that receives more than 50 percent of its funding from the state for the purpose of providing residential treatment to children who have been placed in the care and custody of the state or that provides residential treatment to children more than half of whom have been placed in the care and custody of the state; or

(d) A private, nonprofit organization that provides public transportation services if more than 50 percent of the organization's funding for the purpose of providing public transportation services is received from governmental bodies.

(5) "State" means:

(a) State government as defined in ORS 174.111;

(b) The State Accident Insurance Fund Corporation; and

(c) The Oregon Utility Notification Center.

(6) "Local public body" means any public body other than the state.

(7) "Nuclear incident" has the meaning given that term in 42 U.S.C. 2014(q).

(8) "Tort" means the breach of a legal duty that is imposed by law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for damages or for a protective remedy.

**SECTION 42.** ORS 109.070 is amended to read:

109.070. (1) The paternity of a person may be established as follows:

(a) A man is rebuttably presumed to be the father of a child born to a woman if he and the woman were married to each other at the time of the child's birth, without a judgment of separation, regardless of whether the marriage is void.

(b) A man is rebuttably presumed to be the father of a child born to a woman if he and the woman were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment or dissolution or after entry of a judgment of separation.

(c) By the marriage of the parents of a child after the birth of the child, and the parents filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of paternity form as provided for by ORS 432.098.

(d) By filiation proceedings.

(e) By filing with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of paternity form as provided for by ORS 432.098. Except as otherwise provided in subsections (4) to (7) of this section, this filing establishes paternity for all purposes.

(f) By having established paternity through a voluntary acknowledgment of paternity process in another state.

(g) By paternity being established or declared by other provision of law.

(2) The paternity of a child established under subsection (1)(a) or (c) of this section may be challenged in an action or proceeding by the husband or wife. The paternity may not be challenged by a person other than the husband or wife as long as the husband and wife are married and cohabiting, unless the husband and wife consent to the challenge.

(3) If the court finds that it is just and equitable, giving consideration to the interests of the parties and the child, the court shall admit evidence offered to rebut the presumption of paternity in subsection (1)(a) or (b) of this section.

(4)(a) A party to a voluntary acknowledgment of paternity may rescind the acknowledgment within the earlier of:

(A) Sixty days after filing the acknowledgment; or

(B) The date of a proceeding relating to the child, including a proceeding to establish a support order, in which the party wishing to rescind the acknowledgment is also a party. For the purposes of this subparagraph, the



1 date of a proceeding is the date on which an order is entered in the pro-  
2 ceeding.

3 (b) To rescind the acknowledgment, the party shall sign and file with the  
4 State Registrar of the Center for Health Statistics a written document de-  
5 claring the rescission.

6 (5)(a) A signed voluntary acknowledgment of paternity filed in this state  
7 may be challenged and set aside in circuit court at any time after the 60-day  
8 period referred to in subsection (4) of this section on the basis of fraud,  
9 duress or a material mistake of fact.

10 (b) The challenge may be brought by:

11 (A) A party to the acknowledgment;

12 (B) The child named in the acknowledgment; or

13 (C) The Department of Human Services or the administrator, as defined  
14 in ORS 25.010, if the child named in the acknowledgment is in the care and  
15 custody of the department under ORS chapter 419B and the department or  
16 the administrator reasonably believes that the acknowledgment was signed  
17 because of fraud, duress or a material mistake of fact.

18 (c) The challenge shall be initiated by filing a petition with the circuit  
19 court. Unless otherwise specifically provided by law, the challenge shall be  
20 conducted pursuant to the Oregon Rules of Civil Procedure.

21 (d) The party bringing the challenge has the burden of proof.

22 (e) Legal responsibilities arising from the acknowledgment, including  
23 child support obligations, may not be suspended during the challenge, except  
24 for good cause.

25 (f) If the court finds by a preponderance of the evidence that the ac-  
26 knowledgment was signed because of fraud, duress or material mistake of  
27 fact, the court shall set aside the acknowledgment unless, giving consider-  
28 ation to the interests of the parties and the child, the court finds that setting  
29 aside the acknowledgment would be substantially inequitable.

