

Enrolled
House Bill 2294

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CHAPTER

AN ACT

Relating to Department of Human Services; creating new provisions; amending ORS 18.400, 25.080, 25.381, 30.297, 30.298, 87.512, 101.140, 108.610, 109.425, 113.085, 113.105, 114.305, 114.525, 115.125, 116.093, 124.090, 125.060, 137.658, 162.135, 166.412, 179.010, 179.040, 179.050, 179.055, 179.065, 179.105, 179.110, 179.140, 179.240, 179.321, 179.360, 179.380, 179.385, 179.390, 179.460, 179.478, 179.479, 179.490, 179.505, 179.509, 197.660, 197.667, 222.850, 238.300, 243.140, 276.180, 279.855, 285A.458, 310.630, 327.023, 339.137, 343.035, 343.243, 343.499, 343.507, 344.511, 344.530, 344.620, 344.685, 344.690, 344.735, 346.015, 409.010, 409.070, 409.080, 409.093, 409.096, 409.110, 409.130, 409.150, 409.160, 409.185, 409.225, 409.230, 409.270, 409.310, 409.410, 409.710, 410.040, 410.060, 410.070, 410.080, 410.100, 410.210, 410.270, 410.300, 410.320, 410.420, 410.430, 410.720, 411.062, 411.070, 411.095, 411.113, 411.125, 411.145, 411.320, 411.590, 411.595, 411.620, 411.632, 411.660, 411.790, 411.802, 411.803, 411.890, 411.972, 411.975, 411.977, 412.005, 412.580, 412.600, 413.165, 414.022, 414.095, 414.105, 414.106, 414.151, 414.305, 414.400, 416.510, 416.520, 416.540, 416.560, 416.600, 416.990, 417.210, 417.340, 417.342, 417.346, 417.348, 417.747, 417.787, 417.845, 418.005, 418.050, 418.070, 418.130, 418.163, 418.205, 418.295, 418.480, 418.625, 418.747, 419A.004, 419B.352, 419C.507, 426.005, 426.508, 427.005, 427.007, 427.010, 427.104, 427.330, 428.210, 430.010, 430.021, 430.065, 430.165, 430.190, 430.257, 430.306, 430.315, 430.405, 430.450, 430.610, 430.705, 430.743, 430.955, 431.045, 431.110, 431.140, 431.155, 431.170, 431.195, 431.210, 431.250, 431.416, 431.705, 431.830, 431.990, 432.005, 433.001, 433.235, 433.260, 433.267, 435.205, 438.010, 441.020, 441.022, 441.025, 441.030, 441.037, 441.050, 441.055, 441.057, 441.060, 441.062, 441.085, 441.109, 441.277, 441.624, 441.678, 441.685, 441.690, 441.705, 441.990, 442.015, 442.807, 443.205, 443.340, 443.400, 443.415, 443.445, 443.455, 443.705, 443.715, 443.735, 443.767, 443.775, 443.830, 443.886, 446.125, 446.310, 448.005, 448.115, 448.273, 448.405, 448.409, 448.450, 453.001, 453.605, 456.541, 458.525, 458.532, 471.333, 475.302, 476.030, 497.162, 616.020, 619.095, 624.010, 624.165, 624.310, 655.605, 657.880, 657.885, 657A.420, 685.055, 691.405, 743.412 and 743.556 and sections 13 and 14, chapter 653, Oregon Laws 1991, section 2, chapter 579, Oregon Laws 1997, and section 9, chapter 849, Oregon Laws 1999; repealing ORS 343.975, 344.520, 344.525, 344.527, 344.573, 344.575, 344.577, 409.190, 410.130, 411.040, 411.064, 411.090, 411.260, 411.270, 411.280, 411.350, 411.405, 411.415, 411.765, 411.775, 411.785, 411.950, 411.955, 411.960, 412.550, 413.170, 413.180, 416.010, 416.020, 416.030, 416.035, 416.040, 416.050, 416.055, 416.061, 416.070, 416.080, 416.090, 416.100, 416.110, 416.120, 416.130, 416.145, 416.170, 416.180, 416.190, 416.200, 416.210, 416.220, 416.240, 416.250, 416.260, 416.270, 416.280, 418.003, 426.360, 426.405, 426.407, 427.009, 430.041, 430.110, 430.260, 430.642, 430.910, 430.950, 431.065, 432.560, 441.097 and 441.623 and section 144, chapter 104, Oregon Laws 2001 (Enrolled House Bill 2609); and declaring an emergency.

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

SECTION 1. (1) The following named divisions, offices, programs and organizational units of the Department of Human Services are abolished:

- (a) The Adult and Family Services Division;
- (b) The State Office for Services to Children and Families;
- (c) The Mental Health and Developmental Disability Services Division;
- (d) The Vocational Rehabilitation Division;
- (e) The Health Division;
- (f) The Senior and Disabled Services Division;
- (g) The Alcohol and Drug Abuse Programs;
- (h) The Office of Medical Assistance Programs; and
- (i) The Office of the Director.

(2) The positions of assistant directors of the divisions, offices, programs and organizational units listed in subsection (1) of this section are abolished. On the effective date of this 2001 Act, the tenure of the assistant directors shall cease.

(3) All of the duties, functions and powers of the Adult and Family Services Division, the State Office for Services to Children and Families, the Mental Health and Developmental Disability Services Division, the Vocational Rehabilitation Division, the Health Division, the Senior and Disabled Services Division, the Alcohol and Drug Abuse Programs, the Office of Medical Assistance Programs and the Office of the Director are transferred to the Department of Human Services.

(4) Notwithstanding the abolishment of the divisions, offices, programs and organizational units of the Department of Human Services by subsection (1) of this section and the transfer of duties, functions and powers by subsection (3) of this section, the lawfully adopted rules of the Adult and Family Services Division, the State Office for Services to Children and Families, the Mental Health and Developmental Disability Services Division, the Vocational Rehabilitation Division, the Health Division, the Senior and Disabled Services Division and the office of Alcohol and Drug Abuse Programs in effect on the effective date of this 2001 Act continue in effect until lawfully superseded or replaced by the rules of the Department of Human Services.

SECTION 2. The transfer of duties, functions and powers to the Department of Human Services under this 2001 Act does not affect any action, suit, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Department of Human Services shall be substituted for any division, office, program or organizational unit listed in section 1 (1)(a) to (i) of this 2001 Act in such action, suit, proceeding or prosecution.

SECTION 3. (1) Nothing in this 2001 Act relieves a person of an obligation with respect to a tax, fee, fine or other charge, interest, penalty, forfeiture or other liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by this 2001 Act. The Department of Human Services may undertake the collection or enforcement of any such tax, fee, fine, charge, interest, penalty, forfeiture or other liability, duty or obligation.

(2) The rights and obligations of a division, office, program or organizational unit listed in section 1 (1)(a) to (i) of this 2001 Act legally incurred under contracts, leases and business transactions, executed, entered into or begun before the effective date of this 2001 Act, are transferred to the Department of Human Services. For the purpose of succession to these rights and obligations, the Department of Human Services is considered to be a continuation of any division, office, program or organizational unit listed in section 1 (1)(a) to (i) of this 2001 Act and not a new authority, and the Department of Human Services shall exercise such rights and fulfill such obligations as if they had not been transferred.

SECTION 4. (1) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the divisions, offices, programs and organizational units of the Department of Human Services

listed in subsection (2) of this section, wherever they occur in Oregon Revised Statutes, other words designating the Department of Human Services, and for words designating the directors, assistant directors and administrators listed in subsection (3) of this section, wherever they occur in Oregon Revised Statutes or in sections 5 and 8 to 260 of this 2001 Act, other words designating the Director of Human Services.

(2) Pursuant to subsection (1) of this section, words designating the Department of Human Services may be substituted for words designating the:

(a) Adult and Family Services Division or the Adult and Family Services Division of the Department of Human Services.

(b) State Office for Services to Children and Families or the State Office for Services to Children and Families of the Department of Human Services.

(c) Mental Health and Developmental Disability Services Division or the Mental Health and Developmental Disability Services Division of the Department of Human Services.

(d) Vocational Rehabilitation Division or the Vocational Rehabilitation Division of the Department of Human Services.

(e) Health Division or the Health Division of the Department of Human Services.

(f) Senior and Disabled Services Division or the Senior and Disabled Services Division of the Department of Human Services.

(g) Alcohol and Drug Abuse Programs, office of Alcohol and Drug Abuse Programs or Alcohol and Drug Abuse Programs of the Department of Human Services.

(h) Office of Medical Assistance Programs or the Office of Medical Assistance Programs of the Department of Human Services.

(i) Office of the Director or the Office of the Director of Human Services.

(3) Pursuant to subsection (1) of this section, words designating the Director of Human Services may be substituted for words designating the director, assistant director or administrator of the following divisions, offices, programs or organizational units:

(a) Adult and Family Services Division.

(b) State Office for Services to Children and Families.

(c) Mental Health and Developmental Disability Services Division.

(d) Vocational Rehabilitation Division.

(e) Health Division.

(f) Senior and Disabled Services Division.

(g) Alcohol and Drug Abuse Programs.

(h) Office of Medical Assistance Programs.

(4) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Health Division Account, wherever they occur in Oregon Revised Statutes, other words designating the Public Health Account, and for words designating the Vocational Rehabilitation Division Revolving Fund, wherever they occur in Oregon Revised Statutes, other words designating the Vocational Rehabilitation Revolving Fund.

(5) For the purpose of harmonizing and clarifying statute sections published in Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Diagnosis and Evaluation Service or the Diagnosis and Evaluation Service of the Mental Health and Developmental Disability Services Division, wherever they occur in Oregon Revised Statutes, other words designating the Developmental Disability Diagnosis and Evaluation Service, and for words designating the Adult and Family Services Division Review Commission, wherever they occur in Oregon Revised Statutes, other words designating the Family Services Review Commission.

SECTION 4a. (1) The Department of Human Services shall report at each of the meetings of the Emergency Board during the interim of the Seventy-first Legislative Assembly on the status of the reorganization of the department. The reports shall include, but need not be limited to, the following information regarding the reorganization:

- (a) Progress on the implementation;
- (b) The staffing implications;
- (c) The savings realized;
- (d) The transition to a new accounting and budgeting system, including information on the tracking of historical data;
- (e) The impact on information systems and which systems are being modified; and
- (f) How the department is using the \$6 million in estimated savings and the specific projects being funded with the reinvestment of the savings.

(2) For the 2001-2003 biennium, before transferring funds between legislatively established appropriations, expenditure limitations or budgets of organizational units within the department, the department must obtain approval from the Legislative Assembly or, if the Legislative Assembly is not in session, from the Emergency Board.

SECTION 5. ORS 409.010 is amended to read:

409.010. (1) The Department of Human Services is created.

[(2) The department shall provide programs for the delivery to the public of services relating to public assistance, children and families, health and health-related affairs, mental health and developmental disabilities, vocational rehabilitation, elderly persons, disabled persons, including persons with traumatic brain injuries, alcohol and drug abuse and such other services as may be assigned to the department. Family support services provided by the department shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.]

[(3) The department shall provide the programs and services enumerated in subsection (2) of this section through the divisions and other organizational units, including but not limited to the following:]

- [(a) The Adult and Family Services Division;]*
- [(b) The State Office for Services to Children and Families;]*
- [(c) The Mental Health and Developmental Disability Services Division;]*
- [(d) The Vocational Rehabilitation Division;]*
- [(e) The Health Division;]*
- [(f) The Senior and Disabled Services Division; and]*
- [(g) Alcohol and Drug Abuse Programs.]*

(2) The department is responsible for the delivery and administration of programs and services relating to:

(a) Children and families, including but not limited to child protective services, foster care, residential care for children and adoption services;

(b) Elderly persons and disabled persons, including but not limited to social, health and protective services and promotion of hiring of otherwise qualified persons who are certifiably disabled;

(c) Persons who, as a result of the person's or the person's family's economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services;

(d) Health and health-related affairs, including but not limited to medical assistance and services, public health services, migrant health services, licensing of health facilities and coordination of the activities of professional and occupational licensing boards;

(e) Mental health and developmental disabilities;

(f) Vocational rehabilitation for individuals with disabilities;

(g) Alcohol abuse, drug abuse, addiction and chemical dependency problems;

(h) Licensing and regulation of individuals, facilities and programs providing health and human services, in accordance with the provisions of state and federal law; and

(i) Any other health and human service programs and functions delegated to the department by or in accordance with the provisions of state and federal law.

[(4)] (3) The department shall be the recipient of all federal funds paid or to be paid to the state to enable the state to provide the programs and services assigned to the department.

(4)(a) All personnel of the department, including those engaged in the administration of vocational rehabilitation programs, public assistance programs and services to families or children in compliance with the federal social security laws, shall be subject to the merit system prescribed in the State Personnel Relations Law. For purposes of the State Personnel Relations Law, the department is the appointing authority of all employees in the department.

(b) The Director of Human Services, in conformity with the State Personnel Relations Law, may appoint and employ such personnel as may be necessary for the department, and may appoint and fix the compensation of all assistants and employees of the department.

(c) The director may authorize reimbursement of such expenses as are approved by the department and incurred by assistants and employees of the department, and by volunteers or other persons not employed by the department, in carrying out duties assigned or authorized by the department.

(5) The director may designate employees to be custodians of records within any of the organizational units of the department, and persons so designated shall have the duties and powers of custodians of public records as prescribed by law. Such designation shall be in writing and notice thereof shall be filed in the office of the Secretary of State, with the director and in the organizational unit to which the authorization applies.

SECTION 6. In accordance with ORS 417.342 and 417.344, the Department of Human Services shall provide family support services throughout the department. Notwithstanding ORS 430.640, the department may contract directly with community organizations for the provision of family support services.

SECTION 7. The Department of Human Services shall maintain in each of its local offices copies of its rules and regulations that the department is required to file with the Secretary of State. Copies of the rules and regulations shall be available for public use and inspection during regular business hours and shall be compiled and indexed in a manner that will facilitate their use.

SECTION 8. ORS 25.381 is amended to read:

25.381. Whenever support rights are not and have not at any time during the past five months been assigned to the Department of Human Services [*or one of its divisions,*] or to a public assistance agency of another state, and no arrearages under a support order are so assigned, the district attorney or, as appropriate, the Division of Child Support of the Department of Justice, shall provide, upon request of an obligor or obligee, services sufficient to permit establishment of income withholding under ORS 25.378, including such services as are necessary to establish a support payment record under ORS 25.164 and 25.167. These services shall be provided to the obligee without the necessity of an application for support enforcement services under Title IV-D of the Social Security Act (42 U.S.C. 651, et seq.).

SECTION 9. Section 2, chapter 579, Oregon Laws 1997, is amended to read:

Sec. 2. (1) The following facilities and training homes are public bodies for the purposes of ORS 30.260 to 30.300:

(a) A nonprofit residential training facility as defined in ORS 443.400, nonprofit residential training home as defined in ORS 443.400 or nonprofit facility as defined in ORS 427.005, organized and existing under ORS chapter 65, that receives more than 50 percent of its funding from the state or a political subdivision of the state for the purpose of providing residential or vocational services to mentally retarded or developmentally disabled individuals.

(b) A nonprofit residential training facility as defined in ORS 443.400, nonprofit residential training home as defined in ORS 443.400 or nonprofit facility as defined in ORS 427.005, organized and existing under ORS chapter 65, that receives less than 50 percent of its funding from the state or a political subdivision of the state but that provides residential or vocational services to mentally retarded or developmentally disabled individuals, more than half of whom are eligible for funding for services by the [*office of Developmental Disabilities Services of the Mental Health and Developmental*

Disability Services Division] **Department of Human Services** under criteria established by the [office] **department**.

(2) The provisions of this section apply only to a nonprofit residential training facility, nonprofit residential training home or nonprofit facility that provides services to mentally retarded or developmentally disabled individuals under a contract with:

(a) The [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**; or

(b) A community mental health and developmental disabilities program established pursuant to ORS 430.620[; or]

[(c) *The Vocational Rehabilitation Division*].

SECTION 10. ORS 30.297 is amended to read:

30.297. (1) Notwithstanding ORS 125.235, the [*State Office for Services to Children and Families*] **Department of Human Services** is liable for damages resulting from the intentional torts of a foster child who is:

(a) Residing in a foster home that has been certified by the [office] **department** under the provisions of ORS 418.625 to 418.645, even though the child may be temporarily absent from that home; or

(b) Residing in an approved home that is receiving payment from the [office] **department** under the provisions of ORS 418.027 or under the provisions of ORS 420.810 and 420.815, even though the child may be temporarily absent from that home.

(2) Notwithstanding ORS 125.235, the [*Mental Health and Developmental Disability Services Division*] **department** is liable for damages resulting from the intentional torts of a foster child who is residing in a developmental disability child foster home that has been certified by the [*division*] **department** under the provisions of ORS 443.830 and 443.835, even though the foster child may be temporarily absent from that home.

(3) Except as otherwise provided in this section, the liability of the [*office and the division*] **department** under this section shall be subject to the same requirements and limitations provided in ORS 30.260 to 30.300, and a claim under this section shall be treated as a claim for damages within the scope of ORS 30.260 to 30.300 for the purposes of ORS 278.120.

(4) Notwithstanding subsections (1) and (2) of this section:

(a) The [*office and the division*] **department** shall not be liable for any damages arising out of the operation of a motor vehicle by a foster child; and

(b) The [*office and the division*] **department** shall only be liable for theft by a foster child upon a showing by clear and convincing evidence that the foster child committed the theft.

(5) For the purposes of this section:

(a) [*“Division” means the Mental Health and Developmental Disability Services Division*] **“Department” means the Department of Human Services.**

(b) “Foster child” means:

(A) A minor child under the custody or guardianship of the [office] **department** by reason of appointment pursuant to ORS chapter 125, 419A, 419B or 419C;

(B) A minor child under the physical custody of the [office] **department** pursuant to a voluntary agreement with the parent under ORS 418.015 (1);

(C) A minor child placed in a certified foster home, pending hearing, by any person authorized by the [office] **department** to make that placement;

(D) A person under 21 years of age who has been placed in an approved home that is receiving payment from the [office] **department** under the provisions of ORS 418.027 or under the provisions of ORS 420.810 and 420.815; or

(E) A child residing in a developmental disability child foster home certified under ORS 443.830 and 443.835.

[(c) *“Office” means the State Office for Services to Children and Families.*]

SECTION 11. ORS 30.298 is amended to read:

30.298. (1) Except as otherwise provided in this section, the [*State Office for Services to Children and Families*] **Department of Human Services** is liable, without regard to fault, for injury to the person of foster parents or damage to the property of foster parents caused by a foster child if:

(a) The foster child resides in a foster home that is maintained by the foster parents and that has been certified by the [*office*] **department** under the provisions of ORS 418.625 to 418.645; or

(b) The foster child is residing in an approved home that is maintained by the foster parents and that is receiving payment from the [*office*] **department** under the provisions of ORS 418.027 or under the provisions of ORS 420.810 and 420.815.

(2) Except as otherwise provided in this section, the [*Mental Health and Developmental Disability Services Division*] **department** is liable, without regard to fault, for injury to the person of foster parents or damage to the property of foster parents caused by a foster child if the foster child is residing in a developmental disability child foster home that has been certified by the [*division*] **department** under the provisions of ORS 443.830 and 443.835.

(3) Except as otherwise provided in this section, the liability of the [*office and division*] **department** under this section shall be subject to the same requirements and limitations provided in ORS 30.260 to 30.300, and a claim under this section shall be treated as a claim for damages within the scope of ORS 30.260 to 30.300 for the purposes of ORS 278.120.

(4) Notwithstanding ORS 30.260 to 30.300:

(a) In no event shall the liability of the [*office and division*] **department** under this section exceed \$5,000 for any number of claims arising out of a single occurrence;

(b) The liability of the [*office and division*] **department** under this section is limited to economic damages, and in no event shall the [*office and division*] **department** be liable for noneconomic damages;

(c) The [*office and division are*] **department is** liable under this section only to the extent the loss is not covered by other insurance; and

(d) No claim shall be allowed under this section unless written notice of the claim is delivered to the Oregon Department of Administrative Services within 90 days after the alleged loss or injury.

(5) The [*office and division shall*] **department is** not [*be*] liable under this section for:

(a) Damage to or destruction of currency, securities or any other intangible property;

(b) The unexplained disappearance of any property; or

(c) Loss or damage that is due to wear and tear, inherent vice or gradual deterioration.

(6) In no event shall the liability of the [*office and division*] **department** under this section for damage to property exceed the difference between the fair market value of the property immediately before its damage or destruction and its fair market value immediately thereafter. The [*office and division*] **department** shall not be liable for the costs of any betterments to the property that may be required by code, statute or other law as a condition of repair, replacement or reconstruction.

(7) The liability imposed under this section is in addition to that imposed for the intentional torts of a foster child under ORS 30.297, but any amounts paid under this section shall reduce any recovery that may be made under ORS 30.297.

(8) For the purposes of this section:

(a) [*"Division" means the Mental Health and Developmental Disability Services Division*] "**Department**" means the **Department of Human Services**.

(b) "Economic damages" and "noneconomic damages" have those meanings given in ORS 18.560.

(c) "Foster child" has that meaning given in ORS 30.297.

[*(d) "Office" means the State Office for Services to Children and Families.*]

SECTION 12. ORS 87.512 is amended to read:

87.512. The notice of lien required under ORS 87.507 shall be a written statement verified by the oath of an officer of the long term care facility that asserts a claim for the lien and that contains:

(1) A true statement of demand, including an itemized statement of services provided and setting forth the amount due and owing to the long term care facility as of the date of the notice, after deducting all credits and offsets;

(2) The name of the individual who received care;

- (3) The name, address and telephone number of the long term care facility;
- (4) A statement that the amount claimed is a true and bona fide existing debt as of the date of filing the notice of lien;
- (5) A statement that the lien may cover contracted services provided by the long term care facility subsequent to the services itemized under subsection (1) of this section and that interested persons may obtain information on the current amount due under the lien by contacting the long term care facility;
- (6) A statement that the long term care facility has given the individual or an authorized representative a written summary of the requirements and procedures for establishing eligibility for Medicaid, including the right to an assessment that determines the extent of spouses' nonexempt resources at the time of institutionalization and attributes to the community spouse an equitable share of the resources that can not be considered available for payment of costs for the medical care of the institutionalized spouse in the process of spending down to Medicaid eligibility levels. The written statement shall be given no fewer than 30 days and no more than 60 days before the notice of lien is filed. The long term care facility may meet the requirement of this subsection by providing *[the]* written materials relating to Medicaid eligibility **for long term care services for disabled persons and elderly persons** used by *[the Senior and Disabled Services Division of]* the Department of Human Services; and

(7) A description of the real property to be charged with the lien that complies with ORS 93.600. **SECTION 13.** ORS 101.140 is amended to read:

101.140. (1) The Continuing Care Retirement Community Advisory Council is created and shall consist of nine members appointed by the *[Assistant Director for Senior and Disabled Services]* **Director of Human Services or a designee** and shall represent the geographic location of providers in this state. A member must be a resident of this state. Three members must represent providers that are registered pursuant to ORS 101.030 and must have been actively engaged in the offering of residency agreements in this state for five years before appointment. The remaining members shall include:

- (a) A representative of the business community with expertise in the area of management;
- (b) A certified public accountant;
- (c) An attorney; and
- (d) Three Oregon residents of continuing care retirement communities or other consumer representatives.

(2) The term of office for a member shall be three years or until a successor has been appointed and qualified.

(3) The members of the advisory council shall serve without pay. They shall be reimbursed by the *[Senior and Disabled Services Division]* **Department of Human Services** for their actual and necessary traveling expenses incurred while on official business.

(4) The council shall:

- (a) Elect a chairperson from among their number and elect or appoint a secretary, both of whom shall hold office for one year and thereafter until a successor is qualified and elected;
- (b) Hold an annual meeting and hold other meetings at times and places the *[division]* **department** or the chairperson of the council may direct;
- (c) Keep a record of its proceedings. The record is prima facie evidence of all matters reported and shall be open to inspection at all times;
- (d) Act in an advisory capacity to the *[division]* **department**; and
- (e) Make recommendations to the *[division]* **department** on all proposed rules pertaining to this chapter.

SECTION 14. ORS 109.425 is amended to read:

109.425. As used in this section and ORS 109.435 to 109.507:

- (1) "Adoptee" means a person who has been adopted in the State of Oregon.
- (2) "Adoption" means the judicial act of creating the relationship of parent and child where it did not exist previously.

- (3) "Adoptive parent" means an adult who has become a parent of a child through adoption.
- (4) "Adult" means a person 18 years of age or older.
- (5) "Agency" means any public or private organization licensed or authorized under the laws of this state to place children for adoption.

(6) "Birth parent" is:

(a) The man or woman who is legally presumed under the laws of this state to be the father or mother of genetic origin of a child; and

(b) A putative father of the child if the birth mother alleges he is the father and the putative father, by written affidavit or surrender and release executed within three years of the relinquishment of the child by the birth mother or the termination of parental rights of the birth mother, acknowledges being the child's biological father.

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

[(7)(a)] **(8)(a)** "Genetic and social history" is a comprehensive report, when obtainable, of the health status and medical history of the birth parents and other persons related to the child.

(b) The genetic and social history may contain as much of the following as is available:

(A) Medical history;

(B) Health status;

(C) Cause of and age at death;

(D) Height, weight, eye and hair color;

(E) Ethnic origins; and

(F) Religion, if any.