30 (6) Within one year after a voluntary acknowledgment of paternity form  
31 is filed in this state and if blood tests, as defined in ORS 109.251, have not

1 been completed, a party to the acknowledgment, or the department if the  
2 child named in the acknowledgment is in the care and custody of the de-  
3 partment under ORS chapter 419B, may apply to the administrator for an  
4 order for blood tests in accordance with ORS 416.443.

5 (7)(a) A voluntary acknowledgment of paternity is not valid if, before the  
6 party signed the acknowledgment:

7 (A) The party signed a consent to the adoption of the child by another  
8 individual;

9 (B) The party signed a document relinquishing the child to a [*public or*  
10 *private*] child-caring agency **as defined in ORS 418.205**;

11 (C) The party's parental rights were terminated by a court; or

12 (D) In an adjudication, the party was determined not to be the biological  
13 parent of the child.

14 (b) Notwithstanding any provision of subsection (1)(c) or (e) of this sec-  
15 tion or ORS 432.098 to the contrary, an acknowledgment signed by a party  
16 described in this subsection and filed with the State Registrar of the Center  
17 for Health Statistics does not establish paternity and is void.

18 **SECTION 43.** ORS 109.319 is amended to read:

19 109.319. (1) The clerk or court administrator of any court having juris-  
20 diction over adoption proceedings shall keep a separate record of the case  
21 for each adoption proceeding filed with the court. Adoption proceedings shall  
22 not be entered upon the general records of the court.

23 (2) The clerk, court administrator and any other person having custody  
24 of the records, papers and files in the court's record of an adoption case shall  
25 cause the records, papers and files, both prior to entry of judgment and after  
26 entry of judgment of adoption, to be sealed. The clerk, court administrator  
27 and any other person having custody of the records, papers and files shall  
28 not unseal or allow inspection or copying of or disclose any information in  
29 the records, papers and files to any person or entity, except as provided in  
30 this section or pursuant to ORS 109.305 to 109.410 or 109.425 to 109.507.

31 (3) Prior to entry of judgment in an adoption proceeding, and after entry

1 of judgment in an adoption proceeding but prior to the minor child who is  
2 the subject of the adoption proceeding attaining 18 years of age, the follow-  
3 ing may inspect and copy sealed records, papers and files that are maintained  
4 in the court's record of an adoption case without a court order:

5 (a) Presiding judges and judges of the court operating under the Judicial  
6 Department, and court staff or other persons operating under the direction  
7 of the presiding judges or judges;

8 (b) Petitioners and their attorneys of record; and

9 (c) The Department of Human Services.

10 (4) After entry of judgment in an adoption proceeding and after the minor  
11 child who is the subject of the adoption proceeding has attained 18 years of  
12 age, the following may inspect and copy sealed records, papers and files that  
13 are maintained in the court's record of the adoption case without a court  
14 order:

15 (a) Judges of the court operating under the Judicial Department and court  
16 staff or other persons operating under the direction of the judges;

17 (b) The person who was the minor child in the adoption proceeding, ex-  
18 cept that the person who was the minor child in the adoption proceeding  
19 may not inspect or copy the home study approved under ORS 109.309 (7) ex-  
20 cept pursuant to a court order and with good cause;

21 (c) Petitioners and their attorneys of record; and

22 (d) The Department of Human Services.

23 (5)(a) After entry of judgment in an adoption proceeding and after the  
24 minor child who is the subject of the adoption proceeding has attained 18  
25 years of age, an individual whose consent for the adoption is required under  
26 ORS 109.321 may file a motion with the court to inspect and copy sealed  
27 records, papers and files that are maintained in the court's record of the  
28 adoption case.