(c) The genetic and social history may include the health status and medical history of:

(A) The birth parents;

(B) A putative father, if any;

(C) Siblings to the birth parents, if any;

(D) Siblings to a putative father, if any;

(E) Other children of either birth parent, if any;

(F) Other children of a putative father, if any;

(G) Parents of the birth parents; and

(H) Parents of a putative father, if any.

[(8)] **(9)** "Health history" is a comprehensive report, when obtainable, of the child's health status and medical history at the time of placement for adoption, including neonatal, psychological, physiological and medical care history.

[(9)] *"Office" means the State Office for Services to Children and Families.*

(10) "Putative father" is a man who, under the laws of this state, is not legally presumed to be the father of genetic origin of a child, but who claims or is alleged to be the father of genetic origin of the child.

(11) "Registry" is a voluntary adoption registry as established under ORS 109.450.

(12) "Successor agency" is an agency which has the adoption records of another agency because of the merger of the agency and the successor agency or because a former agency has ceased doing business and has given its adoption records to the successor agency as provided in ORS 109.435 (2).

SECTION 15. ORS 113.085 is amended to read:

113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition, if there is no will or there is a will and it has been proved, the court shall appoint a qualified person it finds suitable as personal representative, giving preference in the following order:

(a) To the executor named in the will.

(b) To the surviving spouse of the decedent or the nominee of the surviving spouse of the decedent.

(c) To the nearest of kin of the decedent or the nominee of the nearest of kin of the decedent.

(d) To the [Assistant Director for Adult and Family Services or the designated representative of the assistant director] **Director of Human Services or a designee**, if it appears the decedent re-

ceived public assistance pursuant to ORS chapter 411, 412, 413 or 414 and that such assistance is a claim against the estate.

(e) To the Director of Veterans' Affairs, if the decedent was a protected person under ORS 406.050 (4), and the director has joined in the petition for such appointment.

(f) To any other person.

(2) If it appears that the decedent died wholly intestate and without heirs, the court shall appoint the Director of the Division of State Lands as personal representative. The Attorney General shall represent the director in the administration of the estate. Any funds received by the director in the capacity of personal representative may be deposited in accounts, separate and distinct from the General Fund, established with the State Treasurer. Interest earned by such account shall be credited to that account.

SECTION 16. ORS 113.105 is amended to read:

113.105. (1) Unless a testator provides in a will that no bond shall be required of the executor of the estate, or unless the personal representative is the sole heir or devisee or is the Director of the Division of State Lands, or is the [Assistant Director for Adult and Family Services or a designated representative] **Director of Human Services or a designee**, or is the Director of Veterans' Affairs, the personal representative shall not act nor shall letters be issued to the personal representative until the personal representative files with the clerk of the court a bond. The bond shall be executed by a surety company authorized to transact surety business in this state, or by one or more sufficient personal sureties approved by the court. A personal surety must be a resident of this state. The court may, in its discretion, require a bond notwithstanding any provision in a will that no bond is required. The bond shall be for the security and benefit of all interested persons and shall be conditioned upon the personal representative faithfully performing the duties of the trust.

(2) The amount of the bond set by the court shall be adequate to protect interested persons, but in no event shall it be less than \$1,000. In setting the amount of the bond the court shall consider:

(a) The nature, liquidity and apparent value of the assets of the estate.

(b) The anticipated income during administration.

(c) The probable indebtedness and taxes.

(3) Nothing in this section affects the provisions of ORS 709.240, relating to a trust company acting as personal representative.

(4) Notwithstanding any other provisions of this section, a court may, in its discretion, waive the requirement of a bond if all devisees and heirs known to the court agree in writing that the requirement be waived and the signed agreement is filed with the court at the time of filing of the petition for the appointment of a personal representative.

SECTION 17. ORS 114.305 is amended to read:

114.305. Subject to the provisions of ORS 97.130 (2) and except as restricted or otherwise provided by the will of the decedent, a document of anatomical gift under ORS 97.952 or by court order, a personal representative, acting reasonably for the benefit of interested persons, is authorized to:

(1) Direct and authorize disposition of the remains of the decedent pursuant to ORS 97.130 and incur expenses for the funeral, burial or other disposition of the remains in a manner suitable to the condition in life of the decedent. Only those funeral expenses necessary for a plain and decent funeral and disposition of the remains of the decedent may be paid from the estate if the assets are insufficient to pay the claims of the [Adult and Family Services Division and the Mental Health and Developmental Disability Services Division] **Department of Human Services for the net amount of public assistance, as defined in ORS 411.010, paid to or for the decedent and for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.**

(2) Retain assets owned by the decedent pending distribution or liquidation.

(3) Receive assets from fiduciaries or other sources.

(4) Complete, compromise or refuse performance of contracts of the decedent that continue as obligations of the estate, as the personal representative may determine under the circumstances. In

performing enforceable contracts by the decedent to convey or lease real property, the personal representative, among other courses of action, may:

(a) Execute and deliver a deed upon satisfaction of any sum remaining unpaid or upon receipt of the note of the purchaser adequately secured; or

(b) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement.

(5) Satisfy written pledges of the decedent for contributions, whether or not the pledges constituted binding obligations of the decedent or were properly presented as claims.

(6) Deposit funds not needed to meet currently payable debts and expenses, and not immediately distributable, in bank or savings and loan association accounts, or invest the funds in bank or savings and loan association certificates of deposit, or federally regulated money-market funds and short-term investment funds suitable for investment by trustees under ORS 128.194 to 128.218, or short-term United States Government obligations.

(7) Abandon burdensome property when it is valueless, or is so encumbered or is in a condition that it is of no benefit to the estate.

(8) Vote stocks or other securities in person or by general or limited proxy.

(9) Pay calls, assessments and other sums chargeable or accruing against or on account of securities.

(10) Sell or exercise stock subscription or conversion rights.

(11) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprise.

(12) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate, but the personal representative is liable for any act of the nominee in connection with the security so held.

(13) Insure the assets of the estate against damage and loss, and insure the personal representative against liability to third persons.

(14) Advance or borrow money with or without security.

(15) Compromise, extend, renew or otherwise modify an obligation owing to the estate. A personal representative who holds a mortgage, pledge, lien or other security interest may accept a conveyance or transfer of the encumbered asset in lieu of foreclosure in full or partial satisfaction of the indebtedness.

(16) Accept other real property in part payment of the purchase price of real property sold by the personal representative.

(17) Pay taxes, assessments and expenses incident to the administration of the estate.

(18) Employ qualified persons, including attorneys, accountants and investment advisers, to advise and assist the personal representative and to perform acts of administration, whether or not discretionary, on behalf of the personal representative.

(19) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of duties as personal representative.

(20) Prosecute claims of the decedent including those for personal injury or wrongful death.

(21) Continue any business or venture in which the decedent was engaged at the time of death to preserve the value of the business or venture.

(22) Incorporate or otherwise change the business form of any business or venture in which the decedent was engaged at the time of death.

(23) Discontinue and wind up any business or venture in which the decedent was engaged at the time of death.

(24) Provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate.

(25) Satisfy and settle claims and distribute the estate as provided in ORS chapters 111, 112, 113, 114, 115, 116 and 117.

(26) Perform all other acts required or permitted by law or by the will of the decedent.

SECTION 18. ORS 114.525 is amended to read:

114.525. An affidavit filed under ORS 114.515 shall:

(1) State the name, age, domicile, post-office address and social security number of the decedent;

(2) State the date and place of the decedent's death. A certified copy of the death certificate shall be attached to the affidavit;

(3) Describe and state the fair market value of all property in the estate, including a legal description of any real property;

(4) State that no application or petition for the appointment of a personal representative has been granted in Oregon;

(5) State whether the decedent died testate or intestate, and if the decedent died testate, the will shall be attached to the affidavit;

(6) List the heirs of the decedent and the last address of each heir as known to the affiant, and state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent died testate, will be delivered to each heir or mailed to the heir at the last-known address;

(7) If the decedent died testate, list the devisees of the decedent and the last address of each devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing the date of filing will be delivered to each devisee or mailed to the devisee at the last-known address;

(8) State the interest in the property described in the affidavit to which each heir or devisee is entitled;

(9) State that reasonable efforts have been made to ascertain creditors of the estate. List the expenses of and claims against the estate remaining unpaid or on account of which the affiant or any other person is entitled to reimbursement from the estate, including the known or estimated amounts thereof and the names and addresses of the creditors as known to the affiant, and state that a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been paid in full or mailed to the creditor at the last-known address;

(10) Separately list the name and address of each person known to the affiant to assert a claim against the estate which the affiant disputes and the known or estimated amount thereof and state that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed to the person at the last-known address;

(11) State that a copy of the affidavit showing the date of filing will be mailed or delivered to the [*Adult and Family Services Division, Estate Administration Section*] **Department of Human Services**, Salem, Oregon;

(12) State that claims against the estate not listed in the affidavit or in amounts larger than those listed in the affidavit may be barred unless:

(a) A claim is presented to the affiant within four months of the filing of the affidavit at the address stated in the affidavit for presentment of claims; or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555; and

(13) If the affidavit lists one or more claims which the affiant disputes, state that any such claim may be barred unless:

(a) A petition for summary determination is filed within four months of the filing of the affidavit;

or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555.

SECTION 18a. If House Bill 2243 becomes law, section 18 of this 2001 Act (amending ORS 114.525) is repealed and ORS 114.525, as amended by section 2, chapter 620, Oregon Laws 2001 (Enrolled House Bill 2243), is amended to read:

114.525. An affidavit filed under ORS 114.515 shall:

(1) State the name, age, domicile, post-office address and social security number of the decedent;

(2) State the date and place of the decedent's death. A certified copy of the death certificate shall be attached to the affidavit;

(3) Describe and state the fair market value of all property in the estate, including a legal description of any real property;

(4) State that no application or petition for the appointment of a personal representative has been granted in Oregon;

(5) State whether the decedent died testate or intestate, and if the decedent died testate, the will shall be attached to the affidavit;

(6) List the heirs of the decedent and the last address of each heir as known to the affiant, and state that a copy of the affidavit showing the date of filing and a copy of the will, if the decedent died testate, will be delivered to each heir or mailed to the heir at the last-known address;

(7) If the decedent died testate, list the devisees of the decedent and the last address of each devisee as known to the affiant and state that a copy of the will and a copy of the affidavit showing the date of filing will be delivered to each devisee or mailed to the devisee at the last-known address;

(8) State the interest in the property described in the affidavit to which each heir or devisee is entitled;

(9) State that reasonable efforts have been made to ascertain creditors of the estate. List the expenses of and claims against the estate remaining unpaid or on account of which the affiant or any other person is entitled to reimbursement from the estate, including the known or estimated amounts thereof and the names and addresses of the creditors as known to the affiant, and state that a copy of the affidavit showing the date of filing will be delivered to each creditor who has not been paid in full or mailed to the creditor at the last-known address;

(10) Separately list the name and address of each person known to the affiant to assert a claim against the estate which the affiant disputes and the known or estimated amount thereof and state that a copy of the affidavit showing the date of filing will be delivered to each such person or mailed to the person at the last-known address;

(11) State that a copy of the affidavit showing the date of filing will be mailed or delivered to the [Estate Administration Unit within the] Department of Human Services;

(12) State that claims against the estate not listed in the affidavit or in amounts larger than those listed in the affidavit may be barred unless:

(a) A claim is presented to the affiant within four months of the filing of the affidavit at the address stated in the affidavit for presentment of claims; or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555; and

(13) If the affidavit lists one or more claims which the affiant disputes, state that any such claim may be barred unless:

(a) A petition for summary determination is filed within four months of the filing of the affidavit; or

(b) A personal representative of the estate is appointed within the time allowed under ORS 114.555.

SECTION 19. ORS 115.125 is amended to read:

115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims in full, the personal representative shall make payment in the following order:

(a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.

(b) Expenses of administration.

(c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.

(d) Debts and taxes with preference under federal law.

(e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.

(f) Taxes with preference under the laws of this state that are due and payable while possession of the estate of the decedent is retained by the personal representative.

(g) Debts owed employees of the decedent for labor performed within 90 days immediately preceding the date of death of the decedent.

(h) The [claim] **claims** of the [*Adult and Family Services Division*] **Department of Human Services** for the net amount of public assistance, as defined in ORS 411.010, paid to or for the decedent, and [*the claim of the Mental Health and Developmental Disability Services Division*] for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

(i) All other claims against the estate.

(2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of any one class specified in subsection (1) of this section, each expense or claim of that class shall be paid only in proportion to the amount thereof.

SECTION 19a. If Senate Bill 183 becomes law, section 19 of this 2001 Act (amending ORS 115.125) is repealed and ORS 115.125, as amended by section 13, chapter 487, Oregon Laws 2001 (Enrolled Senate Bill 183), is amended to read:

115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims in full, the personal representative shall make payment in the following order:

(a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.

(b) Expenses of administration.

(c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.

(d) Debts and taxes with preference under federal law.

(e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.

(f) Taxes with preference under the laws of this state that are due and payable while possession of the estate of the decedent is retained by the personal representative.

(g) Debts owed employees of the decedent for labor performed within 90 days immediately preceding the date of death of the decedent.

(h) The claim of the [*Adult and Family Services Division*] **Department of Human Services** for the net amount of public assistance, as defined in ORS 411.010, paid to or for the decedent, and the claim of the [*Mental Health and Developmental Disability Services Division or the*] Department of Corrections for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

(i) All other claims against the estate.

(2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of any one class specified in subsection (1) of this section, each expense or claim of that class shall be paid only in proportion to the amount thereof.

SECTION 20. ORS 116.093 is amended to read:

116.093. (1) Upon filing the final account and petition for decree of distribution, the personal representative shall fix a time for filing objections thereto in a notice thereof. Not less than 20 days before the time fixed in the notice, the personal representative shall cause a copy of the notice to be mailed to:

(a) Each heir at the last-known address of the heir, if the decedent died intestate.

(b) Each devisee at the last-known address of the devisee, if the decedent died testate.

(c) Each creditor who has not received payment in full and whose claim has not otherwise been barred.

(d) Any other person known to the personal representative to have or to claim an interest in the estate being distributed.

(2) The notice need not be mailed to the personal representative.

(3) Proof of the mailing to those persons entitled to notice shall be made by affidavit and filed in the estate proceeding at or before approval of the final account.

(4) If the [*Adult and Family Services Division or its authorized agent*] **Department of Human Services** has presented a claim under ORS chapters 411 to 415 and ORS **179.620 (3)**, [*416.010 to 416.270,*] 416.310 to 416.340 and 416.510 to 416.990 or 417.010 to 417.080, [*or the Mental Health and*

Developmental Disability Services Division or its authorized agent has presented a claim under ORS 179.620 (3), and the claim has not been settled or paid in full, the personal representative shall *[cause to be mailed]* **mail** to the *[division or]* department a copy of the final account at the same time, and shall make proof of the mailing in the same manner, as the notice provided for in this section.

SECTION 20a. If Senate Bill 183 becomes law, section 20 of this 2001 Act (amending ORS 116.093) is repealed and ORS 116.093, as amended by section 14, chapter 487, Oregon Laws 2001 (Enrolled Senate Bill 183), is amended to read:

116.093. (1) Upon filing the final account and petition for decree of distribution, the personal representative shall fix a time for filing objections thereto in a notice thereof. Not less than 20 days before the time fixed in the notice, the personal representative shall cause a copy of the notice to be mailed to:

- (a) Each heir at the last-known address of the heir, if the decedent died intestate.
- (b) Each devisee at the last-known address of the devisee, if the decedent died testate.
- (c) Each creditor who has not received payment in full and whose claim has not otherwise been barred.
- (d) Any other person known to the personal representative to have or to claim an interest in the estate being distributed.

(2) The notice need not be mailed to the personal representative.

(3) Proof of the mailing to those persons entitled to notice shall be made by affidavit and filed in the estate proceeding at or before approval of the final account.

(4) If the *[Adult and Family Services Division or its authorized agent]* **Department of Human Services** has presented a claim under ORS chapters 411 to 415 and ORS *[416.010 to 416.270,]* 416.310 to 416.340 and 416.510 to 416.990 or 417.010 to 417.080, or the *[Mental Health and Developmental Disability Services Division or the]* Department of Corrections or the authorized agent of the *[division or the]* Department **of Corrections** has presented a claim under ORS 179.620 (3), and the claim has not been settled or paid in full, the personal representative shall *[cause to be mailed]* **mail** to the *[division or]* **appropriate** department a copy of the final account at the same time, and shall make proof of the mailing in the same manner, as the notice provided for in this section.

SECTION 21. ORS 124.090 is amended to read:

124.090. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public or private official who made the complaint, witnesses and the elderly persons compiled under the provisions of ORS 124.050 to 124.095 are confidential and are not accessible for public inspection. However, the *[Senior and Disabled Services Division]* **Department of Human Services** shall make the information and any investigative report available to any law enforcement agency, to any public agency *[which]* **that** licenses or certifies residential facilities or licenses or certifies the persons practicing therein, to any public agency providing protective services for the elderly person, *to the Mental Health and Developmental Disability Services Division]* and to the Long Term Care Ombudsman, if appropriate. The *[division]* **department** shall also make the information and any investigative report available to any private nonprofit agency providing protective services for the elderly person. When this information and any investigative report is made available to the private agency, ORS 124.050 to 124.095 relating to confidentiality apply to the private agency.

SECTION 22. ORS 125.060 is amended to read:

125.060. (1) The notices required by this section must be given to all persons whose identities and addresses can be ascertained in the exercise of reasonable diligence by the person required to give the notice.

(2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other protective order must be given by the petitioner to the following persons:

- (a) The respondent, if the respondent has attained 14 years of age.
- (b) The spouse, parents and adult children of the respondent.
- (c) If the respondent does not have a spouse, parent or adult child, the person or persons most closely related to the respondent.

(d) Any person who is cohabiting with the respondent and who is interested in the affairs or welfare of the respondent.

(e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the respondent by a court of any state, any trustee for a trust established by or for the respondent, any person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and any person acting as attorney-in-fact for the respondent under a power of attorney.

(f) If the respondent is a minor, the person who has exercised principal responsibility for the care and custody of the respondent during the 60-day period before the filing of the petition.

(g) If the respondent is a minor and has no living parents, any person nominated to act as fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

(h) If the respondent is receiving moneys paid or payable by the United States through the Department of Veterans Affairs, a representative of the United States Department of Veterans Affairs regional office that has responsibility for the payments to the protected person.

(i) If the respondent is receiving moneys paid or payable **for public assistance provided under ORS chapter 411, 412, 413 or 414** by the State of Oregon through [*the Adult and Family Services Division of*] the Department of Human Services, a representative of the [*Adult and Family Services Division*] **department**.

(j) If the respondent is committed to the legal and physical custody of the Department of Corrections, the Attorney General and the superintendent or other officer in charge of the facility in which the respondent is confined.

(k) Any other person that the court requires.

(3) Notice of a motion for the termination of the protective proceedings, for removal of a fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's actions or for protective orders in addition to those sought in the petition must be given by the person making the motion to the following persons:

(a) The protected person, if the protected person has attained 14 years of age.

(b) Any person who has filed a request for notice in the proceedings.

(c) Except for a fiduciary who is making a motion, to any fiduciary who has been appointed for the protected person.

(d) If the protected person is receiving moneys paid or payable by the United States through the Department of Veterans Affairs, a representative of the United States Department of Veterans Affairs regional office that has responsibility for the payments to the protected person.

(e) If the respondent is committed to the legal and physical custody of the Department of Corrections, the Attorney General and the superintendent or other officer in charge of the facility in which the respondent is confined.

(f) Any other person that the court requires.

(4) A request for notice under subsection (3)(b) of this section must be in writing and include the name, address and phone number of the person requesting notice. A copy of the request must be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has been appointed. The original request must be filed with the court. The person filing the request must pay the fee specified by ORS 21.310 (5).

(5) A person who files a request for notice in the proceedings in the manner provided by subsection (4) of this section is entitled to receive notice from the fiduciary of any motion specified in subsection (3) of this section and of any other matter to which a person listed in subsection (2) of this section is entitled to receive notice under a specific provision of this chapter.

(6) If the [*State Office for Services to Children and Families*] **Department of Human Services** is nominated as guardian for the purpose of consenting to the adoption of a minor, the notice provided for in this section must also be given to the minor's brothers, sisters, aunts, uncles and grandparents.

(7) In addition to the requirements of subsection (2) of this section, notice of the filing of a petition for the appointment of a guardian for a person who is alleged to be incapacitated must be given by the petitioner to the following persons:

- (a) Any attorney who is representing the respondent in any capacity.
- (b) If the respondent is a resident of a nursing home or residential facility, or if the person nominated to act as fiduciary intends to place the respondent in a nursing home or residential facility, the office of the Long Term Care Ombudsman.
- (c) If the respondent is a resident of a mental health treatment facility or a residential facility for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends to place the respondent in such a facility, the system designated to protect and advocate the rights of individuals with developmental disabilities as described in ORS 192.517 (1).
- (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding in which a guardian has been appointed, notice of the motions specified in subsection (3) of this section must be given by the person making the motion to the following persons:
 - (a) Any attorney who represented the protected person at any time during the protective proceeding.
 - (b) If the protected person is a resident of a nursing home or residential facility, or if the motion seeks authority to place the protected person in a nursing home or residential facility, the office of the Long Term Care Ombudsman.
 - (c) If the protected person is a resident of a mental health treatment facility or a residential facility for individuals with developmental disabilities, or if the motion seeks authority to place the protected person in such a facility, the system designated to protect and advocate the rights of individuals with developmental disabilities as described in ORS 192.517 (1).
- (9) A respondent or protected person may not waive the notice required under this section.
- (10) The requirement that notice be served on an attorney for a respondent or protected person under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney receiving the notice to represent the respondent or protected person in the protective proceeding.

SECTION 23. ORS 137.658 is amended to read:

137.658. (1) The chairperson of the Oregon Criminal Justice Commission may create any committees within the commission as the chairperson may think necessary. Persons who are not commission members may be appointed as members to serve on the committees with the approval of the commission.

(2) The chairperson shall appoint members of committees created under this section in such a manner as to ensure representation from all segments of the criminal justice system that are affected by the work of the committee. In selecting members for committee assignments, the chairperson shall consider, but is not limited to, representatives from the following:

- (a) The Attorney General;
- (b) The Director of the Department of Corrections;
- (c) The chairperson of the State Board of Parole and Post-Prison Supervision;
- (d) The Superintendent of State Police;
- (e) The chief administrative employee of the Psychiatric Security Review Board;
- (f) [*The administrator of the Mental Health and Developmental Disability Services Division*] **The Director of Human Services;**
- (g) The Director of the Oregon Youth Authority;
- (h) Trial judges;
- (i) Judges of the Oregon Supreme Court or Court of Appeals;
- (j) Majority and minority parties of the House of Representatives and the Senate;
- (k) District attorneys;
- (l) Criminal defense attorneys;
- (m) County sheriffs;
- (n) County commissioners;
- (o) County community corrections directors;
- (p) Chiefs of police;
- (q) Victims of crime;
- (r) The public at large;

(s) The director of a nonprofit entity created for the purpose of increasing understanding of the adult and juvenile justice systems and promotion of effective policies for prevention and control of crime; and

(t) Private contract providers.

SECTION 24. ORS 162.135 is amended to read:

162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

(1)(a) "Contraband" means:

(A) Controlled substances as defined in ORS 475.005;

(B) Drug paraphernalia as defined in ORS 475.525;

(C) Except as otherwise provided in paragraph (b) of this subsection, currency possessed by or in the control of an inmate confined in a correctional facility; or

(D) Any article or thing which a person confined in a correctional facility, youth correction facility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and whose use would endanger the safety or security of such institution or any person therein.

(b) "Contraband" does not include authorized currency possessed by an inmate in a work release facility.

(2) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order and includes but is not limited to a youth correction facility. "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental disease or defect under ORS 161.290 to 161.370.

(3) "Currency" means paper money and coins that are within the correctional institution.

(4) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, youth correction facility or a state hospital.

(5) "Escape" means the unlawful departure of a person from custody or a correctional facility. "Escape" includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board. "Escape" does not include failure to comply with provisions of a conditional release in ORS 135.245.

(6) "Youth correction facility" means the MacLaren School, Hillcrest School of Oregon and any other school established by law for similar purposes, and includes the other camps and programs maintained under ORS chapter 420 and detention facilities as defined in ORS 419A.004.

(7) "State hospital" means the Oregon State Hospital, [*F. H. Dammasch State Hospital*,] Eastern Oregon Psychiatric Center, Eastern Oregon Training Center[, *Fairview Training Center*] and any other hospital established by law for similar purposes.

(8) "Unauthorized departure" means the unauthorized departure of a person confined by court order in a youth correction facility or a state hospital that, because of the nature of the court order, is not a correctional facility as defined in this section, or the failure to return to custody after any form of temporary release or transitional leave from a correctional facility.

SECTION 25. ORS 166.412 is amended to read:

166.412. (1) As used in this section:

(a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

(b) "Department" means the Department of State Police;

(c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;

(d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C. 921 to 929;

(e) "Firearms transaction thumbprint form" means a form provided by the department under subsection (12) of this section;

(f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise;

(g) "Handgun" has the meaning given that term in ORS 166.210; and
(h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3)(c) and (13) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

(a) The purchaser shall present to the dealer current identification meeting the requirements of subsection (4) of this section.

(b) The gun dealer shall complete the firearms transaction record and obtain the signature of the purchaser on the record.

(c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to be filed with that copy.

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

(A) The federal firearms license number of the gun dealer;

(B) The business name of the gun dealer;

(C) The place of transfer;

(D) The name of the person making the transfer;

(E) The make, model, caliber and manufacturer's number of the handgun being transferred;

(F) The name and date of birth of the purchaser;

(G) The social security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

(H) The type, issuer and identification number of the identification presented by the purchaser.

(e) The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

(f) The gun dealer may destroy the firearms transaction thumbprint form five years after the completion of the firearms transaction thumbprint form.

(3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the department shall immediately, during the gun dealer's telephone call or by return call:

(A) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under ORS 166.470 from completing the purchase; and

(B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(b) If the department is unable to determine if the purchaser is qualified or disqualified from completing the transfer within 30 minutes, the department shall notify the dealer and provide the dealer with an estimate of the time when the department will provide the requested information.

(c) If the department fails to provide a unique approval number to a gun dealer or to notify the gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close of the gun dealer's next business day following the request by the dealer for a criminal history record check, the dealer may deliver the handgun to the purchaser.

(4)(a) Identification required of the purchaser under subsection (2) of this section shall include one piece of current identification bearing a photograph and the date of birth of the purchaser that:

(A) Is issued under the authority of the United States Government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(b) If the identification presented by the purchaser under paragraph (a) of this subsection does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser. The Superintendent of

State Police may specify by rule the type of identification that may be presented under this paragraph.

(c) The department may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.

(5) The department shall establish a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(6) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section provided the employee, official or agency acts in good faith and without malice.

(7)(a) The department may retain a record of the information obtained during a request for a criminal records check for no more than five years.

(b) The record of the information obtained during a request for a criminal records check by a gun dealer is exempt from disclosure under public records law.

(8) The [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall provide the [*department*] **Department of State Police** with direct electronic access to information from the [*division's*] **Department of Human Services'** database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The **Department of State Police** and the [*division*] **Department of Human Services** shall enter into an agreement describing the access to information under this subsection.

(9) A law enforcement agency may inspect the records of a gun dealer relating to transfers of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(10) When a handgun is delivered, it shall be unloaded.

(11) In accordance with applicable provisions of ORS 183.310 to 183.550, the Superintendent of State Police may adopt rules necessary for:

(a) The design of the firearms transaction thumbprint form;

(b) The maintenance of a procedure to correct errors in the criminal records of the department;

(c) The provision of a security system to identify dealers who request a criminal history record check under subsection (2) of this section; and

(d) The creation and maintenance of a database of the business hours of gun dealers.

(12) The department shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

(13) This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. 923.

SECTION 26. ORS 179.010 is amended to read:

179.010. As used in this chapter and sections 2 and 12, chapter 321, Oregon Laws 1987, unless the context requires otherwise:

[(1) "*Assistant Director*" means the Assistant Director for the Mental Health and Developmental Disability Services Division.]

[(2) "*Department*" means the Department of Corrections.]

[(3) "*Director*" means the Director of the Department of Corrections.]

[(4) "*Division*" means the Mental Health and Developmental Disability Services Division.]

[(5)] **(1)** "*Institutions*" means the institutions designated in ORS 179.321.

[(6)] **(2)** "*Local government*" means any county, city or special district.

[(7)] **(3)** "*Plan*" means the statewide strategic corrections plan developed under section 12, chapter 321, Oregon Laws 1987.

SECTION 27. ORS 179.040 is amended to read:

179.040. (1) The Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall:

(a) Govern, manage and administer the affairs of the public institutions and works within their respective jurisdictions.

(b) Enter into contracts for the planning, erection, completion and furnishings of all new buildings or additions at their respective institutions.

(c) Subject to any applicable provisions of ORS 279.545 to 279.746, 279.805, 279.826 to 279.833 and 283.110 to 283.395, enter into contracts for the purchase of supplies for their respective institutions.

(d) Make and adopt rules, not inconsistent with law, for the guidance of [*that department or division*] **the Department of Corrections or the Department of Human Services** and for the government of their respective institutions.

(2) The [*department and the division*] **Department of Corrections and the Department of Human Services**, respectively, may:

(a) Sue and plead in all courts of law and equity.

(b) Perform all legal and peaceful acts requisite and necessary for the successful management and maintenance of the institutions within their respective jurisdictions.

SECTION 28. ORS 179.050 is amended to read:

179.050. The Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** may receive, take and hold property, both real and personal, for any institution within their respective jurisdictions. Title shall be taken in the name of the state.

SECTION 29. ORS 179.055 is amended to read:

179.055. (1) The revenue from the rental or lease of property administered by an institution governed or managed by the Department of Corrections or the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, except dormitory and housing rentals at institutions governed by [*the*] **either** department [*or division*], shall be deposited in the account of the **respective** department [*or division*] for use by the **respective** department [*or division*] to pay for the cost of administration, taxes, repairs and improvements on the property.

(2) The [*department or division*] **Department of Corrections or Department of Human Services** may request the Oregon Department of Administrative Services to make necessary repairs and improvements on the property described in subsection (1) of this section to be paid for by the [*department or division*] **Department of Corrections or Department of Human Services** from the proceeds derived from such rental or lease of the property or from appropriations otherwise available.

SECTION 30. ORS 179.065 is amended to read:

179.065. The Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall have the same powers with respect to furnishing heat, light, power, sewage, fire protection and communications facilities to institutions under their respective jurisdictions as is granted to the Oregon Department of Administrative Services under ORS 276.210 to 276.228, 276.234 to 276.244, 276.250 and 276.252. The powers shall be exercised in accordance with and subject to the provisions of such sections.

SECTION 31. ORS 179.105 is amended to read:

179.105. (1) For any of the purposes contemplated by ORS 179.040, including aid and support of research in any of the institutions, the Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** may in their respective discretions accept from the United States or any of its agencies financial assistance and grants in the form of money or labor, or from any other source any donation or grant of land or gift of money or any other thing. Any funds accepted in accordance with the provisions of this section and ORS 179.110 shall be deposited with the State Treasurer and subject to subsection (2) of this section, are appropriated to the [*department or division*] **Department of Corrections or Department of Human Services** and may be expended by it according to the conditions and terms of the grant or donation.

(2) Funds received under subsection (1) of this section or ORS 179.110 shall be expended subject to expenditure limitations imposed on the [*department or division*] **Department of Corrections or Department of Human Services** by the Legislative Assembly or, in the absence of such limitations, only after approval of the Legislative Assembly or of the Emergency Board, if approval is required during the interim between sessions of the Legislative Assembly.

(3) In any case where prior approval of the authority to expend any funds available under subsection (1) of this section or ORS 179.110 is imposed as a term or condition of receipt of such funds, the Legislative Assembly or the Emergency Board may approve expenditures of such funds prior to their receipt.

SECTION 32. ORS 179.110 is amended to read:

179.110. Subject to the approval of the Director of the Oregon Department of Administrative Services, the Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, respectively, may accept and receive grants of funds from the United States or any of its agencies for the construction, equipment and betterment of any of the institutions under its jurisdiction and may cooperate with the United States or its agencies in such construction, equipment and betterment. Any balances of appropriations for capital outlay for any institution resulting from the use of funds so received shall be placed in a common fund. The [*department and the division*] **Department of Corrections and the Department of Human Services** are authorized and empowered in their discretion to expend such common fund or any portion thereof in the construction, equipment or betterment of any institution under its jurisdiction.

SECTION 33. ORS 179.140 is amended to read:

179.140. Subject to any applicable provision of ORS 279.545 to 279.746, 279.805, 279.826 to 279.833, 283.110 to 283.395 and 291.232 to 291.260, all claims for supplies or materials furnished or services rendered to institutions shall be audited and approved as provided by law, upon the presentation of duly verified vouchers therefor, approved in writing by the Director of the Department of Corrections or by the [*Assistant Director for the Mental Health and Developmental Disability Services Division*] **Director of Human Services**, or by their designees.

SECTION 34. ORS 179.240 is amended to read:

179.240. (1) If any person owes a debt to this state or a state agency, and the debt has been fixed by final judgment of a court of competent jurisdiction or is no longer subject to judicial review, the Department of Corrections or the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall deduct the amount of the debt from any award made to that person under ORS 179.210.

(2) The [*department or division*] **Department of Corrections or the Department of Human Services** shall request the State Treasurer to transfer to the appropriate fund or account to which the debt is owed, an amount equal to the amount deducted from the award under subsection (1) of this section, for use during that biennium in accordance with law by the state agency administering the fund or account to which the debt is owed. The State Treasurer shall evidence the transfer by proper bookkeeping entries. If the [*department, division*] **Department of Corrections, Department of Human Services** or State Treasurer cannot determine the appropriate fund or account, the amount shall be transferred to the General Fund for general governmental purposes.

(3) Any debt owed by a person to this state or a state agency is satisfied, upon the completion of a transfer made pursuant to subsection (2) of this section, to the extent of the amount so transferred.

SECTION 35. ORS 179.321 is amended to read:

179.321. (1) The [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall operate, control, manage and supervise[:] **the** Eastern Oregon Psychiatric Center, **the** Eastern Oregon Training Center[, *F. H. Dammasch State Hospital, Fairview Training Center*] and **the** Oregon State Hospital.

(2) The Department of Corrections shall operate, control, manage and supervise those institutions defined as Department of Corrections institutions in ORS 421.005.

SECTION 36. ORS 179.360 is amended to read:

179.360. (1) Each superintendent shall:

- (a) Have custody of the residents of the institution under jurisdiction of the superintendent.
- (b) Direct the care, custody and training of the residents unless otherwise directed by law or by rule.
- (c) Adopt sanitary measures for the health and comfort of the residents.
- (d) Promote the mental, moral and physical welfare and development of the residents.
- (e) Enjoy the other powers and privileges and perform the other duties that are prescribed by law or by rule or that naturally attach themselves to the position of superintendent.
- (f) Designate a physician licensed by the Board of Medical Examiners for the State of Oregon to serve as chief medical officer as provided in ORS 426.020 and 427.010, who will be directly responsible to the superintendent for administration of the medical treatment programs at the institution and assume such other responsibilities as are assigned by the superintendent.

(2) The Director of the Department of Corrections or the [*Assistant Director for Mental Health and Developmental Disability Services*] **Director of Human Services**[, *as the case may be,*] shall prescribe **for their respective institutions:**

- (a) The duties of the superintendents where the duties are not prescribed by law.
- (b) The additional duties, beyond those prescribed by law, that the [*director or assistant director*] **Director of the Department of Corrections or the Director of Human Services** considers necessary for the good of the public service.

SECTION 37. ORS 179.380 is amended to read:

179.380. (1) The Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall authorize the employment of all necessary physicians, attendants, nurses, engineers, messengers, clerks, guards, cooks, waiters and other officers and employees not specifically authorized by law and necessary to the successful maintenance of their respective institutions. The amounts expended for the services of such officers and employees shall not exceed the amounts provided therefor in the biennial appropriations for the institution.

(2) The [*department and division*] **Department of Corrections and the Department of Human Services** shall designate in their respective rules which employees shall be officers, and shall require all officers to take and subscribe to an oath of office and, if the circumstances require it, to furnish bonds.

SECTION 38. ORS 179.385 is amended to read:

179.385. The Department of Corrections and the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, respectively, may establish scholarship programs to provide assistance in securing qualified personnel at state institutions governed by them. Scholarships authorized by this section shall be granted in accordance with rules and regulations adopted respectively by the [*department or division*] **departments.**

SECTION 39. ORS 179.390 is amended to read:

179.390. (1) The superintendent of [*institutions*] **an institution** other than [*those*] **an institution** within the jurisdiction of the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** shall, subject to the approval of the [*assistant director*] **Director of Human Services** or the Director of the Department of Corrections, appoint in the manner provided by law all assistants, officers and other employees at the institution under the jurisdiction of the superintendent. The superintendent may suspend or remove an assistant, officer or other employee in the manner provided by law, reporting all acts of suspension or removal to the [*assistant director*] **Director of Human Services** or [*director for corrections*] **Director of the Department of Corrections** for approval or disapproval. The [*assistant director*] **Director of Human Services** or [*director for corrections*] **Director of the Department of Corrections** shall fix the salaries of assistants, officers and employees where their salary is not fixed by law. The [*assistant director of a division*] **Director of Human Services** or [*director of corrections*] **Director of the Department of Corrections** shall, subject to any applicable provisions of the State Personnel Relations Law, suspend or discharge any subordinate of a superintendent when public service requires such action.

(2) The [Assistant Director for Mental Health and Developmental Services or the designees of the Assistant Director for Mental Health and Developmental Services] **Director of Human Services or a designee** at each facility under jurisdiction of the [division] **Department of Human Services** shall, as provided by law, appoint, suspend or discharge an employee of the [division] **department**. The [assistant director] **Director of Human Services** may designate up to three employees at each facility to act in the name of the [assistant director] **director** in accordance with ORS 240.400.

(3) In addition to or in lieu of employing physicians, the Director of the Department of Corrections or the designee thereof may contract for the personal services of physicians licensed to practice medicine by the Board of Medical Examiners for the State of Oregon to serve as medical advisors for the [division] **Department of Human Services**. Advisors under such contracts shall be directly responsible for administration of medical treatment programs at penal and correctional institutions, as defined in ORS 421.005.

SECTION 40. ORS 179.460 is amended to read:

179.460. (1) In order to encourage industry and thereby increase productiveness in the institutions, the Department of Corrections and the [Mental Health and Developmental Disability Services Division] **Department of Human Services** shall prescribe rules and regulations for the sale and exchange of surplus products of each.

(2) The funds derived from the sale of the surplus products shall be paid into the State Treasury and become a part of a fund to be known as the State Institutional Betterment Fund, which fund shall be expended by the [department and division] **Department of Corrections and the Department of Human Services**, respectively, for the benefit of the institutions in proportion to the amount earned by each.

(3) The provisions of this section apply to facilities operated under ORS 346.010.

SECTION 41. ORS 179.478 is amended to read:

179.478. (1) If the person, a relative, guardian or friend, or institution staff have probable cause to believe that an inmate or youth offender is mentally retarded to such a degree that the inmate or youth offender cannot adjust to or benefit from the Department of Corrections institution or youth correction facility, the superintendent of the institution shall request that a diagnostic assessment be performed by the [Mental Health and Developmental Disability Services Division] **Department of Human Services** or its designee. If there is probable cause to believe that the inmate or youth offender is mentally retarded and otherwise eligible for admission to a state hospital and training center for the mentally retarded pursuant to ORS 427.010 and other applicable statutes and rules of the [Mental Health and Developmental Disability Services Division] **Department of Human Services**, the person shall be entitled to a commitment hearing.

(2) If the inmate or youth offender is by clear and convincing evidence determined by the court to be mentally retarded, the person shall be committed and transferred to a hospital and training center designated by the [Mental Health and Developmental Disability Services Division] **Department of Human Services** as soon as space in an appropriate unit is available, and any sentence to a Department of Corrections institution or commitment to the youth correction facility shall be terminated. [The State Office for Services to Children and Families may retain general wardship of the youth offender, as it would for other minors placed in its custody.]

SECTION 42. ORS 179.479 is amended to read:

179.479. (1) The superintendent or other chief executive officer of an institution described in ORS 179.321 may, when authorized by regulation or direction of the Department of Corrections or [Mental Health and Developmental Disability Services Division] **Department of Human Services**, convey an inmate to a physician, clinic or hospital, including the Oregon Health Sciences University, for medical, surgical or dental treatment when such treatment cannot satisfactorily be provided at the institution. An inmate conveyed for treatment pursuant to this section shall be kept in the custody of the institution from which the inmate is conveyed.

(2) The [department and division] **Department of Corrections and the Department of Human Services each** [, respectively,] shall prescribe rules and regulations governing conveyances authorized by this section.

SECTION 43. ORS 179.490 is amended to read:

179.490. In the case of a necessary or emergency operation, requiring the services of a specialist, and where the relatives or guardians, in the judgment of the Department of Corrections or [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, are unable to pay a part or the whole cost of the operation, [*the*] **either** department [*or division*], in its discretion, may have the operation performed, the cost of the operation to be payable from the funds of the institution concerned.

SECTION 44. ORS 179.505 is amended to read:

179.505. (1) "Provider," as used in this section, means any public agency or publicly operated institution, any private organization that operates as a community mental health provider, any subcontractor of a community mental health provider or any contractor of the [*Mental Health and Developmental Disability Services Division or the office of Alcohol and Drug Abuse Programs,*] **Department of Human Services**, licensed or operated under this chapter or ORS chapter 426[,] or 427[,] or ORS 430.010 to 430.180, 430.260 to 430.395, 430.397 to 430.401, 430.405 to 430.565 and 430.610 to 430.880 or ORS 431.035 to 431.530, 431.705 to 431.990 and sections 2 and 12, chapter 321, Oregon Laws 1987, that provides health care services or maintains written accounts of health care services provided to individuals.

(2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15) and (16) of this section, case histories, clinical records, X-rays, treatment charts, progress reports and other similar written accounts of the patients of any provider maintained in or by the provider by the officers or employees thereof who are authorized to maintain such histories, records, X-rays, reports, charts and other accounts within the official scope of their duties shall not be subject to inspection. This subsection applies to written accounts maintained in or by facilities of the Department of Corrections only to the extent that the written accounts concern the medical, dental or psychiatric treatment as patients of those under the jurisdiction of the Department of Corrections.

(3) If the patient, or in the case of incompetence, the legal guardian, gives voluntary and informed consent, the content of any written account referred to in subsection (2) of this section shall be released accordingly, if the consent is in writing and is signed and dated by the patient or guardian and sets forth with specificity the following:

(a) Name of the provider directed to make the disclosure, except when the consent is given by recipients of or applicants for public assistance to a governmental entity for purposes of determining eligibility for benefits or investigating for fraud;

(b) Name or title of the persons or organizations to which the information is to be disclosed or that information may be released to the public;

(c) Name of the patient;

(d) Extent or nature of the information to be disclosed; and

(e) Statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon, and a specification of the date, event or condition upon which it will expire without express revocation. However, no revocation of a consent is valid with respect to inspection or records necessary to validate expenditures by or on behalf of governmental entities.

(4) The content of any written account referred to in subsection (2) of this section may be released without consent:

(a) To any person to the extent necessary to meet a medical emergency.

(b) At the discretion of the responsible officer of the provider, which in the case of any [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** facility or community mental health and developmental disabilities program shall be the [*Assistant Director for Mental Health and Developmental Disability Services*] **Director of Human Services**, to persons engaged in scientific research, program evaluation, peer review and fiscal audits. However, patient identities shall not be disclosed to such persons, except when the disclosure is essential to the research, evaluation, review or audit or when the disclosure benefits the provider or patient.

(c) To governmental agencies when necessary to secure compensation for services rendered in the treatment of the patient.

(5) When a patient's identity is disclosed under subsection (4) of this section, a provider shall prepare, and include in the permanent records of the provider, a written statement indicating the reasons for the disclosure, the written accounts disclosed and the recipients of the disclosure.

(6) The content of any written account referred to in subsection (2) of this section and held by a provider currently engaged in the treatment of a patient may be released to officers or employees of that provider, its agents or cooperating providers who are currently acting within the official scope of their duties to evaluate treatment programs, to diagnose or treat or to assist in diagnosing or treating a patient when such written account is to be used in the course of diagnosing or treating the patient. Nothing in this subsection shall prevent the transfer of written accounts referred to in subsection (2) of this section among providers of the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, the Department of Corrections, a local correctional facility or a community mental health and developmental disabilities program when the transfer is necessary or beneficial to the treatment of a patient.

(7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or an institution operated by the department, nothing in this section prohibits the disclosure or release of any written account referred to in subsection (2) of this section to the Department of Justice, Oregon Department of Administrative Services, or their agents, upon request, or the subsequent release to a court, administrative hearings officer, arbitrator or other administrative decision maker.

(8)(a) When an action, suit, claim, arbitration or proceeding involves the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** or an institution operated by the [*division*] **department**, nothing in this section prohibits the disclosure or release of any written account referred to in subsection (2) of this section to the Department of Justice, Oregon Department of Administrative Services, or their agents, provided:

(A) Consent under subsection (3) of this section is requested and obtained; or

(B) If no consent under subsection (3) of this section is given, disclosure is made only after notice of the extent or nature of the disclosure has been given to the patient.

(b) Disclosure or release of information in an action, suit, claim, nonlabor arbitration or proceeding is limited by the relevancy restrictions of ORS 40.010 to 40.585 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed or released under this paragraph.

(c) Disclosure or release of information as part of a labor arbitration or proceeding to support a personnel action taken against staff is limited to written accounts directly relating to alleged action or inaction by staff for which the personnel action was imposed.

(9)(a) The copy of any written account referred to in subsection (2) of this section, upon written request of the patient, or in the case of incompetence, the legal guardian, shall be released to the patient or the guardian within a reasonable time not to exceed five working days. The patient, or in the case of incompetence, the legal guardian, shall have the right to immediate inspection of any written accounts.

[(a)] (b) If the release of psychiatric or psychological information contained in the written account would constitute an immediate and grave detriment to the treatment of the patient, disclosure may be denied, if medically contraindicated by the attending physician in the medical record of the patient.

[(b)] (c) The Department of Corrections may withhold psychiatric or psychological information if:

(A) The information relates to an individual other than the individual seeking it.

(B) Release of the information would constitute a danger to another individual.

(C) Release of the information would compromise the privacy of a confidential source.

[(c)] (d) However, a written statement of the denial under paragraph [(b)] (c) of this subsection and the reasons therefor shall be entered in the individual's record.

(10) A provider may require a person requesting disclosure of the contents of a written account under this section to reimburse the provider for the reasonable costs incurred in searching files, abstracting if requested and copying if requested. However, a patient shall not be denied access to written accounts concerning the patient because of inability to pay.

(11) No written account referred to in subsection (2) of this section may be used to initiate or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by federal, state or local authorities against the patient or to conduct any investigations of the patient. If the patient, as a party to an action, suit or other judicial proceeding, voluntarily produces evidence regarding an issue to which a written account referred to in subsection (2) of this section would be relevant, the contents of that written account may be released for use in the proceeding.

(12) Information obtained in the course of diagnosis, evaluation or treatment of a patient which, in the professional judgment of the provider indicates a clear and immediate danger to others or to society may be reported to the appropriate authority. A decision not to disclose information under this subsection shall not subject the provider to any civil liability. Nothing in this subsection shall be construed to alter the provisions of ORS 146.750, 146.760, 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040 and 419B.045.

(13) The prohibitions of this section shall apply to written accounts concerning any individual who has been treated by any provider irrespective of whether or when the individual ceases to receive treatment.

(14) Persons other than the patient who are granted access under this section to the contents of a written account referred to in subsection (2) of this section shall not disclose the contents of the written account to any other person except in accordance with the provisions of this section.

(15) Nothing in this section shall prevent the [State Office for Services to Children and Families] **Department of Human Services** from disclosing the contents of written accounts in its possession to individuals or agencies with whom children in its custody are placed.

(16) The system designated under ORS 192.517 (1) shall have access to records, as defined in ORS 192.515, as provided in ORS 192.517.

SECTION 45. ORS 179.509 is amended to read:

179.509. (1) The superintendent of each state institution shall submit quarterly reports on the number of deaths, including the ages of the deceased, the causes of death and the disposition of the remains, within the institution to the [division in the] Department of Human Services or to the Department of Corrections, as the case may be, having jurisdiction over the institution.

(2) The [division having jurisdiction] **Department of Human Services** or the Department of Corrections shall compile the reports described in subsection (1) of this section and submit them quarterly to the offices of the President of the Senate and of the Speaker of the House of Representatives.

SECTION 46. Section 9, chapter 849, Oregon Laws 1999, is amended to read:

Sec. 9. (1) Except as provided in this section, all agencies must use hearing officers assigned from the Hearing Officer Panel established under section 3, **chapter 849, Oregon Laws 1999**, [of this 1999 Act] to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use hearing officers assigned from the panel:

(a) The Department of Education, the State Board of Education and the Superintendent of Public Instruction.

(b) Employment Appeals Board.

(c) Employment Relations Board.

(d) Public Utility Commission.

(e) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(f) Land Conservation and Development Commission.

(g) Land Use Board of Appeals.

- (h) Department of Revenue.
- (i) Local government boundary commissions created pursuant to ORS 199.425 or 199.430.
- (j) State Accident Insurance Fund Corporation.
- (k) Psychiatric Security Review Board.
- (L) State Board of Parole and Post-Prison Supervision.
- (m) Department of Corrections.
- (n) Energy Facility Siting Council.
- (o) [*Vocational Rehabilitation Division*] **Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.**
- (p) Secretary of State.
- (q) State Treasurer.
- (r) Attorney General.
- (s) Fair Dismissal Appeals Board.
- (t) Department of State Police.
- (u) Oregon Youth Authority.
- (v) Boards of stewards appointed by the Oregon Racing Commission.
- (w) The Department of Higher Education and the institutions of higher education listed in ORS 352.002.
- (x) The Governor.
- (y) State Land Board.