29 (b) Except as provided in paragraph (c) of this subsection, the court shall  
30 grant the motion except for good cause but must exclude from inspection and  
31 copying:

(A) For adoption cases filed on or after January 1, 2014:

(i) The Adoption Summary and Segregated Information Statement filed in accordance with ORS 109.317; and

(ii) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(B) For adoption cases filed before January 1, 2014:

(i) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(ii) A home study;

(iii) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted;

(iv) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents; and

(v) Addresses, phone numbers and Social Security numbers of persons or entities described in ORS 109.317 (1)(a) to (d) that are contained in the court's record of the adoption case.

(c) If the Department of Human Services consented or has the authority to consent to the adoption of a minor child under ORS 109.325 or 419B.529:

(A) A parent who has signed a release and surrender to the department under ORS 418.270, that was accepted by the department, or whose parental rights were terminated under ORS 419B.500 and 419B.502 to 419B.524, may file a motion with the court to inspect or copy sealed records, papers and files that are maintained in the court's record of the adoption case but may not be granted the right to inspect or copy:

(i) For adoption cases filed on or after January 1, 2014:

(I) The Adoption Summary and Segregated Information Statement filed in accordance with ORS 109.317; and

(II) Exhibits described in ORS 109.317 (2) that are contained in the court's record of the adoption case.

(ii) For adoption cases filed before January 1, 2014:

(I) Statements, exhibits and other documents provided for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ORS 109.767;

(II) A home study;

(III) A report of adoption on a form prescribed and furnished by the State Registrar of the Center for Health Statistics under ORS 432.223 or a similar document in which the court has certified to the state registrar the facts of the live birth of the person adopted; and

(IV) A medical history described in ORS 109.342 or a similar document provided to the court for the purpose of describing the medical history of the minor child or of the biological parents.

(B)(i) The court may grant the motion for good cause. The name, address, phone number, Social Security number or other identifying information of any individual or entity contained in the records, papers and files must be redacted and may not be disclosed as part of the inspection or copying allowed under this paragraph.

(ii) Notwithstanding sub-subparagraph (i) of this subparagraph, the name of the parent filing the motion and the name, bar number and contact information for any attorney of record in the case may be disclosed as part of the inspection or copying allowed under this paragraph.

(d) The fee imposed and collected by the court for the filing of a motion under this subsection by the birth parent of an adult adoptee shall be in accordance with ORS 21.145, except that a fee may not be imposed or collected for a motion filed under this subsection for adoptions where the Department of Human Services consented to the adoption under ORS 109.325 or 419B.529.

(6) Except as provided in subsection (5)(c) of this section, an individual or entity that signed a record, paper or document in a file contained in the

1 court's record of the adoption case is entitled to inspect and obtain a copy  
2 of that record, paper or document without a court order. The signature and  
3 name of any other individual or entity on the same record, paper or docu-  
4 ment must be redacted or otherwise not disclosed as part of the inspection  
5 and copying permitted under this subsection.

6 (7)(a) Any documents, writings, information and other records retained  
7 by the Department of Human Services or [*an Oregon licensed*] a child-caring  
8 agency as defined in ORS 418.205 in the department's or agency's record of  
9 an adoption case that are not records, papers and files in the court's record  
10 of the adoption case are confidential and must be sealed. Any records, doc-  
11 uments or information, including records, papers and files in the court's re-  
12 cord of the adoption case, retained by the department or agency in its record  
13 of an adoption case may be accessed, used or disclosed only as provided in  
14 this section or ORS 109.305 to 109.410 or 109.425 to 109.507, or pursuant to  
15 a court order for good cause.

16 (b) The department or agency may, without a court order, access, use or  
17 disclose any records, documents or information retained by the department  
18 or agency in its record of an adoption case, including records, papers and  
19 files in the court's record of an adoption case that are in the possession of  
20 the department or the agency for the purpose of providing adoption services  
21 or the administration of child welfare services that the department or agency  
22 is authorized to provide under applicable federal or state law.

23 (8) Except as otherwise provided in this section, a court may grant a  
24 motion and enter an order allowing inspection, copying or other disclosure  
25 of records, papers and files that are maintained in the court's record of an  
26 adoption case for good cause.

27 (9) Nothing contained in this section shall prevent the clerk or court ad-  
28 ministrator from certifying or providing copies of a judgment of adoption to  
29 the petitioner in an adoption proceeding, to the petitioner's attorney of re-  
30 cord or to the Department of Human Services.

31 (10) The provisions of this section do not apply to the disclosure of in-

formation under ORS 109.425 to 109.507.

(11) Except as provided in subsection (5)(d) of this section, the court may impose and collect fees for copies and services provided under this section, including but not limited to filing, inspection and research fees.

(12) Unless good cause is shown, when the court grants a motion to inspect, copy or otherwise disclose records, papers and files in the court's record of an adoption case, the court shall order a prohibition or limitation on redisclosure of the records, papers and files, or of information contained in the records, papers and files.

(13) When inspection, copying or disclosure is allowed under this section, the court may require appropriate and reasonable verification of the identity of the requesting person to the satisfaction of the court.

**SECTION 44.** ORS 278.322 is amended to read:

278.322. (1) The following child care facilities may obtain insurance in the same manner as a local public body may obtain insurance under ORS 30.282:

(a) A [*private*] child-caring agency **as defined in ORS 418.205** if the agency:

(A) Is run by a private, nonprofit agency;

(B) Is licensed [*by the state*], **certified or otherwise authorized by the Department of Human Services**; and

(C) Provides residential or psychiatric intensive day treatment services for children who have been placed in the care and custody of the state; or

(b) A child care facility as defined in ORS 329A.250.

(2) The insurance obtained under subsection (1) of this section may not cover theft or bodily injury and property damage arising out of operation of a motor vehicle by a child resident of the facility or agency.

**SECTION 45.** ORS 418.485 is amended to read:

418.485. It is the policy of the State of Oregon to strengthen family life and to ensure the protection of all children either in their own homes or in other appropriate care outside their homes. In affording such protection, the Director of Human Services shall, in cooperation with [*public and private*]

child-caring agencies and with Strengthening, Preserving and Reunifying Families programs under ORS 418.575 to 418.598, develop a set of short-range and long-range priorities for the development of needed child care and services, such priorities to be periodically reviewed and revised as necessary. Such priorities are to be set out in a form enumerating the number of children in each category of need, the type of child care and services needed, the areas of the state where such care and services are needed, and the projected costs. The State of Oregon hereby commits itself to the purchase of care and services for children who need care and to encourage [*private*] child-caring agencies and Strengthening, Preserving and Reunifying Families programs under ORS 418.575 to 418.598 to develop programs required to meet the needs of the children of this state, and [*money*] **moneys** may be appropriated therefor. In developing programs necessary to meet the needs of the children of this state, the Director of Human Services shall make every attempt feasible to develop local, community and county-based organizations. The Department of Human Services shall document and present an annual report to the committees of the Legislative Assembly that address efforts taken under this section.

**SECTION 46.** ORS 419A.004 is amended to read:

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

(1) “Age-appropriate or developmentally appropriate activities” means:

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

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



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

(a) By adoption;

(b) With a legal guardian; or

(c) With a fit and willing relative.

(3) “CASA Volunteer Program” means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon Volunteers Commission for Voluntary Action and Service under ORS 458.581 to recruit, train and supervise volunteers to serve as court appointed special advocates.

(4) “Child care center” means a residential facility for wards or youth offenders that is licensed, **certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205** [*under the provisions of ORS 418.240*].

(5) “Community service” has the meaning given that term in ORS 137.126.

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

(7) “Counselor” means a juvenile department counselor or a county juvenile probation officer.

(8) “Court” means the juvenile court.

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

(10) “Court facility” has the meaning given that term in ORS 166.360.

(11) “Current caretaker” means a foster parent who:

(a) Is currently caring for a ward who is in the legal custody of the Department of Human Services and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Who has cared for the ward, or at least one sibling of the ward, for at least the immediately prior 12 consecutive months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two years of age.