(3) The Workers' Compensation Board is exempt from using hearing officers assigned from the panel for any hearing conducted by the board under ORS chapters 147, 654 and 656. The Director of the Department of Consumer and Business Services must use hearing officers assigned from the panel for all contested case hearings regarding matters other than those concerning a claim under ORS chapter 656, as provided in ORS 656.704 (2). Except as specifically provided in this subsection, the Department of Consumer and Business Services must use hearing officers assigned from the panel only for contested cases arising out of the department's powers and duties under:

- (a) ORS chapter 59;
- (b) ORS 200.005 to 200.075;
- (c) ORS chapter 455;
- (d) ORS chapter 674;
- (e) ORS chapters 706 to 716;
- (f) ORS chapter 717;
- (g) ORS chapters 722, 723, 725 and 726; and
- (h) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use a hearing officer assigned from the panel, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of sections 2 to 21, **chapter 849, Oregon Laws 1999** [*of this 1999 Act*], no agency shall be required to use a hearing officer assigned from the panel if:

- (a) Federal law requires that a different hearing officer be used; or
- (b) Use of a hearing officer from the panel could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use hearing officers assigned from the panel only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470.

SECTION 47. ORS 197.660 is amended to read:

197.660. As used in ORS 197.660 to 197.670, 215.213, 215.263, 215.283, 215.284 and 443.422:

(1) "Residential facility" means a residential care, residential training or residential treatment facility, **as those terms are defined in ORS 443.400**, licensed or registered [*by or under the authority of the department, as defined in ORS 443.400,*] under ORS 443.400 to 443.460 or licensed [*by the State Office for Services to Children and Families*] under ORS 418.205 to 418.327 [*which*] **by the**

Department of Human Services that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

(2) "Residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 [which] **that** provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

(3) "Zoning requirement" means any standard, criteria, condition, review procedure, permit requirement or other requirement adopted by a city or county under the authority of ORS chapter 215 or 227 which applies to the approval or siting of a residential facility or residential home. A zoning requirement does not include a state or local health, safety, building, occupancy or fire code requirement.

SECTION 48. ORS 197.667 is amended to read:

197.667. (1) A residential facility shall be a permitted use in any zone where multifamily residential uses are a permitted use.

(2) A residential facility shall be a conditional use in any zone where multifamily residential uses are a conditional use.

(3) A city or county may allow a residential facility in a residential zone other than those zones described in subsections (1) and (2) of this section, including a zone where a single-family dwelling is allowed.

(4) A city or county may require an applicant proposing to site a residential facility within its jurisdiction to supply the city or county with a copy of the entire application and supporting documentation for state licensing of the facility, except for information which is exempt from public disclosure under ORS 192.496 to 192.530. However, cities and counties shall not require independent proof of the same conditions that have been required by the Department of Human Services [as defined in ORS 443.400 or the State Office for Services to Children and Families] under ORS 418.205 to 418.327 for licensing of a residential facility.

SECTION 49. ORS 238.300 is amended to read:

238.300. Upon retiring from service at normal retirement age or thereafter a person who is a member of the system shall receive a service retirement allowance which shall consist of the following annuity and pensions:

(1) A refund annuity which shall be the actuarial equivalent of accumulated contributions by the member and interest thereon credited at the time of retirement, which annuity shall provide an allowance payable during the life of the member and at death a lump sum equal in amount to the difference between accumulated contributions at the time of retirement and the sum of the annuity payments actually made to the member during life shall be paid to such person, if any, as the member nominates by written designation duly acknowledged and filed with the board or shall otherwise be paid according to the provisions of this chapter for disposal of an amount credited to the account of a member at the time of death in the event the member designates no beneficiary to receive the amount or no such beneficiary is able to receive the amount. If death of the member occurs before the first payment is due, the account of the member shall be treated as though death had occurred before retirement.

(2)(a) A life pension (nonrefund) for current service provided by the contributions of employers, which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added to the sum of the annuity under subsection (1) of this section and the annuity, if any, provided on the same basis and payable from the Variable Annuity Account, both annuities considered on a refund basis, results in a total of:

(A) For service as a police officer or firefighter, two percent of final average salary multiplied by the number of years of membership in the system as a police officer or firefighter before the effective date of retirement.

(B) For service as a member of the Legislative Assembly, two percent of final average salary multiplied by the number of years of membership in the system as a member of the Legislative Assembly before the effective date of retirement.

(C) For service as other than a police officer, firefighter or member of the Legislative Assembly, 1.67 percent of final average salary multiplied by the number of years of membership in the system as other than a police officer, firefighter or member of the Legislative Assembly before the effective date of retirement.

(b) A pension under this subsection shall be at least:

(A) The actuarial equivalent of the annuity provided by the accumulated contributions of the member.

(B) For a member who made contributions before August 21, 1981, the equivalent of a pension computed pursuant to this subsection as it existed immediately before that date.

(c) As used in this subsection, "number of years of membership" means the number of full years plus any remaining fraction of a year for which salary was paid and contributions to the Public Employees Retirement System made. Except as otherwise provided in this paragraph, in determining a remaining fraction a full month shall be considered as one-twelfth of a year and a major fraction of a month shall be considered as a full month. Membership of a school district employee, an employee of the State Board of Higher Education engaged in teaching or other school activity at an institution of higher education or an employee of the [*State Office for Services to Children and Families*] **Department of Human Services**, the Oregon Youth Authority, the Department of Corrections[, *the Mental Health and Developmental Disability Services Division*] or the State Board of Education engaged in teaching or other school activity at an institution supervised by the [*office,*] authority, board[,] **or** department [*or division*], for all portions of a school year in a calendar year in which the district school, institution of higher education or school activity at an institution so supervised in which the member is employed is normally in session shall be considered as a full one-half year of membership. The number of years of membership of a member who received a refund of contributions as provided in ORS 237.976 (2) is limited to the number of years after the day before the date on which the refund was received. The number of years of membership of a member who is separated, for any reason other than death or disability, from all service entitling the member to membership in the system, who withdraws the amount credited to the account of the member in the fund during absence from such service and who thereafter reenters the service of an employer participating in the system but does not repay the amount so withdrawn as provided in this chapter, is limited to the number of years after the day before the date of so reentering.

(3) An additional life pension (nonrefund) for prior service, including military service, credited to the member at the time of first becoming a member of the system, as elsewhere provided in this chapter, which pension shall be provided by the prior service contributions of the employer or, in case the member is an employee of a school district, by a uniform rate of contribution by all school districts.

SECTION 50. ORS 276.180 is amended to read:

276.180. When vacated and no longer required for institution uses, all or any portion of the buildings, grounds and facilities presently operated and controlled by the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, Department of Corrections[, *State Office for Services to Children and Families,*] or the State Board of Education, are transferred to the Oregon Department of Administrative Services when so ordered by the Oregon Department of Administrative Services. Title shall vest automatically in the Oregon Department of Administrative Services in the name of the State of Oregon and the department shall operate and maintain all facilities described in this section.

SECTION 51. ORS 279.855 is amended to read:

279.855. The following may purchase equipment, materials, supplies and services through the Oregon Department of Administrative Services in the same manner as state agencies as provided in ORS 279.545 to 279.746 and 279.800 to 279.833:

(1) Qualified nonprofit agencies for disabled individuals participating in the program set forth in ORS 279.015 and 279.835 to 279.850.

(2) Residential programs when under contract with the Department of Human Services [*or any division thereof*] to provide services to youth in the custody of the state.

(3) Public benefit corporations, as defined in ORS 65.001, that provide public services either under contract with a state agency, as defined in ORS 171.133, or under contract with a unit of local government, as defined in ORS 190.003, that funds the contract, in whole or in part, with state funds.

SECTION 52. ORS 285A.458 is amended to read:

285A.458. (1) The Governor shall create and maintain regional workforce committees to advise on regional and local needs for workforce development, to prepare plans for achieving regional goals and to coordinate the provision of services within regions. The committees shall have private and public sector members. However, a majority of the members of each committee shall represent the private sector and include business and labor representatives. The chairperson of each committee shall be a private sector member and be elected by the committee.

(2) The private sector committee members shall play a critical role in workforce development, including but not limited to:

(a) Identifying current and future workforce needs;

(b) Providing feedback on public sector programs;

(c) Assisting public agencies in changing programs to be more effective in meeting private sector needs; and

(d) Being a partner in addressing workforce needs.

(3) Private sector members of a committee created under this section shall be appointed by county commissioners and, in the region that includes the City of Portland, the Mayor of Portland. The members of the committee shall reflect the broadest feasible representation from the groups described in ORS 285A.455 (4)(a) to (h).

(4) The public sector representatives on the committee are representatives who receive resources and deliver education and workforce programs within the labor market area. Public sector members shall include the broadest feasible representation from, but not be limited to, the following:

(a) The [*Adult and Family Services Division of the*] Department of Human Services;

(b) School districts, education service districts, community colleges, state institutions of higher education and Oregon Health Sciences University;

[(c) *The Vocational Rehabilitation Division of the Department of Human Services;*]

[(d)] (c) The Economic and Community Development Department and local economic development entities;

[(e)] (d) The Employment Department;

[(f)] (e) The Job Training Partnership Act local administrative entity; and

[(g)] (f) Other public sector partners.

(5) A local region individually may recommend to the Governor an alternate structure for its regional committee, based on local determination and mutually agreed to by the current public and private sector members of the regional workforce committee and the local elected officials. The alternate structure must retain a private sector chairperson, appointments of the private sector members as provided in subsection (3) of this section, and substantive public and private sector and other stakeholder participation through formalized methods, such as standing committees.

(6) A regional workforce committee shall develop and implement a strategic plan that responds to the current and future workforce needs of the local labor market.

(7) The strategic plan shall:

(a) Consider the supply and demand outlook for the region;

(b) Identify and prioritize initiatives and resources, both public and private, to meet the local workforce needs;

(c) Articulate and include the coordination of both public and private resources in addressing the workforce needs and goals; and

(d) Ensure the most appropriate use of resource investments.

(8) The regional workforce committee shall create or enhance the workforce program delivery system to meet the strategic priorities of the region.

(9) Within each region, or within overlapping regions, regional workforce committees and regional strategy boards shall coordinate their planning efforts to ensure that the strategic efforts and resource allocation of economic and workforce development of an area are consistent. Regional workforce committees and regional strategy boards will extend opportunities to other entities engaged in economic and workforce development programs and services to participate in their joint or integrated strategic planning.

SECTION 53. ORS 310.630 is amended to read:

310.630. As used in ORS 310.630 to 310.706:

(1) "Department" means the Department of Revenue.

(2) "Fuel and utility payments" include payments for heat, lights, water, sewer and garbage made solely to secure those commodities or services for the homestead of the taxpayer. "Payments for heat" mean those payments made to secure the commodities or services to be used as the principal source of heat for the homestead of the taxpayer and includes payments for natural gas, oil, firewood, coal, sawdust, electricity, steam or other materials that are capable of use as a primary source of heat for the homestead. "Fuel and utility payments" do not include telephone service.

(3) "Gross rent" means contract rent paid plus the fuel and utility payments made for the homestead in addition to the contract rent, during the calendar year for which the claim is filed.

(4) "Homestead" means the taxable principal dwelling located in Oregon, either real or personal property, rented by the taxpayer, and the taxable land area of the tax lot upon which it is built.

(5) "Household" means the taxpayer, the spouse of the taxpayer and all other persons residing in the homestead during any part of the calendar year for which a claim is filed.

(6) "Household income" means the aggregate income of the taxpayer and the spouse of the taxpayer who reside in the household, that was received during the calendar year for which the claim is filed. "Household income" includes payments received by the taxpayer or the spouse of the taxpayer under the federal Social Security Act for the benefit of a minor child or minor children who are members of the household.

(7) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code, as amended and in effect on December 31, 1998, even where the amendments take effect or become operative after that date, relating to the measurement of taxable income of individuals, estates and trusts, with the following modifications:

(a) There shall be added to adjusted gross income the following items of otherwise exempt income:

(A) The gross amount of any otherwise exempt pension less return of investment, if any.

(B) Child support received by the taxpayer.

(C) Inheritances.

(D) Gifts and grants, the sum of which are in excess of \$500 per year.

(E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is not a member of the taxpayer's household.

(F) Life insurance proceeds.

(G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

(H) Personal injury damages.

(I) Sick pay which is not included in federal adjusted gross income.

(J) Strike benefits excluded from federal gross income.

(K) Worker's compensation, except for reimbursement of medical expense.

(L) Military pay and benefits.

(M) Veteran's benefits.

(N) Payments received under the federal Social Security Act which are excluded from federal gross income.

(O) Welfare payments, except as follows:

(i) Payments for medical care, drugs and medical supplies, if the payments are not made directly to the welfare recipient;

(ii) In-home services authorized and approved by the Department of Human Services[, *or by any of its divisions*]; and

(iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or training programs.

(P) Nontaxable dividends.

(Q) Nontaxable interest not included in federal adjusted gross income.

(R) Rental allowance paid to a minister that is excluded from federal gross income.

(S) Income from sources without the United States that is excluded from federal gross income.

(b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

(A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible properties.

(B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

(C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business, profession or other activity entered into for the production or collection of income.

(D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for the production of rents, royalties or other income.

(E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted gross income.

(F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depreciation, amortization or depletion.

(G) The amount added or subtracted, as required within the context of this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

(c) "Income" does not include any of the following:

(A) Any governmental grant which must be used by the taxpayer for rehabilitation of the homestead of the taxpayer.

(B) The amount of any payments made pursuant to ORS 310.630 to 310.706.

(C) Any refund of Oregon personal income taxes that were imposed under ORS chapter 316.

(8) "Contract rent" means rental paid to the landlord for the right to occupy a homestead, including the right to use the personal property located therein. "Contract rent" does not include rental paid for the right to occupy a homestead that is exempt from taxation, unless payments in lieu of taxes of 10 percent or more of the rental exclusive of fuel and utilities are made on behalf of the homestead. "Contract rent" does not include advanced rental payments for another period and rental deposits, whether or not expressly set out in the rental agreement, or payments made to a nonprofit home for the elderly described in ORS 307.375. If a landlord and tenant have not dealt with each other at arm's length, and the department is satisfied that the contract rent charged was excessive, it may adjust the contract rent to a reasonable amount for purposes of ORS 310.630 to 310.706.

(9) "Statement of gross rent" means a declaration by the applicant, under penalties of false swearing, that the amount of contract rent and fuel and utility payments designated is the actual amount both incurred and paid during the year for which elderly rental assistance is claimed.

(10) "Taxpayer" means an individual who is a resident of this state on December 31 of the year for which elderly rental assistance is claimed and whose homestead, as of the same December 31 and during all or a portion of the year ending on the same December 31, is rented and while rented is the subject, directly or indirectly, of property tax levied by this state or a political subdivision or of payments made in lieu of taxes.

SECTION 54. ORS 343.499 is amended to read:

343.499. (1)(a) There is created the State Interagency Coordinating Council.

(b) The Governor shall appoint members of the council from a list of eligible appointees provided by the council and agencies described in subsection (2) of this section and shall ensure that the membership of the council reasonably represents the population of this state.

(c) The Governor shall designate one member of the council to serve as the chairperson, or if the Governor chooses not to name a chairperson, the council may elect one of its members to serve as chairperson. However, any member of the council who represents the Department of Education may not serve as the chairperson of the council.

(2) The membership of the council shall be composed as follows:

(a) At least 20 percent of the council members shall be parents, including minority parents, of preschool children with disabilities or of children with disabilities who are 12 years of age or younger who have knowledge of or experience with programs for infants and toddlers with disabilities. At least one council member shall be a parent of an infant or toddler with a disability or of a child with a disability who is six years of age or younger.

(b) At least 20 percent of the council members shall be public or private providers of early intervention and early childhood special education services.

(c) At least one council member shall be a member of the Legislative Assembly.

(d) At least one council member shall be involved in the training and preparation of personnel for employment in early intervention and early childhood special education.

(e) At least one council member shall represent **the Department of Human Services**. *[each of the state agencies that are involved in the provision of or payment for services for preschool children with disabilities and their families and shall have sufficient authority to engage in policymaking and implementation on behalf of these agencies, including but not limited to the Department of Education, the Mental Health and Developmental Disability Services Division, the State Office for Services to Children and Families, the Health Division, the Alcohol and Drug Abuse Programs, the Office of Medical Assistance Programs, the Adult and Family Services Division, the Department of Consumer and Business Services, the State Commission on Children and Families and the Child Development and Rehabilitation Center of the Oregon Health Sciences University.]*

(f) At least one council member shall represent the federal Head Start program.

(g) At least one council member shall represent the Child Care Division of the Employment Department.

(h) At least one council member shall represent the Department of Education.

(i) At least one council member shall represent the Department of Consumer and Business Services.

(j) At least one council member shall represent the State Commission on Children and Families.

(k) At least one council member shall represent the Child Development and Rehabilitation Center of the Oregon Health Sciences University.

[(h)] **(L)** At least one council member shall be a member of the State Advisory Council for Special Education created under ORS 343.287.

[(i)] **(m)** The council may include other members appointed by the Governor, including but not limited to one representative from the United States Bureau of Indian Affairs or, where there is no school operated or funded by the bureau, from the Indian Health Service or the tribe or tribal council.

(3) An individual appointed to represent a state agency that is involved in the provision of or payment for services for preschool children with disabilities under subsection (2)(e) and (h) to (k) of this section shall have sufficient authority to engage in making and implementing policy on behalf of the agency.

[(3)] **(4)** The State Interagency Coordinating Council shall:

(a) Advise the Superintendent of Public Instruction and the State Board of Education on unmet needs in the early childhood special education and early intervention programs for preschool children with disabilities, review and comment publicly on any rules proposed by the State Board of

Education and the distribution of funds for the programs and assist the state in developing and reporting data on and evaluations of the programs and services.

(b) Advise and assist the represented public agencies regarding the services and programs they provide to preschool children with disabilities and their families, including public comments on any proposed rules affecting the target population and the distribution of funds for such services, and assist each agency in developing services that reflect the overall goals for the target population as adopted by the council.

(c) Advise and assist the Department of Education and other state agencies in the development and implementation of the policies that constitute the statewide system.

(d) Assist all appropriate public agencies in achieving the full participation, coordination and cooperation for implementation of a statewide system that includes but is not limited to:

(A) Seeking information from service providers, service coordinators, parents and others about any federal, state or local policies that impede timely service delivery; and

(B) Taking steps to ensure that any policy problems identified under subparagraph (A) of this paragraph are resolved.

(e) Advise and assist the Department of Education in identifying the sources of fiscal and other support for preschool services, assigning financial responsibility to the appropriate agencies and ensuring that the provisions of interagency agreements under ORS 343.511 are carried out.

(f) Review and comment on each agency's services and policies regarding services for preschool children with disabilities, or preschool children who are at risk of developing disabling conditions, and their families to the maximum extent possible to assure cost-effective and efficient use of resources.

(g) To the extent appropriate, assist the Department **of Education** in the resolution of disputes.

(h) Advise and assist the Department of Education in the preparation of applications and amendments thereto.

(i) Advise and assist the Department of Education regarding the transition of preschool children with disabilities.

(j) Prepare and submit an annual report to the Governor and to the United States Secretary of Education on the status of early intervention programs operated within this state.

[4] (5) The council may advise appropriate agencies about integration of services for preschool children with disabilities and at-risk preschool children.

[5] (6) Terms of office for council members shall be three years, except that:

(a) The representative from the State Advisory Council for Special Education shall serve a one-year term; and

(b) The representatives from other state agencies and the representative from the Legislative Assembly shall serve indefinite terms.

[6] (7) Subject to approval by the Governor, the council may use federal funds appropriated for this purpose and available to the council to:

(a) Conduct hearings and forums;

(b) Reimburse nonagency council members pursuant to ORS 292.495 for attending council meetings, for performing council duties, and for necessary expenses, including child care for parent members;

(c) Pay compensation to a council member if the member is not employed or if the member must forfeit wages from other employment when performing official council business;

(d) Hire staff; and

(e) Obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions.

[7] (8) Except as provided in subsection [6] (7) of this section, council members shall serve without compensation.

[8] (9) The Department of Education shall provide clerical and administrative support, including staff, to the council to carry out the performance of the council's function as described in this section.

[(9)] **(10)** The council shall meet at least quarterly. The meetings shall be announced publicly and, to the extent appropriate, be open and accessible to the general public.

[(10)] **(11)** No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law.

SECTION 55. ORS 343.507 is amended to read:

343.507. (1) Each contractor for early childhood special education and early intervention services shall assist in the development of a local early intervention interagency advisory council in every county within the contractor's service area.

(2) Each local early intervention interagency advisory council shall include as members at least 20 percent parents of preschool children with disabilities, 20 percent providers of early childhood special education and early intervention services or other services to preschool children with disabilities, a representative of the State Commission on Children and Families and representatives from public and private agencies that serve young children and their families, including but not limited to Head Start and Oregon prekindergartens, community child care, the Child Care Division of the Employment Department, local school districts, education service districts, Department of Education regional special education programs, [*the Health Division,*] community [*Mental Health and Developmental Disability Services Division*] **mental health and developmental disabilities** programs, [*the State Office for Services to Children and Families, the Adult and Family Services Division,*] **Department of Human Services health programs, child welfare programs and public assistance programs**, Indian education agencies, migrant programs serving young children and community colleges.

(3) Each local early intervention interagency advisory council shall select its own chairperson and vice chairperson and fix the duties of its officers.

(4) The department shall establish procedures pursuant to rules of the State Board of Education for seeking and considering local council advice regarding the selection of contractors, coordination of services and procedures for local resolution of disputes.

SECTION 56. ORS 344.511 is amended to read:

344.511. As used in ORS 344.511 to 344.690 and 344.710 to 344.730:

[(1)] "*Assistant director*" means the Assistant Director for Vocational Rehabilitation.]

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

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

[(2)] **(3)** "Disabled individual" means any person who has a substantial occupational handicap due to a physical or mental condition except blindness.

[(3)] "*Division*" means the Vocational Rehabilitation Division established by ORS 344.520.]

(4) "Maintenance" means money payments, during vocational rehabilitation, to individuals with occupational handicaps found to require financial assistance with respect thereto in order to effectuate the vocational rehabilitation of such individuals.

(5) "Occupational handicap" means a physical or mental condition other than blindness which, regardless of its origin, constitutes, contributes to, or, if not corrected, will probably result in, an obstruction to occupational performance or the condition of being an untrained individual.

(6) "Occupational licenses" means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in any occupation.

(7) "Occupational tools, equipment and supplies" means such customary implements, appliances, apparatus, fixtures and materials as are necessary for the successful prosecution of the employment objective of an individual with an occupational handicap.

(8) "Physical restoration" means any medical, surgical or therapeutic treatment necessary to correct or substantially modify an individual's occupational handicap within a reasonable length of time. The term includes but is not limited to medical, psychiatric, dental and surgical treatment, nursing services, hospital and convalescent home care, medical and surgical drugs and supplies, and prosthetic appliances, excluding curative treatment for acute or transitory conditions.

(9) "Prosthetic appliance" means any artificial appliance designed to support or take the place of a part of the body or to increase the acuity of a sense organ.

(10) "Rehabilitation training" means all training provided, directly or through public or private instrumentalities, to an individual to compensate for the occupational handicap of the individual. The term includes but is not limited to manual, preconditioning, prevocational, vocational and supplementary training and training provided for the purpose of achieving broader and more remunerative skills and capacities.

(11) "Severely handicapped individual" means a disabled individual who, because of the nature of disabilities, is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided.

(12) "Untrained individual" means any person without mental or physical disability who has a substantial occupational handicap due to lack of occupational training, experience, skills or other factors and who is receiving and, in the opinion of the [Adult and Family Services Division] **Department of Human Services**, probably will continue to receive public assistance because of the occupational handicap of the individual.

(13) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services necessary to enable an individual with an occupational handicap to engage in a remunerative occupation and include, but are not limited to, medical and vocational diagnoses, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, occupational tools, equipment and supplies, maintenance and training books, supplies and materials.

SECTION 57. ORS 344.530 is amended to read:

344.530. Notwithstanding any other provisions of the law, the [Vocational Rehabilitation Division] **Department of Human Services** shall perform the following vocational rehabilitation functions:

[(1) Provide for the vocational rehabilitation of all eligible individuals with occupational disabilities and for their placement in remunerative occupations.]

[(2)] **(1)** Establish and enforce such rules as may be necessary to:

(a) Carry out ORS 344.511 to 344.690 and 344.710 to 344.730; **and**

(b) Safeguard the confidential character of vocational rehabilitation information and records.[: and]

[(c) Maintain a system of personnel standards, subject to the State Personnel Relations Law, governing the selection, appointment and employment upon a merit basis of all personnel engaged in the administration of the vocational rehabilitation program.]

[(3)] **(2)** Cooperate with public and private departments, agencies and institutions in:

(a) Providing for the vocational rehabilitation of individuals with occupational disabilities;

(b) Studying the problems involved therein; and

(c) Establishing, developing and providing, in conformity with ORS 344.511 to 344.690 and 344.710 to 344.730, such programs, facilities and services as may be necessary.

[(4)] **(3)** Enter into reciprocal agreements with other states relative to the provision of vocational rehabilitation to residents of the states concerned.

[(5)] **(4)** Conduct research and compile statistics relating to the vocational rehabilitation of individuals with occupational disabilities.

[(6)] **(5)** Encourage and assist severely disabled individuals in the establishment, maintenance and conduct of appropriate home industries within their capacities and in the promotion of the sale and distribution of the products of such home industries. All funds collected or received from such activities shall be deposited in a permanent special fund in the State Treasury and shall be used for the operation of such home industries as determined by the [division] **department**.

[(7)] **(6)** For rehabilitation facilities:

(a) Establish, conduct and maintain facilities necessary for the sheltered employment of severely disabled individuals;

(b) Pay the individuals employed in the facilities suitable wages;

- (c) Devise means for the sale and distribution of the products of the facilities;
- (d) Devise a subsidy program, and include a plan for its funding in each biennial budget submitted to the Legislative Assembly; and
- (e) Take such other action as may be necessary to insure the successful operation of the facilities established.