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

(13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.

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

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

(16) "Indian child" means any unmarried person less than 18 years of age who is:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

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

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

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

(a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

(b) In cases in which the Indian Child Welfare Act applies, a man who is a father under applicable tribal law.

(20) "Permanent foster care" means an out-of-home placement in which

there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.

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

(22) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child or ward while encouraging the emotional and developmental growth of the child or ward, that a substitute care provider shall use when determining whether to allow a child or ward in substitute care to participate in extracurricular, enrichment, cultural and social activities.

(23) "Reasonable time" means a period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments.

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

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

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

(27) "Serious physical injury" means:

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

(b) A physical injury that:

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

(B) Results in substantial and recurring pain; or

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

(28) "Shelter care" means a home or other facility suitable for the safe-keeping of a child, ward, youth or youth offender who is taken into tempo-

rary custody pending investigation and disposition.

(29) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for holding children, youths and youth offenders pending further placement.

(30) “Sibling” means one of two or more children or wards related:

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

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

(31) “Substitute care” means an out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home, **child-caring agency as defined in ORS 418.205** or other child caring institution or facility. “Substitute care” does not include care in:

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

(b) A family home that the court has approved as a ward’s permanent placement, when a [*private child caring agency*] **child-caring agency as defined in ORS 418.205** has been appointed guardian of the ward and when the ward’s care is entirely privately financed; or

(c) In-home placement subject to conditions or limitations.

(32) “Surrogate” means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safeguards with respect to the provision of free appropriate public education.

(33) “Tribal court” means a court with jurisdiction over child custody proceedings and that is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe or any other administrative body of a tribe that is vested with authority over child custody proceedings.

(34) “Victim” means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor,

“victim” includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be determined, the people of Oregon, as represented by the district attorney, are considered the victims.

(35) “Violent felony” means any offense that, if committed by an adult, would constitute a felony and:

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

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

(36) “Ward” means a person within the jurisdiction of the juvenile court under ORS 419B.100.

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

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

(39) “Youth care center” has the meaning given that term in ORS 420.855.

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

**SECTION 47.** ORS 419B.100 is amended to read:

419B.100. (1) Except as otherwise provided in subsection (5) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who is beyond the control of the person’s parents, guardian or other person having custody of the person;

(b) Whose behavior is such as to endanger the welfare of the person or of others;

(c) Whose condition or circumstances are such as to endanger the welfare

of the person or of others;

(d) Who is dependent for care and support on a [*public or private*] child-caring agency **as defined in ORS 418.205** that needs the services of the court in planning for the best interest of the person;

(e) Whose parents or any other person or persons having custody of the person have:

(A) Abandoned the person;

(B) Failed to provide the person with the care or education required by law;

(C) Subjected the person to cruelty, depravity or unexplained physical injury; or

(D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;

(f) Who has run away from the home of the person;

(g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

(h) Who is subject to an order entered under ORS 419C.411 (7)(a).

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court does not have further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian

1 child's tribe, the juvenile court, absent good cause to the contrary and absent  
2 objection by either parent, shall transfer a proceeding for the foster care  
3 placement of, or termination of parental rights to, an Indian child not  
4 domiciled or residing within the reservation of the Indian child's tribe, to  
5 the jurisdiction of the tribe.

6 (c) The juvenile court shall give full faith and credit to the public acts,  
7 records and judicial proceedings of an Indian tribe applicable to an Indian  
8 child custody proceeding to the same extent that the juvenile court gives full  
9 faith and credit to the public acts, records and judicial proceedings of any  
10 other entity.

11 **SECTION 48.** ORS 419B.371 is amended to read:

12 419B.371. (1) As used in this section:

13 (a) "Community guardian" means a child-caring agency licensed, **certified**  
14 **or otherwise authorized** under ORS 418.205 to [418.310] **418.327** that is fil-  
15 ing a motion for appointment as guardian of a ward under ORS 419B.366.