~~[(8)]~~ **(7)** All funds collected or received from activities described in subsection ~~[(7)]~~ **(6)** of this section shall be deposited in the State Vocational Rehabilitation Account and are appropriated and shall be used for the operation of facilities necessary for the sheltered employment of severely disabled individuals as determined by the ~~[division]~~ **department**.

~~[(9)]~~ *Family support services provided by the Vocational Rehabilitation Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.*

~~[(10)]~~ **(8)** Take such other action as may be necessary to carry out ORS 344.511 to 344.690 and 344.710 to 344.730.

SECTION 58. ORS 344.620 is amended to read:

344.620. (1) There is established in the General Fund of the State Treasury, a State Vocational Rehabilitation Account which shall consist of all moneys made available to the ~~[Vocational Rehabilitation Division]~~ **Department of Human Services** for rehabilitation purposes. All moneys in such special account hereby are appropriated for the purposes of the administration of ORS 344.511 to 344.690, 344.710 to 344.730 and 344.850.

(2) The State Treasurer is designated custodian of all funds received from the federal government for the purpose of carrying out any federal Act pertaining to vocational rehabilitation. The State Treasurer shall receive such funds and provide for their custody.

(3) Disbursements from the State Vocational Rehabilitation Account shall be made as directed by the ~~[division]~~ **department**. The ~~[division]~~ **department** shall keep a record of all moneys deposited in such account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the ~~[individual divisional]~~ **departmental** activity against which each withdrawal is charged.

SECTION 59. ORS 344.685 is amended to read:

344.685. (1) There is established the Vocational Rehabilitation ~~[Division]~~ Revolving Fund, not to exceed the sum of \$750,000, for the use of the ~~[Vocational Rehabilitation Division]~~ **Department of Human Services**. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the ~~[division]~~ **department** may draw checks for the purposes of paying expenses of vocational rehabilitation services when it is appropriate to make immediate payments for such services, including advance payments to applicants for vocational rehabilitation.

(2) Disbursements from the revolving fund may be made by the ~~[division]~~ **department** and all vouchers for payments made from the fund shall be approved by the ~~[administrator of the division]~~ **Director of Human Services**. When payments are so approved, reimbursements shall be made to the ~~[division]~~ **department** revolving fund upon order of the ~~[Assistant Director for Vocational Rehabilitation]~~ **director** out of funds in the State Vocational Rehabilitation Account.

SECTION 60. ORS 344.735 is amended to read:

344.735. (1) There is established a state advisory committee that shall function solely in an advisory capacity to the ~~[Assistant Director for Vocational Rehabilitation and to the Vocational Rehabilitation Division]~~ **Director of Human Services on vocational rehabilitation services**. The ~~[assistant]~~ director shall appoint members to the advisory committee. A majority of the advisory committee shall be disabled persons.

(2) The ~~[assistant]~~ director shall include advisory committee recommendations in the ~~[division's]~~ **Department of Human Services'** decision-making process. The advisory committee shall:

- (a) Collect and study data and other information and offer advice concerning specialized needs of specific client groups;
- (b) Provide liaison between the ~~[division]~~ **department** and the rehabilitation community;

(c) Review and suggest new and revised legislation affecting the provision of vocational rehabilitation services to Oregon's disabled;

(d) Study, collect data and offer advice regarding high priority issues identified by the [division] **department**;

(e) Consider items of statewide concern relayed from regional advisory committees; and

(f) Utilize regional committees as a resource for gathering information as it relates to the individual areas.

(3) Through the advisory committee, the [division] **department** shall take into account views of individuals and groups who are recipients of vocational rehabilitation services, providers of vocational rehabilitation services and others who are active in the vocational rehabilitation field, in connection with matters of general policy, program development and implementation.

SECTION 61. ORS 346.015 is amended to read:

346.015. (1) Prior to convening a meeting to prepare an individual education plan for a mentally retarded or developmentally disabled child for whom placement at a school under ORS 346.010 may be considered, the agency that is providing the education for the child shall notify the local community mental health and developmental disabilities program. The mentally retarded and developmentally disabled program mental health case manager in consultation with the [*Mental Health and Developmental Disability Services Division and with the assistance of a State Office for Services to Children and Families caseworker*] **Department of Human Services** shall evaluate whether the child also has needs for alternative residential care or other support services. If the evaluation determines this to be the case, but documents that community resources are not available to meet these needs, the school district may proceed with the meeting to prepare the individual education plan in which placement at a school under ORS 346.010 may be considered.

(2) An agency providing education under subsection (1) of this section may initiate the procedure in subsection (1) of this section for any child who is not mentally retarded or developmentally disabled when in the agency's judgment a treatment or residential issue is prompting proposed placement under ORS 346.010.

(3) No child shall be placed in a facility operated under ORS 346.010 and no school district of residence shall be billed under ORS 343.243 unless the district superintendent or the superintendent's designee has signed a statement declaring that the district cannot provide a free appropriate public education for the child commensurate with the needs of the child as identified by the individual education plan of the child and that the facility is the least restrictive environment in which the child can be educated.

(4) By rule, the State Board of Education shall determine procedures to be followed by local education agencies in carrying out this section.

SECTION 62. ORS 409.070 is amended to read:

409.070. (1) There is established a Department of Human Services Special Checking Account in the State Treasury. Upon the written request of the Director of Human Services, the Oregon Department of Administrative Services shall draw payments in favor of the Department of Human Services to be charged against appropriations and other moneys available to the Department of Human Services in the same manner as other claims against the state, as provided in ORS chapter 293. All such payments shall be deposited in the special checking account and may be disbursed by check or other means acceptable to the State Treasurer.

(2) The special checking account may be used for the purpose of paying the administrative expenses of programs and services as assigned to the Department of Human Services by law, including the payment of expenses to be reimbursed by the federal government.

(3) In addition to the authority provided in ORS 293.180, the Department of Human Services may establish petty cash funds out of the special checking account or any account established in the State Treasury for the department [*or its divisions*]. Small cash disbursements to pay the expenses of the department [*or its divisions*] may be made from a petty cash fund. Periodically, the department shall request reimbursement for disbursements made from a petty cash fund. Upon receipt of a re-

imbursement payment from an appropriate account, the department shall use the payment to reimburse the petty cash fund.

SECTION 63. ORS 409.080 is amended to read:

409.080. Notwithstanding any other law, the Department of Human Services may, with the approval of the Oregon Department of Administrative Services and the State Treasurer, combine or eliminate any accounts that are established in statute within the authority of the Department of Human Services [*or its divisions*] when the Department of Human Services determines that economy and efficiency in operations can be obtained and that the combination or elimination of accounts does not substantially alter the intent of the authorizing statutes. When accounts are combined, the Department of Human Services retains the authority granted by the statutes establishing the accounts.

SECTION 64. ORS 409.110 is amended to read:

409.110. (1) The Director of Human Services, consistent with any federal requirements and with the prior consent of the Governor:

(a) May cause the [*programs, divisions, other*] organizational units [*and offices*] within the Department of Human Services to make joint use of the personnel, resources, information and facilities available within the department;

(b) May combine or transfer components of [*existing programs, divisions, other*] organizational units [*and offices*] within the department; and

(c) May organize and reorganize the department in the manner the director considers necessary to properly conduct the work of the department consistent with federal requirements and after consultation with parties affected by such change, including but not limited to service providers, advisory committees and county governments.

[(2) When the action taken under subsection (1) of this section requires any transfer between appropriations or expenditure limitations or between the budgets of programs, divisions, other organizational units and offices within the department, established by legislative action, the transfer first must be approved by the Legislative Assembly or, if it is not in session, the Emergency Board.]

[(3) Consistent with federal requirements, the director has the same power, duty, function or authority that is vested in any division or office of the department or any personnel in the department. The director may delegate any power, duty, function or authority in accordance with ORS 409.120.]

[(4) (2) The director may make financial grants to local units of government, nonprofit organizations and individuals from funds appropriated by the Legislative Assembly to carry out the department's responsibilities.

SECTION 65. ORS 409.130 is amended to read:

409.130. (1) The Director of Human Services may appoint a deputy director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director. The deputy director shall have full authority to act for the director, subject to directions of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

[(2) Each division or office within the Department of Human Services shall be under the supervision of an assistant director appointed by the director. The assistant director's appointment is subject to approval by the Governor. The assistant director serves at the pleasure of the director.]

[(3) Except as provided in subsection (1) of this section and subject to any applicable provisions of the State Personnel Relations Law, the director may appoint employees within the office of the director of the department, prescribe their functions and fix their compensation.]

*[(4) (2) [In addition to the assistant directors specified in subsection (2) of this section, the] **The** director may appoint [*other*] assistant directors **as necessary** to carry out [*such other responsibilities as the director may assign*] **the responsibilities of the Department of Human Services. The appointment of each assistant director is subject to approval by the Governor. An assistant director serves at the pleasure of the director.***

SECTION 66. ORS 409.150 is amended to read:

409.150. Assistant directors appointed under ORS 409.130 shall be in the unclassified service of the state and shall receive such salaries as may be provided by law. With the approval of the Di-

rector of **Human Services**, each assistant director [*supervising a division*] may appoint [*one deputy and one secretary*] **deputies and secretarial staff as necessary to conduct the work of the department** who shall be in the unclassified service and receive such salaries as may be provided by law. In addition to their salaries, they shall, subject to the limitations otherwise provided by law, be reimbursed for all expenses actually and necessarily incurred in the performance of official duties.

SECTION 67. ORS 409.160 is amended to read:

409.160. (1) The Director of Human Services shall require from the personnel within the department such information, reports and documentation, as the director, in the discretion of the director, determines will be necessary to enable the director to:

(a) Execute responsibilities pursuant to law.

(b) Develop and report to the Governor from time to time on legislative, budgetary and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to the department.

(c) File with the Oregon Department of Administrative Services, for purposes of ORS 291.208, a budget report for [*each program, division, other organizational unit or office within*] the department.

(2) Where such information, reports or documentation is confidential in the hands of departmental personnel, it shall be confidential in the hands of the director.

SECTION 68. ORS 409.185 is amended to read:

409.185. [(1) *The State Office for Services to Children and Families is established in the Department of Human Services.*]

[(2) *The Assistant Director for Services to Children and Families shall be appointed by the Director of Human Services subject to approval by the Governor from among persons well qualified by training and experience to provide the services described in ORS 409.190. The assistant director shall serve at the pleasure of the director.*]

[(3) *The assistant director shall hire and supervise qualified personnel required to provide the services described in ORS 409.190, and may contract as necessary with appropriate public and private providers for such services.*]

[(4) (1) The [*assistant director*] **Director of Human Services** shall oversee the development of standards and procedures for assessment, investigation and enforcement of child protective services.

[(5)(a) (2)(a) The [*office*] **Department of Human Services** shall take action to implement the provision of child protective services as outlined in ORS 417.705 to 417.797 and 419A.170 and based on the recommendations in the 1992 "Oregon Child Protective Services Performance Study" published by the University of Southern Maine.

(b) In all substantiated cases of child abuse and neglect, the role of the [*State Office for Services to Children and Families*] **department** is to complete a comprehensive family assessment of risk of abuse or neglect, or both, assess service needs and provide immediate protective services as necessary.

(c) The [*office*] **department** shall provide remedial services needed to ensure the safety of the child.

(d) In all cases of abuse and neglect when a criminal investigation occurs, the role of law enforcement agencies is to provide a legally sound, child sensitive investigation of whether abuse or neglect or both have occurred and to gather other evidence and perform other responsibilities in accordance with interagency agreements.

(e) The [*office*] **department** and law enforcement agencies shall conduct the investigation and assessment concurrently, based upon the protocols and procedures of the multidisciplinary team in each jurisdiction.

(f) When the [*office*] **department** and law enforcement agencies conduct a joint investigation and assessment, the activities of the [*office*] **department** and agencies are to be clearly differentiated by the protocols of the multidisciplinary team.

(g) Nothing in this subsection is intended to be inconsistent with ORS 418.747, 418.748 and 418.749 and ORS chapter 419B.

SECTION 69. ORS 409.225 is amended to read:

409.225. (1) In the interest of family privacy and for the protection of children, families and other recipients of services, the [*State Office for Services to Children and Families*] **Department of Human Services** shall not disclose or use the contents of any **child welfare** records, files, papers or communications that contain any information about an individual child, family or other recipient of services for purposes other than those directly connected with the administration of child welfare laws or unless required or authorized by ORS 419A.255 or 419B.035. The records, files, papers and communications are confidential and are not available for public inspection. General information, policy statements, statistical reports or similar compilations of data are not confidential unless such information is identified with an individual child, family or other recipient of services or protected by other provision of law.

(2) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the [*State Office for Services to Children and Families*] **department** shall disclose **child welfare** records:

(a) About a recipient of services, to the recipient if the recipient is 18 years of age or older or is legally emancipated, unless prohibited by court order;

(b) Regarding a specific individual if the individual gives written authorization to release confidential information;

(c) Concerning a child receiving services on a voluntary basis, to the child's parent or legal guardian;

(d) To the juvenile court in proceedings regarding the child; and

(e) Concerning a child who is or has been in the custody of the [*State Office for Services to Children and Families*] **department**, to the child's parent or legal guardian except:

(A) When the child objects; or

(B) If disclosure would be contrary to the best interests of any child or could be harmful to the person caring for the child.

(3) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the [*State Office for Services to Children and Families*] **department** shall disclose **child welfare** records, if in the best interests of the child, to:

[*(a) Employees of the Department of Human Services to the extent necessary to perform their official duties or to provide services to the child or family;*]

[*(b) (a) Treatment providers, foster parents, adoptive parents, school officials or other persons providing services to the child or family to the extent that such disclosure is necessary to provide services to the child or family; or*

[*(c) (b) A person designated as a member of a sensitive review committee convened by the Director of [*the State Office for Services to Children and Families*] **Human Services** when the purpose of the committee is to determine whether the [*State Office for Services to Children and Families*] **department** acted appropriately and to make recommendations to the [*State Office for Services to Children and Families*] **department** regarding policy and practice.*

(4) Any record disclosed under subsection (1), (2) or (3) of this section shall be kept confidential by the person or entity to whom the record is disclosed and shall be used only for the purpose for which disclosure was made.

(5) Unless exempt from disclosure under ORS chapter 192, when an adult who is the subject of information made confidential by subsection (1) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the protections afforded by subsection (1) of this section are presumed voluntarily waived and confidential information about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interests of the child or necessary to the administration of the child welfare laws.

(6) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the [*State Office for Services to Children and Families*] **department** shall disclose information related to the [*office's*] **department's** activities and responsibilities in a case where child

abuse or neglect has resulted in a child fatality or near fatality or where an adult has been charged with a crime related to child abuse or neglect.

(7) Notwithstanding subsections (2), (3), (5) and (6) of this section, ORS 192.501 (3) shall apply to investigatory information compiled for criminal law purposes that may be in the possession of the [State Office for Services to Children and Families.] **department.**

(8) As used in this section, "adult" means a person who is 18 years of age or older.

SECTION 70. ORS 409.230 is amended to read:

409.230. (1) Information contained in [State Office for Services to Children and Families] **Department of Human Services** reports and other [office] materials relating to a child's history and prognosis that, in the professional judgment of the person providing the information for the reports or other materials, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person or entity who is in danger from the child.

(2) An agency or a person who discloses information under subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure. The disclosure of information under this section does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

SECTION 71. ORS 409.270 is amended to read:

409.270. As used in ORS 409.273 to 409.285:

[(1) "Assistant director" means the Assistant Director for Services to Children and Families.]

[(2)] **(1)** "Crisis line" means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral and advocacy to victims of sexual offenses and their families.

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

SECTION 72. ORS 409.310 is amended to read:

409.310. [(1) *The Health Division is created in the Department of Human Services. The Health Division shall be responsible for the administration of health and health-related affairs in this state as provided by law, including but not limited to public health services, migrant health services, licensing of health facilities, and coordinating the activities of professional and occupational licensing boards.*]

[(2) *The Health Division shall provide necessary staff assistance and services to, and shall have full authority and responsibility for, all administrative matters in connection with the functioning of the division.*]

[(3)] It is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of health-related professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility and authority in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments, for decisions on qualifications, standards of practice, licensing, enforcement, discipline and other discretionary functions relating to professional activities. The professional licensing boards shall have authority to employ such personnel as they consider necessary to carry out their respective functions and shall maintain full budgetary control over the boards' expenditures and their recommendations for legislation including but not limited to appropriations. Expenditures are subject to the allotment system under ORS 291.232 to 291.260 and rules adopted thereunder. Budgets shall be prepared pursuant to ORS 291.201 to 291.226 and rules adopted thereunder.

SECTION 73. ORS 409.410 is amended to read:

409.410. (1) The Director of Human Services shall [appoint an Assistant Director for Alcohol and Drug Abuse Programs. The Assistant Director for Alcohol and Drug Abuse Programs shall have full responsibility to] administer all alcohol and drug abuse programs, [including the funds appropriated therefor, that would otherwise be the responsibility of the Mental Health and Developmental Disability Services Division,] including but not limited to programs or components of programs described in ORS 430.397 to 430.401, ORS chapter 430, 475.225, 743.557, 743.558 and ORS chapters 801 to 822.

(2) Subject to ORS 417.300 and 417.305, the [Assistant Director for Alcohol and Drug Abuse Programs] **director** shall:

(a) Report to the Legislative Assembly on accomplishments and issues occurring during each biennium, and report on a new biennial plan describing resources, needs and priorities for all alcohol and drug abuse programs.

(b) Develop within the Department of Human Services priorities for alcohol and drug abuse programs and activities.

(c) Monitor the priorities of approved alcohol and drug abuse related programs in all other state agencies.

(d) Conduct statewide and special planning processes which provide for participation from state and local agencies, groups and individuals.

(e) Identify the needs of special populations including minorities, elderly, youth, women and individuals with disabilities.

(f) Subject to ORS 183.310 to 183.550, adopt such rules as are necessary for the performance of the duties and functions specified by this section, ORS 409.010 and 430.255 to 430.630, or otherwise lawfully delegated.

(3) The [Assistant Director for Alcohol and Drug Abuse Programs] **director** may apply for, receive and administer funds, including federal funds and grants, from sources other than the state. Subject to expenditure limitation set by the Legislative Assembly, funds received under this subsection may be expended by the [assistant] director:

(a) For the study, prevention or treatment of alcohol and drug abuse and dependence in this state.

(b) To provide training, both within this state and in other states, in the prevention and treatment of alcohol and drug abuse and dependence.

SECTION 74. ORS 409.710 is amended to read:

409.710. (1) The Department of Human Services [or any division or office in the department] shall not refer any individual on a job referral that would aid in the filling of a job opening that exists because of a labor dispute, as defined in ORS 662.010.

(2)(a) Notwithstanding any other provision of law, [no division of] **neither** the department [of Human Services, or] **nor** any other state agency [shall] **may** require as a condition of eligibility to receive benefits or services provided by that [division] **department** or agency that an individual apply for or accept employment at any workplace where there is a labor dispute in progress.

(b) As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

SECTION 75. ORS 410.040 is amended to read:

410.040. As used in ORS 409.010, 410.040 to 410.320, 411.590 and 441.630:

(1) "Appropriate living arrangement" means any arrangement for an elderly citizen or disabled citizen in a residential setting which is appropriate for the individual considering, in order of priority, the following criteria:

(a) Personal desires and goals of the individual;

(b) The right of the individual to live as independently as possible, in the least restrictive environment; and

(c) The cost of the living arrangement compared to other types of living arrangements, based on the criteria in paragraphs (a) and (b) of this subsection.

(2) "Area agency" means:

(a) An established or proposed type A or type B Area Agency on Aging within a planning and service area designated under Section 305 of the Older Americans Act; or

(b) Any public or nonprofit private agency which is designated as a type A or type B Area Agency on Aging under Section 305 of the Older Americans Act.

(3) "Area agency board" means the local policy-making board which directs the actions of the area agency within state and federal laws and regulations.

(4) "**Department**" means the Department of Human Services.

[(4)] (5) "Disabled person" means a person with a physical or mental disability:

(a) Who is eligible for Supplemental Security Income or for general assistance; and

(b) Who meets one of the following criteria:

(A) Is mentally retarded, [or] developmentally disabled **or mentally or emotionally disturbed** and resides in or needs placement in a residential program administered by the **department** [*Senior and Disabled Services Division*].

[(B)] *Is mentally or emotionally disturbed and resides in or needs placement in a residential program administered by the Senior and Disabled Services Division.*

[(C)] (B) Is an alcohol or drug abuser and resides in or needs placement in a residential program administered by the [*Senior and Disabled Services Division*] **department**.

[(D)] (C) Has a physical or mental disability other than those described in subparagraphs (A) [to (C)] **and (B)** of this paragraph.

[(5)] "*Division*" means the *Senior and Disabled Services Division of the Department of Human Services*.]

(6) "Elderly" or "elderly persons" means persons who are served by type A area agencies or type B area agencies or by the [*Senior and Disabled Services Division*] **department** and who are 60 years of age or older.

(7) "Local government" means a political subdivision of the state whose authority is general or a combination of units of general purpose local governments.

(8) "Preadmission screening" means a professional program within the [*Senior and Disabled Services Division*] **department** or type B area agencies, with staff that includes registered nurses and social workers, that assesses the needs of clients and recommends appropriate placements in residential programs administered by the [*Senior and Disabled Services Division*] **department** or type B area agencies.

(9) "Protective services" means a service to be provided by the [*Senior and Disabled Services Division*] **department** directly or through type B area agencies, in response to the need for protection from harm or neglect to elderly persons and disabled persons.

(10) "Title XIX" means [*the*] **long term care and health services** programs in Title XIX of the Social Security Act **available to elderly persons and disabled persons**. [*transferred from the long term care unit of the health and social services section of the Adult and Family Services Division to the Senior and Disabled Services Division but does not include Title XIX programs, other than home health, personal care and nursing home programs, or Title XIX programs in other divisions of the Department of Human Services.*]

(11) "Type A area agency" means an area agency:

(a) For which either the local government or the area agency board does not agree to accept local administrative responsibility for Title XIX; and

(b) That provides a service to elderly persons.

(12) "Type B area agency" means an area agency:

(a) For which the local government agrees to accept local administrative responsibility for Title XIX;

(b) That provides a service to elderly persons or to elderly persons and disabled persons who require services similar to those required by elderly persons; and

(c) That uses the term "disabled services" or "disability services" in its title to communicate the fact that it provides services to both populations described in paragraph (b) of this subsection.

SECTION 76. ORS 410.060 is amended to read:

410.060. (1) It is the policy of the State of Oregon that disabled persons served by the [*Senior and Disabled Services Division, or any designated state agency.*] **Department of Human Services** shall also receive necessary services, as appropriate for their needs, from other state agencies [*and divisions*].

(2) In carrying out the provisions in subsection (1) of this section, the Department of Human Services shall [*insure that the Senior and Disabled Services Division, or any designated state agency, negotiates*] **negotiate** interagency agreements and [*coordinates*] **coordinate** services with the [*Mental*

Health and Developmental Disability Services Division, Vocational Rehabilitation Division,] Employment Department[, *State Office for Services to Children and Families*] and the Department of Education for the provision of appropriate services to disabled clients of the [*Senior and Disabled Services Division, or any designated state agency*] **Department of Human Services.**

(3)(a) Prior to approval of an appropriate living arrangement, as defined in ORS 410.040, administered by the [*Senior and Disabled Services Division, or any designated state agency*] **Department of Human Services**, all disabled persons shall be assessed by preadmission screening to insure the appropriateness of the living arrangement.

(b) If a disabled person is diagnosed as, or is reasonably believed to be, mentally retarded or developmentally disabled, preadmission screening shall include an assessment by the **Developmental Disability** Diagnosis and Evaluation Service established under ORS 427.104. [*of the Mental Health and Developmental Disability Services Division.*]

(4) The [*Senior and Disabled Services Division, or any designated state agency.*] **Department of Human Services** in coordination with [*the Mental Health and Developmental Disability Services Division, State Office for Services to Children and Families, Vocational Rehabilitation Division and*] the Department of Education shall work with nursing homes which have one or more residents under 18 years of age to develop a program appropriate to the needs of such residents.

SECTION 77. ORS 410.070 is amended to read:

410.070. [(1) *The Senior and Disabled Services Division is created in the Department of Human Services. The division shall administer laws and programs relating to social, health and protective services to elderly persons and disabled persons, and shall promote the hiring of otherwise qualified persons who are certifiably disabled for positions within the programs it manages. Family support services provided by the Senior and Disabled Services Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.*]

[(2)] **(1)** The [*division*] **Department of Human Services** shall:

(a) Serve as the central state agency with primary responsibility for the planning, coordination, development and evaluation of policy, programs and services for elderly persons and disabled persons in Oregon.

(b) Function as the designated state unit on aging, as defined in the Older Americans Act of 1965.

(c) With the advice of the Governor's Commission on Senior Services and the Oregon Disabilities Commission, develop long-range state plans for programs, services and activities for elderly persons and disabled persons. State plans should be revised [*annually*] **biennially** and should be based on area agency plans, statewide priorities and state and federal requirements.

(d) Have the authority to transfer state and federal funds, except Title III of the Older Americans Act funds, from one area agency to another area agency or from one program or service to another program or service after consultation with the area agencies involved in the transfer. However, no area agency shall suffer a reduction in state or federal funds due to increased local funds.