16 (b) "Community guardianship" means a guardianship granted under ORS  
17 419B.366 to a community guardian.

18 (2) The court may appoint a community guardian and establish a com-  
19 munity guardianship of a ward under ORS 419B.366 when, in addition to the  
20 requirements of ORS 419B.366:

21 (a) The ward is 16 years of age or older;

22 (b) The ward has spent three or more years in substitute care;

23 (c) The proposed community guardian has provided care or services to the  
24 ward under ORS 418.205 to [418.310] **418.327** in the 12 months immediately  
25 preceding the filing of the motion for community guardianship;

26 (d) Except for another planned permanent living arrangement, there is  
27 no other appropriate permanency plan for the ward under ORS 419B.476 (5);

28 (e) The proposed community guardianship would include planning and  
29 guidance for the ward's transition to successful adulthood, including needs  
30 and goals related to crisis intervention, housing, physical and mental health,  
31 education, employment, community connections and supportive relationships;

(f) The ward gives informed consent to the establishment of the community guardianship; and

(g) The ward has access to court-appointed counsel under ORS 419B.195.

(3) Informed consent of the ward under subsection (2)(f) of this section shall include:

(a) The ward's written consent to information provided in writing to the ward by the court, the Department of Human Services or the proposed community guardian about the consequences of establishment of a community guardianship, including any loss of benefits currently being received or that may prospectively be provided to the ward if another permanency plan were ordered; and

(b) The ward's written acknowledgment that the ward cannot be placed in substitute care in the legal custody of the Department of Human Services after reaching 18 years of age.

**SECTION 49.** ORS 441.277 is amended to read:

441.277. As used in ORS 441.277 to 441.323:

(1) "Facility" means a long term care facility as defined in ORS 442.015 or a residential care facility as defined in ORS 443.400. "Facility" does not include facilities licensed, **certified or otherwise authorized** under ORS 418.205 to [418.325] **418.327, 418.470, 418.475 or 418.950 to 418.970** by the Department of Human Services.

(2) "Licensee" means any person licensed by the department to operate a facility other than a trustee appointed under ORS 441.281 or a temporary manager appointed under ORS 441.333.

(3) "Monitor" means an agent of the Director of Human Services designated by the director to observe the operation of a facility.

**SECTION 50.** ORS 443.830 is amended to read:

443.830. As used in this section and ORS 443.835:

(1) "Child" means a person for whom developmental disability services are planned and provided and who is:

(a) Under 18 years of age; or



(b) At least 18 years of age but less than 22 years of age and resides in a developmental disability child foster home and whose needs, as determined by the individual support plan team, are best met if services are provided in a developmental disability child foster home.

(2) "Department" means the Department of Human Services.

(3)(a) "Developmental disability child foster home" means any home maintained by a person who has under the care of the person, in the home, a child found eligible for developmental disability services for the purpose of providing the child with supervision, food and lodging. The child must be unrelated to the person by blood or marriage and be unattended by the child's parent or guardian.

(b) "Developmental disability child foster home" does not include:

(A) A boarding school that is essentially and primarily engaged in educational work;

(B) A home in which a child is provided with room and board by a school district board; or

(C) A foster home under the direct supervision of a *[private]* child-caring agency **as that term is defined in ORS 418.205.**

(4) "Individual support plan team" means a team composed of the child, the child's parent or guardian, the community mental health program representative and representatives of all current service providers that develops a written plan of services covering a 12-month period for a child.

**SECTION 51.** ORS 479.210 is amended to read:

479.210. As used in ORS 479.215 to 479.220, unless the context requires otherwise, "institution" means:

(1) A child-caring facility that provides residential care and that receives state aid under ORS 412.001 to 412.161, 418.005 to 418.025, 418.205 to ~~418.315~~ **418.327, 418.470, 418.475**, 418.625 to 418.685, ~~[and] 418.647~~ **and 418.950 to 418.970;**

(2) An inpatient care facility required to be licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and

442.400 to 442.463; or

(3) A residential facility subject to licensure under ORS 443.400 to 443.455.

**SECTION 52.** ORS 479.217 is amended to read:

479.217. (1) In lieu of an inspection approval by the State Fire Marshal or the approved authority of a governmental subdivision having jurisdiction in an area exempted by the State Fire Marshal, under ORS 479.215 for institutions licensed under ORS 412.001 to 412.161, 418.005 to 418.025, 418.205 to [418.315] **418.327, 418.470, 418.475**, 418.625 to 418.685, 418.647, **418.950 to 418.970**, 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.400 to 442.463 or 443.400 to 443.455, the State Fire Marshal or the approved authority may issue a temporary permit which meets the requirements of ORS 479.215 for licensing of such institutions. The temporary permit may be issued only when it appears that:

(a) The facilities for protection from fire in an institution are adequate so that the institution can operate without jeopardizing the health or safety of its residents or patients; and

(b) The institution can comply with all applicable laws and rules relating to safety from fire within a period of two years from the date of issuance of the temporary permit.

(2) In issuing the temporary permit, the State Fire Marshal or approved authority of the governmental subdivision having jurisdiction in an exempt area may require that during the two-year period in which the temporary permit is in effect:

(a) Plans for compliance with all applicable laws and rules relating to safety from fire be submitted with the application for a temporary permit;

(b) Periodic reports be submitted on the progress of the plans for compliance; and

(c) Special temporary provisions specified by the State Fire Marshal or the approved authority be maintained for the protection from fire of the residents or patients of the institution.

(3) If at any time, the State Fire Marshal or the approved authority de-

1 terminates that the facilities for protection from fire at the institution are no  
2 longer adequate to protect the residents or patients or that the requirements  
3 imposed under subsection (2) of this section are not being maintained, the  
4 State Fire Marshal or the approved authority shall cancel the temporary  
5 permit and shall notify the licensing agency of such cancellation.

6 (4) Extensions and renewals may be granted on the temporary permit.

7 **SECTION 53.** ORS 497.162 is amended to read:

8 497.162. (1) Upon application of the Oregon Youth Authority, the Oregon  
9 Health Authority or the Department of Human Services, the State Fish and  
10 Wildlife Commission shall issue, without fee, a license to angle for the tem-  
11 porary use of any person in a state institution as described in ORS 179.610,  
12 any student in a youth correction facility or related camps or programs op-  
13 erated by the Oregon Youth Authority, any child placed by the department  
14 and under the care of a foster home or a [*private nonprofit child-caring*  
15 *agency certified*] **child-caring agency licensed, certified or otherwise au-**  
16 **thorized** by the department **under ORS 418.205 to 418.327**, any person in  
17 an alternative to state hospitalization program as described in ORS 430.630  
18 (2)(b) or (c), or any person receiving services under ORS 430.664. The licenses  
19 issued under this subsection shall be in bearer form and, subject to applica-  
20 ble laws and regulations relating to angling, shall be used as the agency  
21 applying for the license directs.

22 (2) Upon application of the Department of Human Services, the commis-  
23 sion shall issue, without fee, a license to take shellfish for the temporary  
24 use of any child placed by the department and under the care of a foster  
25 home or a [*private nonprofit child-caring agency certified*] **child-caring**  
26 **agency licensed, certified or otherwise authorized** by the department  
27 **under ORS 418.205 to 418.327**. The licenses issued under this subsection  
28 shall be in bearer form and, subject to applicable laws and regulations re-  
29 lating to taking shellfish, shall be used as the department directs.

30 (3) Upon application of the director of any veteran's administration hos-  
31 pital or domiciliary within this state, the commission shall issue, without

fee, to each hospital or domiciliary 30 licenses to angle or to take shellfish for the temporary use of any person who is a patient or resident in the hospital or domiciliary. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling and to taking shellfish, shall be used as the director of the hospital or domiciliary provides.