(e) Receive and disburse all federal and state funds allocated to the [*division*] **department** and solicit, accept and administer grants, including federal grants or gifts made to the [*division*] **department** or to the state and enter into contracts with private entities for the purpose of providing or contracting for case management services for long term care insurance for the benefit of elderly persons and disabled persons in this state.

(f) Provide technical, training and program assistance to area agencies and assist them to provide such assistance to public and private agencies and organizations.

(g) Assist area agencies to stimulate more effective use of existing resources and services for elderly persons and develop programs, opportunities and services which are not otherwise provided for elderly persons, with the aim of developing a comprehensive and coordinated system for the delivery of social services to elderly persons.

(h) Assist local [*division units*] **department offices** and area agencies which have assumed responsibility for disabled services to stimulate more effective use of existing resources and to develop

programs, opportunities and services which are not otherwise provided for disabled persons, with the aim of developing a comprehensive and coordinated system for the delivery of social services to disabled persons.

(i) Serve within government and in the state at large as an advocate for elderly persons and disabled persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety and welfare of elderly persons and disabled persons and by assisting elderly persons and disabled persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied.

(j) Process fiscal and client data for all area agencies.

(k) Conduct regulatory functions with regard to program operation, by adopting rules for providing social services, including protective services, to elderly persons and disabled persons who need services that the [division] **department** or area agencies are authorized to provide and rules for standard rate setting and quality assurance.

(L) Provide information and technical assistance to the Governor's Commission on Senior Services, the Oregon Disabilities Commission and the Medicaid Long Term Care Quality and Reimbursement Advisory Council and keep the commissions and the council continually informed of the activities of the [division] **department**.

(m) Make recommendations for legislative action to the Governor and to the Legislative Assembly, after consultation with the Governor's Commission on Senior Services, the Oregon Disabilities Commission and the Medicaid Long Term Care Quality and Reimbursement Advisory Council.

(n) Conduct research and other appropriate activities to determine the needs of elderly persons and disabled persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons and disabled persons to meet those needs.

(o) Maintain a clearinghouse for information related to the needs and interests of elderly persons and disabled persons.

(p) Provide area agencies with assistance in applying for federal, state and private grants and identifying new funding sources.

[3] **(2)** In addition to the requirements of subsection [(2)] **(1)** of this section, the [division] **department** shall:

(a) Determine type A and type B area agencies annual budget levels for Oregon Project Independence and Title III of the Older Americans Act expenditures.

(b) For type B area agencies:

(A) Determine annual budget levels for planning Title XIX reimbursed services. In determining the budget levels, the [division] **department** shall retain contingency reserves against overruns and transfers in use of Title XIX funds.

(B) Provide timely management information so the area agencies and the [division's] **department's** disability services units can manage Title XIX reimbursements within budgeted levels.

(C) Determine annual budget levels for planning and administering programs relating to social, health, independent living and protective services for disabled persons for the [division's] **department's** disability services units and type B area agencies which have assumed local responsibility for the programs and clients transferred under [subsection (2) of] section 2 **(2)**, chapter 787, Oregon Laws 1989.

(c) Make payments for services within a central processing system for:

(A) A type A area agency, at the request of the agency, for Oregon Project Independence or Title III of the Older Americans Act expenditures, or both.

(B) A type B area agency, for Title XIX and Oregon Project Independence expenditures, and at the request of the agency, for Title III of the Older Americans Act expenditures.

(d) Assume program responsibility for Title XIX programs in areas served by type A area agencies and in areas where no area agency is designated.

(e) Assume planning and program responsibilities for disabled persons in areas served by type A area agencies, in areas served by type B agencies that serve only elderly persons and in areas where no area agency exists.

[(4)] **(3)** When developing programs affecting elderly persons, the [division] **department** shall consult with the Governor's Commission on Senior Services.

[(5)] **(4)** When developing programs affecting disabled persons, the [division] **department** shall consult with the Oregon Disabilities Commission.

SECTION 78. ORS 410.100 is amended to read:

410.100. (1) In the event that a local government withdraws the designation of an area agency, or the [Senior and Disabled Services Division] **Department of Human Services** withdraws the area agency designation in accordance with the Older Americans Act, the [division] **department** shall administer the services to clients previously performed by the area agency until a new area agency is designated.

(2) The [division] **department** may withdraw any particular program or service, except Title III of the Older Americans Act programs, from the area agency, and administer such programs and services. Before such action is taken, the [division] **department** must consult with the director of the area agency and the chief elected official of the affected local government. Such action shall be taken by the [division] **department** only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources. Withdrawal of any particular program or service is appealable to [the Director of Human Services and] the Governor **after requesting a reconsideration by the Director of Human Services.**

SECTION 79. ORS 410.210 is amended to read:

410.210. (1) Each area agency shall have an area agency advisory council, with members appointed by the area agency board.

(a) For a type A area agency, membership of the council shall include consumers of services **provided primarily to elderly persons** under [Senior and Disabled Services Division] **Department of Human Services** programs, including low income and minority persons.

(b) A type B area agency that serves elderly and disabled persons shall have two advisory councils. One shall include persons described in paragraph (a) of this subsection. The second shall be a disability services advisory council. That council shall have as a majority of its members disabled persons and shall include consumers of services and other interested persons. Any disability services advisory council in existence at the time the area agency assumes responsibility for providing services to disabled persons shall become the disability services advisory council for the area agency.

(2) Each area agency advisory council shall:

(a) Recommend basic policy guidelines for the administration of the activities of the area agencies on behalf of elderly persons or disabled persons, and advise the area agency on questions of policy.

(b) Advise the area agency with respect to development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the [Assistant Director for Senior and Disabled Services] **Director of Human Services.**

(c) Review and evaluate the effectiveness of the area agency in meeting the needs of elderly persons or disabled persons in the planning and service area.

(d) Meet at least quarterly. The meetings are subject to ORS 192.610 to 192.690.

SECTION 80. ORS 410.270 is amended to read:

410.270. (1) A local government shall be responsible for all actions of a type B area agency in its jurisdiction, including but not limited to the accountability for funds and compliance with federal and state laws and rules. Such responsibility shall include all geographic areas in which the type B area agency is designated to operate.

(2) The respective local government shall appoint a director of the type B area agency in its jurisdiction who must meet minimum qualifications established by the [*Senior and Disabled Services Division*] **Department of Human Services**. The director shall serve with the continuing approval of the [*Assistant Director for Senior and Disabled Services*] **Director of Human Services**. Continuing approval may be withdrawn by the [*assistant director*] **Director of Human Services** only when it can be shown that the state or federal rules have not been complied with by the type B area agency, state or federal funds are not being expended for the purposes for which they were intended or the elderly are not receiving appropriate services within available funds. Withdrawal of continuing approval is appealable to [*the Director of Human Services and*] the Governor by the local government **after requesting a reconsideration by the Director of Human Services**.

SECTION 81. ORS 410.300 is amended to read:

410.300. (1) A type B area agency may contract with the [*Senior and Disabled Services Division*] **Department of Human Services** for services of state employees or have such employees transferred to employment by the area agency by transfer agreement.

(2) State employees whose services have been contracted to a type B area agency shall be supervised for program purposes by the area agency.

(3) If state employees are transferred to a type B area agency, the provisions of ORS 236.610 to 236.640 shall apply.

(4) Prior to transfer of any state employee to any other public employer under ORS 327.525, 409.010, 410.040 to 410.320, 411.590 and 441.630, at a date to be determined by the [*Assistant Director for Senior and Disabled Services*] **Director of Human Services**, each type B area agency shall prepare a plan in coordination with local staff of the [*Adult and Family Services Division*] **department** for implementation of ORS 327.525, 409.010, 410.040 to 410.320, 411.590 and 441.630. The plan shall show how statutory responsibilities are to be met and how all staff are to be utilized.

SECTION 82. ORS 410.320 is amended to read:

410.320. (1) The Governor's Commission on Senior Services is created. The commission shall consist of at least 21 members appointed by the Governor for terms of three years.

(2) Prior to making appointments, the Governor shall request and consider recommendations from the area agencies on aging and other interested senior organizations. The Governor shall designate a member to serve at the pleasure of the Governor as chairperson for a term of two years with such duties as the Governor shall prescribe. The membership of the commission shall be composed of persons broadly representative of major public and private agencies who are experienced in or have demonstrated particular interest in the special needs of elderly persons, including persons who have been active in organizations and advocates on behalf of elderly persons. Additionally, membership shall include persons who are active in advocacy organizations representing the interests of disabled persons who are served in programs under the [*Senior and Disabled Services Division*] **Department of Human Services** and consumers of services **provided primarily to elderly persons and disabled persons** under [*the Senior and Disabled Services Division*] **department** programs, including low income, minority and disabled persons. At least a majority of members shall be 60 years of age or older.

(3) The Governor's Commission on Senior Services shall advise the Governor[,] **and** the Director of Human Services [*and the Assistant Director for Senior and Disabled Services*] on needs of elderly persons, and recommend actions by the Governor, the Department of Human Services, [*the Senior and Disabled Services Division,*] other governmental entities and the private sector, appropriate to meet such needs.

(4) The commission shall have authority to study programs and budgets of all state agencies [*which*] **that** affect elderly persons. After such study, the commission shall make recommendations to the Governor and to the agencies involved. Such recommendations shall be designed to provide coordination of programs for elderly persons, to avoid unnecessary duplication in provision of services, and to point out gaps in provision of services. The commission shall also recommend development of a comprehensive plan for delivery of services to elderly persons. In carrying out these

tasks, the commission shall coordinate its efforts with other advisory groups within the Department of Human Services to avoid duplication of effort.

(5) The commission shall promote responsible statewide advocacy for elderly persons.

(6) Members of the commission, other than legislators, shall be entitled to compensation and expenses as provided in ORS 292.495.

SECTION 83. ORS 410.420 is amended to read:

410.420. (1) Funds appropriated for Oregon Project Independence shall only be expended for the following authorized services:

- (a) Homemaker;
- (b) Housekeeper;
- (c) Chore;
- (d) Escort;
- (e) Home health;
- (f) Personal care service;
- (g) Elderly day care; and
- (h) Other services authorized by the [*Senior and Disabled Services Division*] **Department of Human Services.**

(2) The [*division*] **department** shall adopt rules to implement ORS 410.410 to 410.480. [*and may adopt by reference rules of the Health Division and the Adult and Family Services Division that relate to activities under Oregon Project Independence.*]

SECTION 84. ORS 410.430 is amended to read:

410.430. (1) In order to qualify for services from an authorized agency or service provider, each client or recipient must:

(a) Be 60 years old or older or have been diagnosed as having Alzheimer's disease or a related disorder;

(b) Not be receiving [*support or services from the Adult and Family Services Division, except food stamp benefits*] **financial assistance from the Department of Human Services, except food stamp benefits and limited medicare reimbursement benefits administered by the department;** and

(c) Be assessed to be at the risk of entering an institution.

(2) Eligibility determination shall be required before any client may receive services from an authorized agency or service provider.

SECTION 85. ORS 410.720 is amended to read:

410.720. (1) It is the policy of this state to provide for the mental health needs of all Oregon senior citizens through a comprehensive and coordinated statewide network of local senior mental health services and alcohol and drug abuse education and treatment. These services should involve family and friends and be provided in the least restrictive and most appropriate settings.

(2) In carrying out the provisions of subsection (1) of this section, the Department of Human Services shall [*insure that the Senior and Disabled Services Division, in cooperation with the Mental Health and Developmental Disability Services Division and the office of Alcohol and Drug Abuse Programs,*] develop plans for service coordination[, *negotiate appropriate interagency agreements*] and recommend budget provisions for the delivery of needed services.

SECTION 86. ORS 411.113 is amended to read:

411.113. The [*Adult and Family Services Division*] **Department of Human Services** shall determine eligibility for all public assistance. [*County public welfare boards shall have access to information regarding persons receiving public assistance.*]

SECTION 87. ORS 411.125 is amended to read:

411.125. (1) There is established the [*Adult and Family Services Division*] **Family Services Review Commission** consisting of 16 members. The members shall be appointed by the Governor for a term of four years. In making the appointments, the Governor shall consider representatives of county public welfare boards, as well as representatives from all of the congressional districts. Four members shall be recipients or former recipients of [*the aid or services*] **cash or self-sufficiency-**

related services from the *[of the Adult and Family Services Division;]* **Department of Human Services.** Four members shall be representatives of business and professional interests. *[:]* Four members shall be public welfare policy specialists. *[: and]* Four members shall be advocates of public welfare from the state agencies or public or private organizations interested in public welfare. The commission shall receive compensation and expenses as provided in ORS 292.495.

(2) The commission shall advise and consult with the *[Assistant Director for Adult and Family Services]* **Director of Human Services** in carrying out the functions of the *[division]* **department relating to programs and services to persons who, as a result of the person's or the person's family's economic, social or health condition, require medical assistance, financial assistance, institutional care, rehabilitation, vocational rehabilitation or other social or health services. The commission** *[and]* shall, through its chairperson, have access to information regarding persons receiving assistance and other relevant information about **self-sufficiency** programs of the *[division]* **department.**

SECTION 88. ORS 411.145 is amended to read:

411.145. (1) A county public welfare board of not fewer than five nor more than seven members may be created within each county. The members shall be appointed by the governing body of the county, on the basis of recognized interest in and knowledge of the field of public assistance. Members of the governing body may be appointed to the board.

(2) Members shall be appointed for a term of four years. Before the expiration of the term of a member of the county public welfare board, the governing body shall appoint the successor of the member to assume the duties of the member on July 1 next following. In case of a vacancy for any cause, the governing body shall make an appointment to be immediately effective for the unexpired term. Any member of the county public welfare board may be removed by the governing body at any time for cause. The governing body shall name the chairperson of the county public welfare board.

(3) Members appointed shall receive no compensation for their services but shall be allowed the actual and necessary expenses incurred by them in attending any meeting of the *[Adult and Family Services Division]* **Department of Human Services** when such attendance is authorized by the *[administrator of the division]* **Director of Human Services.** The expenses authorized pursuant to this subsection shall be paid by the *[division]* **department** out of the Public Welfare Account.

(4) The governing body of the county may abolish the county public welfare board upon 60 days' notice. On the effective date stated in the notice, the county public welfare board shall be abolished and the tenure of office of members shall cease.

(5) Until the notice required in subsection (4) of this section is given, any county public welfare board in existence on November 4, 1993, shall continue and shall perform its duties under ORS 411.155.

SECTION 88a. ORS 411.320 is amended to read:

411.320. (1) For the protection of applicants for and recipients of public assistance, except as otherwise provided in this section, the *[Adult and Family Services Division]* **Department of Human Services** shall not disclose or use the contents of any **public assistance** records, files, papers or communications for purposes other than those directly connected with the administration of the public assistance laws of Oregon or as necessary to assist public assistance applicants and recipients in accessing and receiving other governmental or private nonprofit services, and these records, files, papers and communications are considered confidential subject to the rules and regulations of the *[Adult and Family Services Division]* **Department of Human Services.** In any judicial or administrative proceeding, except proceedings directly connected with the administration of public assistance or child support enforcement laws, their contents are considered privileged communications.

(2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers or communications for purposes directly connected with the establishment and enforcement of support obligations pursuant to the Title IV-D program.

(3) Nothing in this section prohibits the disclosure of the address, social security number and photograph of any applicant or recipient to a law enforcement official at the request of such official.

To receive information pursuant to this section, the officer must furnish the agency the name of the applicant or recipient and advise that the applicant or recipient:

- (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;
- (b) Is violating a condition of probation or parole; or
- (c) Has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the applicant or recipient is within such official duties.

SECTION 89. ORS 411.590 is amended to read:

411.590. A person who is employed as a housekeeper, homemaker or otherwise in the residence of a recipient of public assistance or services, whose compensation is paid in whole or in part by the **Department of Human Services** [*Adult and Family Services Division, the Senior and Disabled Services Division, the Mental Health and Developmental Disability Services Division, the State Office for Services to Children and Families*] or an area agency, as defined in ORS 410.040, and is not otherwise employed by the [*division, office or*] **department or** agency, shall not for any purposes be deemed to be an employee of the State of Oregon or an area agency whether or not the [*division, office*] **department** or agency selects the person for employment or exercises any direction or control over the person's employment. However, nothing in this section precludes the state or an area agency from being considered the employer of the person for purposes of ORS chapter 657.

SECTION 90. ORS 411.595 is amended to read:

411.595. (1) As used in this section "policy change" [*means*] **includes** any change in the operation of public assistance programs that affects recipients adversely in any substantial manner, including but not limited to the denial, reduction, modification or delay of benefits. "Policy change" does not include any procedural change that affects internal management but does not adversely and substantially affect the interest of public assistance recipients.

(2) The [*Adult and Family Services Division or the*] Department of Human Services [*on behalf of the division*] may submit applications for waiver of federal statutory or regulatory requirements to the federal government or any agency thereof. Following the submission of any application for waiver that involves a policy change, and prior to implementation, the [*division*] **department** shall do the following:

- (a) Conduct a hearing in accordance with ORS 183.310 to 183.550 regarding the waiver application or application for waiver renewals and the proposed rules;
- (b) Prepare a complete summary of the testimony and written comments received at the hearing;
- (c) Submit the application for waiver or application for waiver renewals involving a policy change to the legislative review agency, as defined in ORS 291.375, and present the summary of testimony and comments described in this section; and
- (d) Give notice of the date of its appearance [*or the appearance of the Department of Human Services on its behalf*] before the Emergency Board or the Joint Committee on Ways and Means in accordance with ORS 183.335, and before the [*Adult and Family Services Division*] **Family Services** Review Commission.

SECTION 91. ORS 411.632 is amended to read:

411.632. If it reasonably appears that a customer who is a recipient of public assistance has assets in excess of those allowed to a recipient of such assistance under applicable federal and state statutes and regulations, and it reasonably appears that such assets may be transferred, removed, secreted or otherwise disposed, then the [*department or its divisions*] **Department of Human Services** may seek appropriate relief under ORCP 83 and 84, or any other provision of law but only to the extent of the liability. The state shall not be required to post a bond in seeking the relief.

SECTION 92. ORS 411.660 is amended to read:

411.660. (1) If any person is convicted of a violation of any provision of ORS 411.630, any grant of general assistance or public assistance made wholly or partially to meet the needs of such person shall be modified, canceled or suspended for such time and under such terms and conditions as may be prescribed by or pursuant to rules or regulations of the [*division*] **Department of Human Services**.

(2) Subsection (1) of this section does not prohibit a grant of general assistance or public assistance to meet the needs of a child under the age of 18 years.

SECTION 93. ORS 411.790 is amended to read:

411.790. (1) In granting general assistance, the [*Adult and Family Services Division*] **Department of Human Services** shall apply a graduated scale that disregards a portion of a person's income, if that income is earned in employment that is part of an approved treatment or rehabilitation program and if the person has been unemployed and receiving general assistance due to chronic mental illness.

(2) The [*division*] **department** shall continue to provide health services and needs, as described in ORS 411.710 (2), to a person described in subsection (1) of this section for a period of time not to exceed two years after the person ceases to receive general assistance if:

(a) Group health insurance is not available to the person through employment or otherwise; and either

(b) Termination of eligibility for health services and needs would seriously inhibit the person's ability to continue employment; or

(c) The person's earnings are not sufficient to allow the person a reasonable equivalent of the general assistance and health service benefits which would be available to the person in the absence of the earnings.

(3) If the person described in subsection (1) of this section is covered by a group health insurance plan, the [*division*] **department** shall continue to provide health services and needs for the limited purpose of paying the costs of treatment for preexisting conditions until such costs are paid in whole or in part by the group health insurance policy.

(4) For purposes of this section, "approved treatment and rehabilitation program" and "chronic mental illness" shall be defined **by the department** by rule [*, adopted by the division after consultation with the Mental Health and Developmental Disability Services Division*].

(5) For the purposes of general assistance, any work performed by a person while that person is hospitalized in a state or community psychiatric hospital shall not be considered employment.

(6) Nothing in this section is intended to limit the authority of the [*division*] **department** to disregard the income of, and extend the period of eligibility for health services and needs to, persons other than those described in subsection (1) of this section.

SECTION 94. ORS 411.802 is amended to read:

411.802. If an approved provider providing in-home care to a recipient of public assistance for compensation marries the recipient, the [*Adult and Family Services Division or the Senior and Disabled Services Division*] **Department of Human Services** shall consider the care provided as compensable even though provided by a spouse. The standard of compensation under this section shall be the same as the standard applied for in-home care provided by an approved provider not residing in the home of the recipient.

SECTION 95. ORS 411.803 is amended to read:

411.803. When a married recipient of public assistance provided under ORS chapter 412 or 413 requires in-home care, the [*Adult and Family Services Division or the Senior and Disabled Services Division, as appropriate,*] **Department of Human Services** shall provide that such care be compensated even though provided by the spouse, in the manner and to the extent specified by rule of the [*appropriate division*] **department** based on the extent of need and the availability of funds therefor.

SECTION 96. ORS 411.890 is amended to read:

411.890. A JOBS Plus Implementation Council shall be established in [*each Adult and Family Services Division district*] **service areas to be determined by the Director of Human Services** to assist the JOBS Plus Advisory Board, the Department of Human Services and the Employment Department in the administration of the JOBS Plus Program and to allow local flexibility in dealing with the particular needs of each county. Each council shall be primarily responsible for recruiting and encouraging participation of employment providers in the county. Each council shall be composed of seven members who shall be appointed by the county commissioners in each county in the

district. Council members shall be residents of the district in which they are appointed and shall serve four-year terms. Six members of the council shall be from the local business community. At least one member shall be a current or former recipient of the temporary assistance for needy families program, the food stamp program or the unemployment insurance program.

SECTION 97. ORS 411.977 is amended to read:

411.977. (1) All applicants for and recipients of public assistance shall be treated in a courteous, fair and dignified manner by *[Adult and Family Services Division]* **Department of Human Services** personnel.

(2) Any applicant or recipient who alleges discourteous, unfair or undignified treatment by *[division]* **department** personnel or alleges that incorrect or inadequate information regarding public assistance programs has been provided by *[division]* **department** personnel may file a grievance with the *[division]* **department**. The *[division]* **department** shall publicize the grievance system in each *[branch]* **local office**.

(3) The grievance shall be discussed first with the supervisor of the employee against whom the grievance is filed. If the grievance is not resolved, the applicant or recipient may discuss the grievance with the *[branch]* **local office** manager.

(4) The *[division]* **department** shall compile a monthly report summarizing each grievance filed against *[division]* **department** personnel and the action taken. The report shall identify each grievance by *[branch]* **local office** and indicate the number of grievances filed against individual employees. The report shall protect the anonymity of *[division]* **department** personnel. The report shall be presented to the *[Adult and Family Services Division]* **Family Services** Review Commission and to all county public welfare boards.

SECTION 98. ORS 412.005 is amended to read:

412.005. As used in ORS 412.005 to 412.125:

(1) "Aid" means money payments under ORS 412.005 to 412.125 to blind persons, or in behalf of such person.

(2) "Applicant" means any person who has applied for aid under ORS 412.005 to 412.125.

(3) "Blind person" means any needy person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees, or who has an equivalent visual impairment, as determined by the *[division]* **department** after examination by an ophthalmologist licensed to practice medicine and surgery in Oregon or by a duly licensed and practicing optometrist in Oregon, or by an ophthalmologist licensed to practice medicine and surgery or by an optometrist licensed and practicing in another state or territory of the United States having qualifications substantially similar to those of the State of Oregon.

(4) "**Department**" means the **Department of Human Services**.

[(4)] (5) "Income" means receipts in cash or kind but does not include such amounts per month of earnings or other income as may be exempted in compliance with federal legislation and rules thereto applicable or premiums on life insurance policies whether paid by the applicant, recipient or other person.

[(5)] (6) "Real property" includes but is not limited to estates for more than one year, houses, boats, trailers or other habitation when used for the purpose of providing a home for the applicant or the proceeds from the conversion of any one of these if the amount retained is used within 12 months to provide a home for the applicant.

[(6)] (7) "Recipient" means any person who has received or is receiving aid under ORS 412.005 to 412.125.

[(7)] "Division" means the Adult and Family Services Division.]

SECTION 99. ORS 412.580 is amended to read:

412.580. If an application is not acted upon by the *[Adult and Family Services Division]* **Department of Human Services** with reasonable promptness or is denied in whole or in part, or if any award of assistance is modified or canceled, the applicant or recipient may appeal from the decision of the *[division]* **department** *[to the Adult and Family Services Division]*. The *[Adult and*

Family Services Division] **department** shall give the appellant an opportunity for a hearing pursuant to ORS 183.310 to 183.550. [; and the] **The** hearing shall be held in the county selected by the appellant. If required by either the appellant or the [*division*] **department**, the hearing shall include a review of the medical findings as to disability and the social data as to appellant's capacity for employment. [*The findings and decision of the Adult and Family Services Division shall be binding upon the division*] **The department shall be bound by the findings and decision.**

SECTION 99a. ORS 413.165 is amended to read:

413.165. (1) Money payments of old-age assistance with respect to a recipient may be made to a representative payee if it is determined by the [*division*] **Department of Human Services** that the recipient, by reason of physical or mental condition, has such inability to manage funds that making payments to the recipient would be contrary to the welfare of the person and that, therefore, it is necessary to provide assistance through payments authorized by this section.

(2) The [*division*] **department** may designate as representative payee any responsible individual who is interested in or concerned with the welfare of the recipient and who is willing to act in that capacity.

(3) If it appears to the [*division*] **department** that the interests of the recipient would be best served thereby, the [*division*] **department** may petition for the judicial appointment of a guardian, conservator or other legal representative of the recipient. If the person is appointed and duly qualified, money payments of assistance otherwise payable to the recipient, or representative payee, shall be made to the qualified person until the [*division*] **department** determines that the conditions which would justify the protective payments no longer exist.

(4) Subject to funds made available to the [*division*] **department** for administrative expenditures, the [*division*] **department** may, with respect to any guardianship or conservatorship established pursuant to this section, pay all costs and fees, including any necessary bond premiums, reasonably incurred in the proceeding and in administering money payments.

SECTION 100. ORS 414.022 is amended to read:

414.022. Mental health services shall be provided by the Department of Human Services, in collaboration with [*the Mental Health and Developmental Disability Services Division, the Office of Medical Assistance Programs and*] the Health Services Commission, for the purpose of determining how best to serve the range of mental health conditions statewide utilizing a capitated managed care system. The services shall begin as soon as feasible following receipt of the necessary waiver in anticipation that the services are to be available not later than January 1, 1995, and shall cover up to 25 percent of state-funded mental health services until July 1, 1997. After July 1, 1997, the services shall cover all of the state-funded eligible mental health services. The provision of services under this section shall support and be consistent with community mental health and developmental disabilities programs established and operated or contracted for under ORS chapter 430. The goals and criteria are:

(1) Test actuarial assumptions used to project costs and utilization rates, and revise estimates of cost for statewide implementation.

(2) Compare current medical assistance fee for service with capitated managed care mental health system, using state determined quality assurance standards to evaluate capacity, diagnosis, utilization and treatment:

(a) Including components for testing full integration of physical medicine and mental health services and measuring the impact of mental health services on utilization of physical health services.

(b) Comparing current medical assistance fee for service with capitated managed care system for utilization and length of stay in private and public hospitals, and in nonhospital residential care facilities.

(c) Comparing for specific conditions, treatment configuration, effectiveness and disposition rates.

(3) Design the services to assure geographic coverage of urban and rural areas including significant population bases, and areas with and without existing capacity to provide fully capitated managed care services including:

(a) Requiring providers to maintain and report information about clients by type and amount of services in a predetermined uniform format for comparison with state established quality assurance standards.

(b) Within the geographic areas in which services are provided, requiring providers to serve the full range of mental health populations and conditions.

(c) Requiring providers to have the full range of eligible mental health services available including, but not limited to, assessment, case management, outpatient treatment and hospitalization.

(4) The department shall report to the Emergency Board and other appropriate interim legislative committees and task forces by October 1, 1996, on the implementation of the services.

SECTION 101. ORS 414.151 is amended to read:

414.151. The Department of Human Services[, *the Office of Medical Assistance Programs and the Health Division*] shall endeavor to develop agreements with local governments to facilitate the enrollment of poverty level medical assistance program clients. Subject to the availability of funds therefor, the agreement shall be structured to allow flexibility by the state and local governments and may allow any of the following options for enrolling clients in poverty level medical assistance programs:

(1) Initial processing shall be done at the county health department by employees of the county, with eligibility determination completed at the local office of the Department of Human Services;

(2) Initial processing and eligibility determination shall be done at the county health department by employees of the **local health** department; or

(3) Application forms shall be made available at the county health department with initial processing and eligibility determination shall be done at the local office of the [*department*] **Department of Human Services.**

SECTION 102. ORS 414.305 is amended to read:

414.305. [(1)] The Department of Human Services is hereby authorized to pay the cost of care for patients [*within Mental Health and Developmental Disability Services Division*] **in institutions operated under ORS 179.321** under the medical assistance program established by [*this chapter*] **ORS chapter 414.**

[(2) *All moneys received by the Mental Health and Developmental Disability Services Division from the Department of Human Services for the cost of care of patients shall be accounted for separately and deposited daily for credit to the Mental Health and Developmental Disability Services Account.*]

SECTION 103. ORS 414.400 is amended to read:

414.400. (1) The Drug Use Review Board shall operate in accordance with ORS chapter 192. The board shall annually elect a chairperson from the members of the board.

(2) Each board member is entitled to reimbursement for actual and necessary travel expenses incurred in connection with the member's duties, pursuant to ORS 292.495.

(3) A quorum consists of eight members of the board.

(4) The board may establish advisory committees to assist in carrying out the board's duties under ORS 414.350 to 414.415 with approval of the [*Office of Medical Assistance Programs director*] **Director of Human Services.**

SECTION 104. ORS 416.510, as amended by section 144, chapter 104, Oregon Laws 2001 (Enrolled House Bill 2609), is amended to read:

416.510. As used in ORS 416.510 to 416.610, unless the context requires otherwise:

(1) "Action" means an action, suit or proceeding.

(2) "Applicant" means an applicant for **public** assistance.

[(3) *"Assistance" means moneys paid by the Adult and Family Services Division to persons directly and moneys paid by the division to others for the benefit of such persons.*]

[(4)] (3) "Claim" means a claim of a recipient of **public** assistance for damages for personal injuries against any person or public body, agency or commission other than the State Accident Insurance Fund Corporation or Workers' Compensation Board.

[(5)] (4) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(5) "**Department**" means the **Department of Human Services**.

[(6)] "*Division*" means the *Adult and Family Services Division*.]

[(7)] (6) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce the claim of the recipient.

(7) "**Public assistance**" has the meaning given that term in **ORS 411.010**.

(8) "Recipient" means a recipient of **public** assistance.

(9) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

SECTION 104a. If Senate Bill 392 becomes law, section 104 of this 2001 Act (amending ORS 416.510) and section 144, chapter 104, Oregon Laws 2001 (Enrolled House Bill 2609) (amending ORS 416.510), are repealed.

SECTION 105. ORS 416.520 is amended to read:

416.520. If any applicant or recipient has a claim for damages for personal injuries, the existence of such claim or any action to enforce such claim shall not be grounds for denying or discontinuing **public** assistance to such applicant or recipient.

SECTION 105a. If Senate Bill 392 becomes law, section 105 of this 2001 Act (amending ORS 416.520) is repealed.

SECTION 106. ORS 416.540 is amended to read:

416.540. (1) Except as provided in subsection (2) of this section and in ORS 416.590, the [*Adult and Family Services Division*] **Department of Human Services** shall have a lien upon the amount of any judgment in favor of a recipient or amount payable to the recipient under a settlement or compromise for all **public** assistance received by such recipient from the date of the injury of the recipient to the date of satisfaction of such judgment or payment under such settlement or compromise.

(2) The lien does not attach to the amount of any judgment, settlement or compromise to the extent of attorney's fees, costs and expenses incurred by a recipient in securing such judgment, settlement or compromise and to the extent of medical, surgical and hospital expenses incurred by such recipient on account of the personal injuries for which the recipient had a claim.

SECTION 106a. If Senate Bill 392 becomes law, section 106 of this 2001 Act (amending ORS 416.540) is repealed.

SECTION 107. ORS 416.560 is amended to read:

416.560. The form of the notice required by ORS 416.550 (1) shall be substantially as follows:

Notice is hereby given that the [*Adult and Family Services Division*] **Department of Human Services** has rendered **public** assistance to _____, a person who was injured on or about the ____ day of _____ in the city of _____ and State of _____, and the [*Adult and Family Services Division*] **Department of Human Services** hereby asserts a lien to the extent provided in ORS 416.510 to 416.610, for the amount of such **public** assistance upon any amount due and owing _____ (name of injured person) under a judgment, settlement or compromise from _____ alleged to have caused such injuries and from any other person or public body, agency or commission liable for the injury or obligated to compensate the injured person on account of such injuries.

[*Adult and Family Services Division*]
Department of Human Services

[by _____, *Assistant Director*.]

by _____, **Director of Human Services or designee**.

State of Oregon,)
) ss.
County of _____)

I, _____, being first duly sworn on oath say: That I am the [Assistant Director for Adult and Family Services] **Director of Human Services or designee**; that I have read the foregoing notice of lien and know the contents thereof and believe the same to be true.

Subscribed and sworn to before me this ____ day of _____, [in the year of our Lord _____] **2**_____.

_____, Notary Public.

SECTION 107a. If Senate Bill 392 becomes law, section 107 of this 2001 Act (amending ORS 416.560) is repealed.

SECTION 108. ORS 416.600 is amended to read:

416.600. When the [Adult and Family Services Division] **Department of Human Services** determines that a recipient will incur additional medical, surgical or hospital expenses or that additional **public** assistance will have to be given to the recipient after the date of satisfaction of judgment or payment under a settlement or compromise, the [division] **department** may release any portion of its lien to the extent of such anticipated expenses and **public** assistance.

SECTION 108a. If Senate Bill 392 becomes law, section 108 of this 2001 Act (amending ORS 416.600) is repealed.

SECTION 109. ORS 417.346 is amended to read:

417.346. Subject to the availability of funds therefor, the Director of Human Services shall:

(1) [Direct all divisions in the department to identify] **Identify** current programs and potential resources [in each division] available to families providing care for a family member with a disability or chronic illness.

(2) Develop a biennial plan for adequate funding and recommend budgetary priorities for family support services.

(3) Develop a biennial cooperative plan for assuring a statewide interagency system of family support services.

(4) [Direct the State Office for Services to Children and Families, Mental Health and Developmental Disability Services Division, Senior and Disabled Services Division, Vocational Rehabilitation Division, Health Division and Adult and Family Services Division and any other governmental entities involved in family support services, to] Adopt rules for family support services that are guided by the goals and principles set forth in ORS [344.530, 409.010, 410.070, 411.070,] 417.340 to 417.348[, 430.021 and 431.110]. These rules shall contain a grievance procedure.

(5) Make a biennial report to the Legislative Assembly on the state of the family support system, including strengths, deficiencies, cost savings and recommendations. This report shall include a comprehensive statement of the efforts of [each division] **the Department of Human Services** to carry out the policies and principles set forth in this legislation. The report shall include but not be limited to a list of family support services, a summary of costs and the number of clients served.

(6) Establish a Family Support Advisory Council whose purpose is to review and comment on plans and services provided or contracted for family support by state agencies and advise the director on the state plans for coordinated family support services.

(a) The council shall meet a minimum of four times per year.

(b) The membership of the council shall be 51 percent consumers of family support services.

(c) The remaining membership shall be composed of representatives of agencies providing family support services and representatives of advocacy groups. One member shall be a representative of the Department of Education.

SECTION 110. ORS 417.348 is amended to read:

417.348. Subject to the availability of funds therefor, a family shall be eligible to receive family support services and goods if the family meets any of the following requirements:

(1) The family has a family member requiring long term care due to disability or chronic illness whom the family desires to keep at home or return to the home from an institution or other out-of-home placement.

(2) The family desires to care for the dependent family member at home if financial, physical or other barriers are reduced or eliminated and adequate community based support services are provided.

(3) The family is caring for a family member who is waiting for residential or vocational services.

(4) Other requirements established by *[the division of]* the Department of Human Services *[by which the specific family support services are offered]*. The requirements must be reviewed by the Family Support Advisory Council.

SECTION 111. ORS 417.845 is amended to read:

417.845. (1) The Juvenile Crime Prevention Advisory Committee is created within the Oregon Criminal Justice Commission.

(2) The committee shall have the following members:

(a) The Director of the Oregon Youth Authority or a designee of the director;

(b) The staff director of the State Commission on Children and Families or a designee of the staff director;

(c) The Director of Human Services or *[a designee]* **one or more designees** of the director, **one of whom has expertise in treatment and prevention of substance abuse;**

[(d) The Assistant Director for Alcohol and Drug Abuse Programs or a designee of the assistant director;]

[(e)] **(d)** The executive director of the Oregon Criminal Justice Commission or a designee of the executive director;

[(f)] **(e)** The Superintendent of Public Instruction or a designee of the superintendent;

[(g)] **(f)** The Superintendent of State Police or a designee of the superintendent;

[(h)] **(g)** The Director of the Department of Corrections or a designee of the director;

[(i)] **(h)** One designee of the Governor;

[(j)] **(i)** One member appointed by the President of the Senate, who shall be a member of the Senate and who shall be a nonvoting, advisory member;

[(k)] **(j)** One member appointed by the Speaker of the House of Representatives, who shall be a member of the House of Representatives and who shall be a nonvoting, advisory member; and

[(L)] **(k)** One designee of the Chief Justice of the Supreme Court from the Judicial Department who serves as an ex officio member to provide information and support the partnership role of the courts in an effective comprehensive statewide approach to high-risk youth and their families.

(3) In addition to the members listed in subsection (2) of this section, the Governor shall appoint the following members who shall be representative of the geographic and cultural diversity of the state:

(a) To represent local public and private entities:

(A) A county commissioner;

(B) A local juvenile director;

(C) A director of a local commission on children and families;

(D) Two law enforcement officials;

(E) A county mental health director;

(F) An alcohol and drug abuse professional;

(G) A school superintendent;

(H) A private youth service provider; and

(I) An elected city official;

(b) A researcher;

(c) A citizen member; and

(d) Other members as determined by the Governor.

(4) Each member of the committee appointed by the Governor under subsection (3) of this section shall serve a term of four years. Members appointed by the Governor shall serve at the pleasure of the Governor. A vacancy in the office of any member appointed by the Governor under subsection (3) of this section shall be filled by the Governor by appointment for the unexpired term.

(5) The Governor shall select one of the members of the committee as chairperson and one of its members as vice chairperson.

(6) The committee shall meet at times, places and intervals deemed advisable by a majority of the members.

(7) The Oregon Criminal Justice Commission shall provide staff support to the committee.

SECTION 112. ORS 418.005 is amended to read:

418.005. (1) In order to establish, extend and strengthen welfare services for the protection and care of homeless, dependent or neglected children or children in danger of becoming delinquent, the [*State Office for Services to Children and Families*] **Department of Human Services** may:

(a) Make all necessary rules and regulations for administering child welfare services under this section.

(b) Accept and disburse any and all federal funds made available to the State of Oregon for child welfare services.

(c) Make such reports in such form and containing such information as may from time to time be required by the federal government and comply with such provisions as may from time to time be found necessary to insure correctness and verification of such reports.

(d) Cooperate with medical, health, nursing and welfare groups and organizations and with any agencies in the state providing for protection and care of homeless, dependent or neglected children or children in danger of becoming delinquent.

(e) Cooperate with the United States Government or any of its agencies in administering the provisions of this section.

(2) There is created an advisory committee that shall consist of 21 members to advise the [*State Office for Services to Children and Families*] **department** on the development and administration of [*the*] **child welfare** policies, programs and practices [*of the office*]. Members shall be appointed by and serve at the pleasure of the [*Assistant Director for Services to Children and Families*] **Director of Human Services**.

(a) Advisory committee membership shall include representatives of other state agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested in service programs, and recipients of assistance or service or their representatives.

(b) Members of the advisory committee shall receive no compensation for their services. Members of the advisory committee other than members employed in full-time public service shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties by the [*State Office for Services to Children and Families*] **department**. Such reimbursements shall be subject to the provisions of ORS 292.210 to 292.288. Members of the advisory committee who are employed in full-time public service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties by their employing agency.

(c) The advisory committee shall meet at least once every three months.

(3) Subject to the allotment system provided for in ORS 291.234 to 291.260, the [*office*] **department** may expend the amounts necessary to carry out the purposes and administer the provisions of this section.

SECTION 113. ORS 418.050 is amended to read:

418.050. Subject to rules of the [*Adult and Family Services Division*] **Department of Human Services** and to such conditions and limitations as may be prescribed pursuant to the temporary assistance for needy families program:

(1) Money payments of aid with respect to the temporary assistance for needy families program, including payments to meet the needs of the relative, and the relative's spouse, with whom a dependent child is living, may be made to an individual other than such relative or spouse if it is de-

terminated by the [*division*] **department** that the relative to whom such payments are made has such inability to manage funds that continuation of such payments to the relative would be contrary to the welfare of such child and that, therefore, it is necessary to provide such aid through payments in the manner authorized by this section. Such determination shall be subject to review and hearing, upon application of such relative, in the manner prescribed pursuant to ORS 418.125. However, the pendency of such application, review or hearing shall not stay the effect of such determination.

(2) The [*Adult and Family Services Division*] **department** may designate any responsible individual, including any public officer or employee, as a representative payee if such individual is willing to act in such capacity. Representative payees shall receive no compensation for their services, but shall be allowed expenses actually and necessarily incurred by them in the performance of their duties under ORS 418.059. Such expenses shall be paid from funds appropriated to the [*division*] **department** for administrative expenditures.

(3) During the time payments of aid pursuant to the temporary assistance for needy families program with respect to a dependent child or relative are made to a representative payee, the [*division*] **department** shall:

(a) Undertake and continue special efforts to develop greater ability on the part of such relative to manage funds in such manner as to protect the welfare of the relative and the family of the relative; and

(b) Periodically review the determination made pursuant to subsection (1) of this section and terminate payments to the representative payee if it is established by such review that the conditions justifying such determination no longer exist.

[(4) The services described in subsection (3)(a) of this section may be obtained by the Adult and Family Services Division from the State Office for Services to Children and Families, upon mutual agreement between the division and the office.]

SECTION 114. ORS 418.070 is amended to read:

418.070. For the purposes of ORS 418.035 to 418.185, 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:

(1) "Dependent child" includes:

(a) A needy child meeting the requirements of ORS 418.035 (1)(b)(A) or (B) who has been deprived of parental support or care by reason of the unemployment of a parent or parents and who is living with any of the relatives specified in ORS 418.035 (1) in a place of residence maintained by one or more of such relatives as the relative's or relatives' own home.

(b) A child:

(A) Who would meet the requirements of ORS 418.035 (1) or of paragraph (a) of this subsection except for removal after April 30, 1961, from the home of a relative specified in ORS 418.035 (1) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child[.];

(B) Who has been accepted for placement and care by [*either or both the Adult and Family Services Division and the State Office for Services to Children and Families,*] **the Department of Human Services;**

(C) Who has been placed in a foster home or licensed nonprofit private child-caring agency as a result of such determination[.]; and

(D) Who 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 relative specified in ORS 418.035 (1) 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) "Foster home" means a foster home which is certified by this state or has been approved, by the agency of this state responsible for the certification of foster homes, as meeting the standards established for such certification.

(3) "Aid" includes foster care in behalf of a child described in subsection (1)(b) of this section in the foster home of any individual or in a licensed nonprofit private child-caring agency.

(4) "Unemployment of parent" shall be defined by the *[Adult and Family Services Division]* **department** and such definition may take into account definitions used to establish the availability of federal funds for the program of temporary assistance for needy families.

SECTION 115. ORS 418.130 is amended to read:

418.130. (1) Except as otherwise provided in this section, no person shall, except for purposes directly connected with the administration of the temporary assistance for needy families program, **delivery or administration of programs and services the Department of Human Services is authorized to deliver and administer pursuant to ORS 409.010** or as necessary to assist public assistance applicants and recipients in accessing and receiving other governmental or private nonprofit services and in accordance with the rules of the *[Adult and Family Services Division, or the State Office for Services to Children and Families, whichever is applicable,]* **department**, solicit, disclose, receive, make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving such aid, directly or indirectly derived from the records, papers, files or communications of the *[Adult and Family Services Division or the State Office for Services to Children and Families, whichever is applicable,]* **department** or acquired in the course of the performance of official duties.

(2) Nothing in this section prohibits the disclosure and use of information about applicants and recipients as is necessary to carry out the child support enforcement laws of this state and of the United States.

(3) Nothing in this section prohibits the disclosure of the address of any applicant or recipient to a law enforcement official at the request of such official. To receive information pursuant to this section, the officer must furnish the agency the name of the applicant or recipient and advise that the applicant or recipient:

- (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;
- (b) Is violating a condition of probation or parole; or
- (c) Has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the applicant or recipient is within such official duties.

SECTION 116. ORS 418.163 is amended to read:

418.163. The *[State Office for Services to Children and Families]* **Department of Human Services** shall have the responsibility and authority to provide such services and engage in such cooperative and coordinated efforts with the *[Adult and Family Services Division,]* Employment Department and other appropriate agencies as are necessary to maintain the intent of and compliance with federal requirements for the programs defined in ORS 418.155.

SECTION 117. ORS 418.205 is amended to read:

418.205. As used in ORS 418.205 to 418.310 and 418.992 to 418.998, unless the context requires otherwise:

- (1) "Child" means an unmarried person under 18 years of age.
- (2)(a) "Child-caring agency" means any private agency or private organization providing:
 - (A) Day treatment for disturbed children;
 - (B) Adoption placement services;
 - (C) Residential care, including but not limited to foster care or residential treatment for children; or
 - (D) Other similar services for children.

(b) "Child-caring agency" does not include residential *[homes or]* facilities or foster care homes certified or licensed by the *[Mental Health and Developmental Disability Services Division.]* **Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.**

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

SECTION 118. ORS 418.295 is amended to read:

418.295. (1) No attorney employed by the State of Oregon shall represent prospective adoptive parents in their attempt to adopt a child being cared for under the provisions of ORS 418.005 to 418.025, 418.035 to 418.185, 418.205 to 418.315, and 418.625 to 418.685.

(2) No employee of the [*Adult and Family Services Division or the State Office for Services to Children and Families*] **Department of Human Services** shall recommend any attorney to serve as counsel for prospective adoptive parents.

SECTION 119. ORS 418.480 is amended to read:

418.480. As used in ORS 418.480 to 418.500, “purchase of care” includes the purchase of institutional and foster family care and services, adoptive services, services to the unwed mother and her child and such other care and services as the [*State Office for Services to Children and Families, in consultation with the Director of Human Services,*] **Department of Human Services** shall determine to be necessary to carry out the policy stated in ORS 418.485.

SECTION 120. ORS 418.625 is amended to read:

418.625. As used in ORS 418.625 to 418.645:

(1) Certificate includes:

- (a) A “provisional” certificate issued for 90 days; or
- (b) A “regular” certificate, which is effective for one year.

(2) “Department” means the Department of Human Services.

[~~(2)~~] **(3) “Foster home” means any home maintained by a person who has under the care of the person in such home any child under the age of 18 years not related to the person by blood or marriage and unattended by its parent or guardian, for the purpose of providing such child with care, food and lodging, but does not include:**

- (a) Any boarding school that is essentially and primarily engaged in educational work;
- (b) Any home in which a child is provided board and room by a school board;
- (c) Any foster home under the direct supervision of a private child-caring agency or institution certified by the [*State Office for Services to Children and Families*] **department**; [*or*]

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

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

[~~(3)~~] *“Office” means the State Office for Services to Children and Families.*

SECTION 121. ORS 418.747 is amended to read:

418.747. (1) The district attorney in each county shall be responsible for developing interagency and multidisciplinary teams to consist of but not be limited to law enforcement personnel, [*State Office for Services to Children and Families*] **Department of Human Services** child protective service workers, Child Care Division personnel, school officials, health departments and courts, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies that specify:

- (a) The role of each agency;
- (b) Procedures to be followed to assess risks to the child;
- (c) Guidelines for timely communication between member agencies;
- (d) Guidelines for completion of responsibilities by member agencies;
- (e) Upon clear disclosure that the alleged child abuse occurred in a child care facility as defined in ORS 657A.250, that immediate notification of parents or guardians of children attending the child care facility is required regarding any abuse allegation and pending investigation; and

(f) Criteria and procedures to be followed when removal of the child is necessary for the child’s safety.

(3) Each team member and those conducting child abuse investigations and interviews of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual abuse and rape of children, legally sound and age appropriate interview and investigatory techniques.

(4) All investigations of child abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures called for in this section. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or [office] **department** [employee] **child welfare worker**, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of physical harm, the investigation can proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

(5) Protection of the child is of primary importance. To ensure the safe placement of a child, the [State Office for Services to Children and Families] **department** may request that local multidisciplinary team members obtain criminal history information on any person who is part of the household where the [office] **department** may place or has placed a child who is in the [office's] **department's** custody. All information obtained by the local team members and the [office] **department** in the exercise of their duties is confidential and may only be disclosed as necessary to assure the safe placement of a child.

(6) Each team shall classify, assess and review cases under investigation.

(7) Each multidisciplinary team shall develop policies that provide for an independent review of investigation procedures of sensitive cases after completion of court actions on particular cases. The policies shall include independent citizen input. Parents of child abuse victims shall be notified of the review procedure.

(8) Each team shall establish a local multidisciplinary fatality review process. The purposes of the review process are to:

(a) Coordinate various agencies and specialists to review a fatality caused by child abuse or neglect;

(b) Identify local and state issues related to preventable deaths; and

(c) Promote implementation of recommendations on the local level.

(9) In establishing the review process and carrying out reviews, the members of the local multidisciplinary team shall be assisted by the local medical examiner or county health officer as well as others specially trained in areas relevant to the purpose of the local team.

(10) The categories of fatalities reviewed by the multidisciplinary team include:

(a) Child fatalities in which child abuse or neglect may have occurred at any time prior to death or have been a factor in the fatality;

(b) Any category established by the local multidisciplinary team;

(c) All child fatalities where the child is less than 18 years of age and there is an autopsy performed by the medical examiner; and

(d) Any specific cases recommended for local review by the statewide interdisciplinary team established under ORS 418.748.

(11) The local multidisciplinary team shall develop a written protocol for review of child fatalities. The protocol shall be designed to facilitate communication and information between persons who perform autopsies and those professionals and agencies concerned with the prevention, investigation and treatment of child abuse and neglect.