**SECTION 54.** ORS 609.652 is amended to read:

609.652. As used in ORS 609.654:

(1)(a) "Aggravated animal abuse" means any animal abuse as described in ORS 167.322.

(b) "Aggravated animal abuse" does not include:

(A) Good animal husbandry, as defined in ORS 167.310; or

(B) Any exemption listed in ORS 167.335.

(2) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) A police department established by a university under ORS 352.121 or 353.125.

(c) Any county sheriff's office.

(d) The Oregon State Police.

(e) A law enforcement division of a county or municipal animal control agency that employs sworn officers.

(f) A humane investigation agency as defined in ORS 181A.340 that employs humane special agents commissioned under ORS 181A.340.

(3) "Public or private official" means:

(a) A physician, including any intern or resident.

(b) A dentist.

(c) A school employee.

(d) A licensed practical nurse or registered nurse.

(e) An employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a com-

munity mental health program, a community developmental disabilities program, a county juvenile department, a [*licensed*] child-caring agency **as defined in ORS 418.205** or an alcohol and drug treatment program.

(f) A peace officer.

(g) A psychologist.

(h) A member of the clergy.

(i) A regulated social worker.

(j) An optometrist.

(k) A chiropractor.

(L) A certified provider of foster care, or an employee thereof.

(m) An attorney.

(n) A naturopathic physician.

(o) A licensed professional counselor.

(p) A licensed marriage and family therapist.

(q) A firefighter or emergency medical services provider.

(r) A court appointed special advocate, as defined in ORS 419A.004.

(s) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

(t) A member of the Legislative Assembly.

**SECTION 55.** ORS 657.060 is amended to read:

657.060. (1) "Employment" does not include service performed by a person in the employ of a son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of the father or mother.

(2) "Employment" does not include service performed as foster care parents certified by the Department of Human Services or approved by a [*licensed child caring facility*] **child-caring agency as defined in ORS 418.205.**

**SECTION 56. (1) Sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to statutes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act become operative on July 1, 2016.**

**(2) The Director of Human Services and the Department of Human**

Services may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the director and the department to exercise, on and after the operative date specified in subsection (1) of this section, the duties, functions and powers conferred on the director or the department by this 2016 Act.

**SECTION 57.** (1) Sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to statutes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act apply to child-caring agencies and family foster homes that are licensed, certified or otherwise authorized by the Department of Human Services on or after the operative date specified in section 56 of this 2016 Act.

(2) A child-caring agency, facility, school or home that was licensed, certified or otherwise authorized by the Department of Human Services to provide care or services to children in this state pursuant to state law as that law existed on the day immediately preceding the operative date specified in section 56 of this 2016 Act is considered to be licensed, certified or otherwise authorized under, and is subject to, the provisions of this 2016 Act until such license, certification or authorization expires or is suspended or revoked.

(3) Notwithstanding subsections (1) and (2) of this section, sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to statutes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act do not affect a contract or agreement between the department and a child-caring agency, facility, school or home that was licensed, certified or otherwise authorized by the department to provide care or services to children in this state pursuant to state law as that law existed on the day immediately preceding the operative date specified in section 56 of this 2016 Act. However, sections 6, 7 and 36 to 38 of this 2016 Act and the amendments to statutes by sections 1 to 4, 8 to 34 and 39 to 55 of this 2016 Act apply to a renewal or extension of any such contract or agreement on or after the operative date specified in section 56 of this

1 2016 Act, as well as to any new contract or agreement made on or after  
2 the operative date specified in section 56 of this 2016 Act.

3 SECTION 58. The unit captions used in this 2016 Act are provided  
4 only for the convenience of the reader and do not become part of the  
5 statutory law of this state or express any legislative intent in the  
6 enactment of this 2016 Act.

7 SECTION 59. This 2016 Act being necessary for the immediate  
8 preservation of the public peace, health and safety, an emergency is  
9 declared to exist, and this 2016 Act takes effect on its passage.