(12) Within the guidelines, and in a format, established by the statewide interdisciplinary team established under ORS 418.748, the local team shall provide the statewide team with information regarding child fatalities under subsection (10) of this section.

(13) The local multidisciplinary team shall have access to and subpoena power to obtain all medical records, hospital records and records maintained by any state, county or local agency, including, but not limited to, police investigations data, coroner or medical examiner investigative data and social services records, as necessary to complete the review of a specific fatality under subsection (8)(a) of this section. All meetings of the local team relating to the fatality review process required by subsections (8) to (13) of this section shall be exempt from the provisions of ORS 192.610 to 192.690. All information and records acquired by the local team in the exercise of its duties are

confidential and may only be disclosed as necessary to carry out the purposes of the local fatality review process.

SECTION 122. 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) "CASA Volunteer Program" means a program approved or sanctioned by the juvenile court to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

(2) "Child" means a person within the jurisdiction of the juvenile court as provided in ORS 419B.100.

(3) "Child care center" means a residential facility for the care and supervision of children that is licensed under the provisions of ORS 418.240.

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

(5) "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.

(6) "Counselor" means a juvenile department counselor.

(7) "Court" means the juvenile court.

(8) "Court appointed special advocate" or "CASA" means a person appointed by the court pursuant to a CASA Volunteer Program to act as special advocate for a child pursuant to ORS 419A.170.

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

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

[(10)] **(11)** "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 dependent children or delinquent youth pursuant to a judicial commitment or order.

[(11)] **(12)** "Director" means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

[(12)] **(13)** "Guardian" means guardian of the person and not guardian of the estate.

[(13)] **(14)** "Indian child" means any unmarried person less than 18 years of age who is:

(a) A member of an Indian tribe;

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

(c) Covered by the terms of an Indian Child Welfare Act agreement between Oregon and an Indian tribe.

[(14)] **(15)** "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state.

[(15)] **(16)** "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

[(16)] *"Office" means the State Office for Services to Children and Families.*

(17) "Parent" means the biological or adoptive mother of the child and the legal or adoptive father of the child. A legal father includes:

(a) A nonimpotent, nonsterile man who was cohabiting with his wife, who is the mother of the child, at the time of conception;

(b) A man married to the mother of the child at the time of birth, where there is no decree of separation and the presumption of paternity has not been disputed;

(c) A biological father who marries the mother of the child after the birth of the child;

(d) A biological father who has established or declared paternity through filiation proceedings or under ORS 416.400 to 416.470; and

(e) A biological father who has, with the mother, established paternity through a voluntary acknowledgment of paternity under ORS 109.070.

(18) "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 *[State Office for Services to*

Children and Families] **department** that is approved by the juvenile court and in which the foster parents commit to raise a foster child until the age of majority.

(19) "Planned permanent living arrangement" means an out-of-home placement other than by adoption, placement with a relative or placement with a legal guardian that is consistent with the case plan and in the best interests of the child.

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

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

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

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

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

(25) "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.

(26) "Shelter care" means a home or other facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child does not need to be kept in secure custody.

(27) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for holding youths pending further placement.

(28) "Substitute care" means an out-of-home placement directly supervised by the [*office*] **department** or other agency, including placement in a foster family home, group home 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 which the court has approved as a child's permanent placement, where a private child caring agency has been appointed guardian of the child and where the child's care is entirely privately financed; or

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

(29) "Surrogate" means a person appointed by the court to protect the right of the child to receive procedural safeguards with respect to the provision of free appropriate public education.

(30) "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.

(31) "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.

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

(33) "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 by the person when the person was at least 12 years of age and under 18 years of age.

SECTION 123. ORS 419B.352 is amended to read:

419B.352. The court may direct that the child be examined or treated by a physician, psychiatrist or psychologist, or receive other special care or treatment in a hospital or other suitable facility. If the court determines that mental health examination and treatment should be provided by services delivered through the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**, the [*Mental Health and Developmental Disability Services Division*]

department shall determine the appropriate placement or services in consultation with the court[, *the State Office for Services to Children and Families*] and other affected agencies. If [*the State Office for Services to Children and Families or another*] **an** affected agency objects to the type of placement or services, the court shall determine the appropriate type of placement or service. During the examination or treatment of the child, the [*Mental Health and Developmental Disability Services Division shall not*] **department may, if appropriate**, be appointed guardian of the child.

SECTION 124. ORS 419C.507 is amended to read:

419C.507. The court may, in lieu of or in addition to any disposition under this chapter, direct that the youth be examined or treated by a physician, psychiatrist or psychologist, or receive other special care or treatment in a hospital or other suitable facility. If the court determines that mental health examination and treatment should be provided by services delivered through the [*Mental Health and Developmental Disability Services Division, the Mental Health and Developmental Disability Services Division*] **Department of Human Services, the department** shall determine the appropriate placement or services in consultation with the court, the Oregon Youth Authority and other affected agencies. If the youth authority or another affected agency objects to the type of placement or services, the court shall determine the appropriate type of placement or service. During the examination or treatment of the youth, the [*Mental Health and Developmental Disability Services Division shall not*] **department may, if appropriate**, be appointed guardian of the youth.

SECTION 125. ORS 426.005 is amended to read:

426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

(a) **“Department” means the Department of Human Services.**

[(a)] (b) **“Director of the facility”** means a superintendent of a state mental hospital, the chief of psychiatric services in a community hospital or the person in charge of treatment and rehabilitation programs at other treatment facilities.

[(b)] *“Division” means the Mental Health and Developmental Disability Services Division.*

(c) **“Facility”** means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other facility as the [*Mental Health and Developmental Disability Services Division*] **department** determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for committed mentally ill persons.

(d) **“Mentally ill person”** means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

(C) A person who:

(i) Is chronically mentally ill, as defined in ORS 426.495;

(ii) Within the previous three years, has twice been placed in a hospital or approved inpatient facility by the [*division*] **department** under ORS 426.060;

(iii) Is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and

(iv) Unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either or both subparagraph (A) or (B) of this paragraph.

(e) **“Nonhospital facility”** means any facility, other than a hospital, that is approved by the [*Mental Health and Developmental Disability Services Division*] **department** to provide adequate security, psychiatric, nursing and other services to persons under ORS 426.232 or 426.233.

(f) **“Prehearing period of detention”** means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health and developmental disabilities program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to,

the reference includes any designee such person has designated to act on the person's behalf in the exercise of duties.

SECTION 126. ORS 427.005 is amended to read:

427.005. As used in this chapter[, *unless the context requires otherwise*]:

(1) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group.

[(2) "*Assistant director*" means the Assistant Director for Mental Health and Developmental Disability Services.]

[(3)] (2) "Care" means supportive services, including, but not limited to, provision of room and board; supervision; protection; and assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

(3) "**Department**" means the Department of Human Services.

(4) "Developmental period" means the period of time between birth and the 18th birthday.

(5) "Director of the facility" means the superintendent of a state training center, or the person in charge of care, treatment and training programs at other facilities.

[(6) "*Division*" means the Mental Health and Developmental Disability Services Division of the Department of Human Services.]

[(7)] (6) "Facility" means a state training center, community hospital, group home, activity center, intermediate care facility, community mental health clinic, or such other facility or program as the [division] **department** approves to provide necessary services to mentally retarded persons.

[(8)] (7) "Incapacitated" means a person is unable, without assistance, to properly manage or take care of personal affairs or is incapable, without assistance, of self-care.

[(9)] (8) "Independence" means the extent to which persons with mental retardation or developmental disabilities exert control and choice over their own lives.

[(10)] (9) "Integration" means use by persons with mental retardation or developmental disabilities of the same community resources that are used by and available to other persons and participation in the same community activities in which nondisabled persons participate, together with regular contact with nondisabled persons, and residence by persons with developmental disabilities in homes or in home-like settings which are in proximity to community resources, together with regular contact with nondisabled persons in their community.

[(11)] (10) "Intellectual functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

[(12)] (11) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered mentally retarded if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the "Manual on Terminology and Classification in Mental Retardation" of the American Association on Mental Deficiency, 1977 Revision. Mental retardation is synonymous with mental deficiency.

[(13)] (12) "Minor" means an unmarried person under 18 years of age.

[(14)] (13) "Physician" means a person licensed by the Board of Medical Examiners for the State of Oregon to practice medicine and surgery.

[(15)] (14) "Productivity" means engagement in income-producing work by a person with mental retardation or developmental disabilities which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or developmental disabilities in work contributing to a household or community.

[(16)] (15) "Resident" means a person admitted to a state training center either voluntarily or after commitment to the [division] **department**.

[(17)] (16) "Significantly subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

[(18)] (17) "State training center" means [Fairview Training Center,] Eastern Oregon Training Center and any other facility operated by the [division] **department** for the care, treatment and training of the mentally retarded.

[(19)] **(18)** "Training" means the systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or the planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each resident's specified needs in the areas of physical, emotional, intellectual and social growth.

[(20)] **(19)** "Treatment" means the provision of specific physical, mental, social interventions and therapies which halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions.

SECTION 127. ORS 427.007 is amended to read:

427.007. (1) The Legislative Assembly finds and declares that a significant number of persons with mental retardation or other developmental disabilities currently reside in state-operated hospitals and training centers or lack needed services simply because appropriate community-based services, including residential facilities, day programs, home care and other support, care and training programs, do not exist. The Legislative Assembly further finds that families are the major providers of support, care, training and other services to their members with mental retardation or other developmental disabilities who live at home, and many of these families experience exceptionally high financial outlays and extraordinary physical and emotional challenges due to the unavailability of appropriate family support services. Such services pertain to the needs of the person with disabilities, the needs of other family members related to their care-giving and nurturing capacity, and specialized needs for environmental accommodation to reduce dependency of the family member with mental retardation or other developmental disabilities. Therefore, the Department of Human Services[, *through the Mental Health and Developmental Disability Services Division,*] is directed to facilitate the development of appropriate community-based services, including family support, residential facilities, day programs, home care and other necessary support, care and training programs, in an orderly and systematic manner. The role of state-operated hospitals and training centers in Oregon shall be as specialized back-up facilities to a primary system of community-based services for persons with mental retardation or other developmental disabilities.

(2) In carrying out the directive in subsection (1) of this section, the [*Mental Health and Developmental Disability Services Division*] **department** shall develop a biennial plan in conjunction with the budgeting process for review by each Legislative Assembly. In developing this plan, the [*Mental Health and Developmental Disability Services Division*] **department** shall meet with and consider the input of representatives from the following constituencies: Consumer organizations, parent-family organizations, advocacy organizations, unions representing workers in state-operated hospitals and training centers, community provider organizations, state and local education officials and community mental health departments or programs. Such plans shall include, where appropriate:

(a) Proposals for the decrease in the number of persons with mental retardation or other developmental disabilities to be served in state-operated hospitals and training centers at a steady and planned rate until such time that the Legislative Assembly shall determine that each person served in programs or facilities operated or supported by the [*Mental Health and Developmental Disability Services Division*] **department** is being served according to the best contemporary professional practices in the least restrictive environment, with preference given to the community-based setting over the institutional. However, no person shall be moved from any facility until a comprehensive assessment of the person's medical, treatment, training and support service needs has been completed, the move determined to be in the person's best interest and appropriate service alternatives procured.

(b) Proposals for the orderly development of community-based services, including family support, residential facilities, day programs, home care and other necessary support, care and training programs, to accommodate persons coming out of state-operated hospitals and training centers and to serve persons already in the community waiting for services. The proposals shall include services developed for persons in the community waiting for services that are at least equal in number to those services developed for those coming out of state-operated hospitals and training centers, and shall include services for all persons who are leaving the public education system, in order to further prevent unnecessary institutionalization of persons with mental retardation or other develop-

mental disabilities. Funding for these services shall be commensurate with individual need. These proposals may include provisions for an array of both publicly and privately operated services and shall include specific implementation plans requiring that new services developed are designed to significantly increase the independence, productivity and integration into the community of persons with mental retardation and developmental disabilities.

(c) Proposals for the location of community-based services for persons with mental retardation or other developmental disabilities in proximity to family, friends, supportive services and home communities whenever possible.

(3) In further carrying out the directive in subsection (1) of this section, the [*Mental Health and Developmental Disability Services Division*] **department** shall develop monitoring and evaluation systems which insure competent management, program quality and cost-effectiveness of community-based services. Such systems shall include, where appropriate:

(a) A comprehensive system of case management which assures an orderly movement of persons with mental retardation or other developmental disabilities from state-operated hospitals and training centers to community-based services, and between community-based service alternatives, and assures an effective system of service delivery to persons with mental retardation or other developmental disabilities living in the community, based on individualized planning and close cooperation with consumers, families and guardians.

(b) An annual progress assessment of every person with mental retardation or other developmental disabilities served in programs or facilities operated or supported by the [*Mental Health and Developmental Disability Services Division*] **department**. This assessment shall measure the degree to which a family with a member with mental retardation or other developmental disabilities demonstrates enhanced care-giving and nurturing capacities, and the degree to which the independence, productivity and integration into the community of each person with mental retardation or other developmental disabilities has been increased as a result of receiving such services. The overall results of these assessments shall annually be aggregated and analyzed for each program or facility operated or supported by the [*division*] **department**, and shall be made available for public inspection and review by the Legislative Assembly.

(c) The development of specific standards for each component within the array of services, for persons with mental retardation or other developmental disabilities, either operated or supported by the [*Mental Health and Developmental Disability Services Division*] **department** and assure the competent management, program quality and cost-effectiveness of such services.

(4) Subject to available funds, the [*Mental Health and Developmental Disability Services Division*] **department** shall insure that each family with a member with mental retardation or other developmental disabilities has access to family support services, and that each person with mental retardation or developmental disabilities living in the community, including those leaving the public education system, has access to community-based services necessary to enable the person to strive to achieve independence, productivity and integration. Specific services proposed for the person shall be identified in an individual habilitation plan or in a family support service plan.

(5) Subject to available funds, the [*Mental Health and Developmental Disability Services Division*] **department** shall determine the content of individual habilitation plans and family support service plans, and the process whereby such plans are developed and updated.

(6) The [*Mental Health and Developmental Disability Services Division*] **department** shall establish grievance procedures for mediation of disputes concerning eligibility for or appropriateness of services in individual cases.

SECTION 128. ORS 427.010 is amended to read:

427.010. (1) Except as otherwise ordered by the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** pursuant to ORS 179.325, the [*Fairview Training Center in Salem, Marion County, and*] Eastern Oregon Training Center in Pendleton, Umatilla County, shall be used for the care, treatment and training of such mentally retarded persons as are assigned to the care of [*such institutions*] **the institution** by the [*division*] **department** according to procedures defined in ORS 427.185 or who [*are*] **were** residents on October 3, 1979.

(2) Upon receipt of an application approved by the [division] **department** or its designee, pursuant to its rules, a mentally retarded person may be entitled to admission to [a] **the** state training center for emergency, respite or part-time care. Part-time care means presence of the person at the facility less than 24 hours per day and may include day or night care. Admission for emergency care or respite care shall in no case exceed 90 days. Admission for part-time care may exceed 90 days. The fee schedule for such care, training and treatment in [a] **the** training center shall be established by the [division] **department** in the same manner as for other residents. The fees shall be charged and collected by the [Mental Health and Developmental Disability Services Division] **department** in the same manner as charges are collected under ORS 179.610 to 179.770.

(3) The [superintendents] **superintendent** of the training [centers] **center** named in subsection (1) of this section shall be [persons] **a person** the [division] **department** considers qualified to administer the training [centers] **center**. If the superintendent of [any] **the** training center is a physician licensed by the Board of Medical Examiners for the State of Oregon, the superintendent shall serve as chief medical officer. If not a physician, the superintendent shall appoint a physician to serve as chief medical officer who shall be in the unclassified service.

SECTION 129. ORS 427.104 is amended to read:

427.104. The [Mental Health and Developmental Disability Services Division] **Department of Human Services** with funds appropriated for that purpose by the legislature, shall establish and operate a **Developmental Disability** Diagnosis and Evaluation Service for [the mentally retarded] **people with mental retardation or developmental disabilities**. The **Developmental Disability** Diagnosis and Evaluation Service shall provide all or part of diagnostic evaluations, as defined in ORS 427.105, when complete evaluations are not available through community mental health and developmental disabilities programs, and the **Developmental Disability** Diagnosis and Evaluation Service shall:

(1) Provide consultation and training to community mental health and developmental disabilities programs in the development of local diagnosis and evaluation services;

(2) Develop and periodically revise [division] **department** standards and procedures for diagnosis and evaluation services;

(3) Coordinate diagnostic evaluations statewide to minimize duplication of tests and examinations;

(4) Approve applications for admission to the training [centers] **center**;

(5) Provide necessary information to the State Training Center Review Board when a decision of the **Developmental Disability** Diagnosis and Evaluation Service regarding admission to [a] **the** state training center is appealed by the person, the parents or legal guardian of the person;

(6) Provide consultation to appropriate agencies and individuals regarding persons evaluated; and

(7) Process and coordinate all placements of residents from **the** state training [centers] **center**.

SECTION 130. ORS 427.330 is amended to read:

427.330. As used in ORS 427.330 to 427.345:

(1) "Care provider" means an individual, family member or entity that provides care.

(2)(a) "Community housing" [means] **includes**:

(A) Real property, including but not limited to buildings, structures, improvements to real property and related equipment, that is used or could be used to house and provide care for individuals with mental retardation or other developmental disability[. "Community housing" includes a]; **and**

(B) A single-family home or multiple-unit residential housing that an individual with mental retardation or other developmental disability shares with other inhabitants, including but not limited to family members, care providers or friends.

(b) "Community housing" does not include [the Fairview Training Center or] the Eastern Oregon Training Center.

(3) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate. "Construct" includes to install equipment and to prepare a site.

(4) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition or severe physical impairment that requires training similar to that required by mentally retarded persons, and the disability:

- (a) Originates before the person attains the age of 22 years;
- (b) Has continued or can be expected to continue indefinitely; and
- (c) Constitutes a substantial handicap to the ability of the person to function in society.

(5) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in community housing.

(6) "Family member" means an individual who is related by blood or marriage to an individual with mental retardation or other developmental disability.

(7) "Financial assistance" means a grant or loan to pay expenses incurred to provide community housing.

(8) "Housing provider" means an individual or entity that provides community housing.

SECTION 131. ORS 428.210 is amended to read:

428.210. As used in ORS 428.210 to 428.270[, *unless the context requires otherwise*]:

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

[(1)] **(2) "Foreign hospital" means an institution in any other state which corresponds to the institutions defined in subsection (7) of this section.**

[(2)] *"Division" means the Mental Health and Developmental Disability Services Division.*

(3) "Nonresident" means any person who is not a resident of this state as defined in subsection (6) of this section.

(4) "Other state" includes all the states, territories, possessions, commonwealths and agencies of the United States and the District of Columbia, with the exception of the State of Oregon.

(5) "Patient" means any person who has been committed by a court of competent jurisdiction to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150 (1969 Replacement Part), 136.160 (1969 Replacement Part), 161.341 or 161.370.

(6) "Resident of this state" means a person who has lived in this state continuously for a period of one year and who has not acquired legal residence in any other state by living continuously therein for at least one year subsequent to the residence of the person in this state. However, a service man or woman on active duty in the Armed Forces of the United States who was domiciled in Oregon upon entry into active duty and who has acquired no other domicile shall be entitled to have his or her children considered a resident of this state so long as no other domicile is acquired by the service man or woman.

(7) "State hospital" means any institution listed in ORS 426.010 or 427.010.

SECTION 132. ORS 430.010 is amended to read:

430.010. As used in ORS 430.010 to 430.050, 430.110 to 430.170, [430.260 to] **430.265**, 430.270 and 430.610 to 430.695[, *unless the context requires otherwise*]:

(1) [*"Division" means the Mental Health and Developmental Disability Services Division*] **"Department" means the Department of Human Services.**

(2) "Health facility" means a facility licensed as required by ORS 441.015 or a facility accredited by the Joint Commission on Accreditation of Hospitals, either of which provides full-day or part-day acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and is licensed to admit persons requiring 24-hour nursing care.

(3) "Residential facility" or "day or partial hospitalization program" means a program or facility providing an organized full-day or part-day program of treatment. Such a program or facility shall be **licensed, approved, established, maintained, contracted with or operated by the department under:**

(a) [*Licensed, approved, established, maintained, contracted with or operated by the office of Alcohol and Drug Abuse Programs under*] ORS [430.041,] 430.260 to 430.380 and 430.610 to 430.880 for alcoholism;

(b) [*Licensed, approved, established, maintained, contracted with or operated by the office of Alcohol and Drug Abuse Programs under*] ORS [*430.041,*] 430.260 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(c) [*Licensed, approved, established, maintained, contracted with or operated by the Mental Health and Developmental Disability Services Division under*] ORS [*430.041 and*] 430.610 to 430.880 for mental or emotional disturbance.

(4) "Outpatient service" means:

(a) A program or service providing treatment by appointment[. *Such a program or service shall be*] **and by medical or osteopathic physicians licensed by the Board of Medical Examiners for the State of Oregon under ORS 677.010 to 677.450; psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to 675.150; nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410; or clinical social workers licensed by the State Board of Clinical Social Workers under ORS 675.510 to 675.600; or**

(b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the department under:

[(a)] **(A)** [*Licensed, approved, established, maintained, contracted with or operated by the office of Alcohol and Drug Abuse Programs under*] ORS [*430.041,*] 430.260 to 430.380 and 430.610 to 430.880 for alcoholism;

[(b)] **(B)** [*Licensed, approved, established, maintained, contracted with or operated by the office of Alcohol and Drug Abuse Programs under*] ORS [*430.041,*] 430.260 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; **or**

[(c)] **(C)** [*Licensed, approved, established, maintained, contracted with or operated by the Mental Health and Developmental Disability Services Division under*] ORS [*430.041 and*] 430.610 to 430.880 for mental or emotional disturbance. [*; or*]

[(d) *Provided by medical or osteopathic physicians licensed by the Board of Medical Examiners for the State of Oregon as provided under ORS 677.010 to 677.450; psychologists licensed by the State Board of Psychologist Examiners as provided under ORS 675.010 to 675.150; nurse practitioners registered by the Oregon State Board of Nursing as provided under ORS 678.010 to 678.410; or clinical social workers licensed by the State Board of Clinical Social Workers as provided under ORS 675.510 to 675.600.*]

SECTION 133. ORS 430.021 is amended to read:

430.021. Subject to ORS 417.300 and 417.305:

[(1) *The Mental Health and Developmental Disability Services Division is responsible for the administration of the state mental health and developmental disabilities programs and the mental health and developmental disabilities laws of the state.*]

[(2)] **(1)** The [*division*] **Department of Human Services** shall direct, promote, correlate and coordinate all the activities, duties and direct services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcoholic and drug-dependent persons [*and for families requiring family support services as described in ORS 417.342 and 417.344*]; and promote, correlate and coordinate the mental health and developmental disabilities activities of all governmental organizations throughout the state in which there is any direct contact with mental health and developmental disabilities programs.

[(3)] **(2)** The [*division*] **department** shall develop cooperative programs with interested private groups throughout the state to effect better community awareness and action in the field of mental health and developmental disabilities, and encourage and assist in all necessary ways community general hospitals to establish psychiatric services.

[(4)] **(3)** To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for mental or emotional disturbances shall develop criteria consistent with this policy [*in consultation with the Mental Health and Developmental Disability Services Division and the office of the director*]. In reviewing

applications for certificates of need, the *[director]* **Director of Human Services** shall take this policy into account.

[(5)] **(4)** The *[division]* **department** shall establish, coordinate, assist and direct a community mental health and developmental disabilities program in cooperation with local government units and integrate such a program with the total state mental and developmental disabilities health program.

[(6)] **(5)** The *[division]* **department** shall promote public education in the state concerning mental health and developmental disabilities and act as the liaison center for work with all interested public and private groups and agencies in the field of mental health and developmental disabilities services.

[(7)] **(6)** The *[division]* **department** shall accept the custody of persons committed to its care by the courts of this state.

SECTION 134. ORS 430.065 is amended to read:

430.065. (1) In adopting rules pursuant to ORS 743.556 (3), the *[office of Alcohol and Drug Abuse Programs and the Mental Health and Developmental Disability Services Division]* **Department of Human Services** may consider standards proposed by the American Association of Partial Hospitalization as one possible source for such rules. In addition, an insurer or insurers and the *[office of Alcohol and Drug Abuse Programs, or an insurer or insurers and the Mental Health and Developmental Disability Services Division]* **department** may mutually develop agreements, standards and procedures for programs that are approved by the *[office or the division]* **department** and that provide alternative arrangements for supervision or for review of treatment plans to become qualified to receive payments for treatment.

(2) The *[office of Alcohol and Drug Abuse Programs and the Mental Health and Developmental Disability Services Division]* **Department of Human Services** may require payment of an application fee and a certification fee for the approval of noninpatient programs described in ORS 743.556 (3) and (4).

(3) Subject to the review of the Oregon Department of Administrative Services, the *[office of Alcohol and Drug Abuse Programs and the Mental Health and Developmental Disability Services Division]* **Department of Human Services** may establish any fees to be imposed under subsection (2) of this section. The fees and charges established under this section shall not exceed the cost of administering the regulatory program of the *[division]* **Department of Human Services** pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the *[division's]* **department's** budget, as the budget may be modified by the Emergency Board.

SECTION 135. ORS 430.257 is amended to read:

430.257. (1) The Legislative Assembly finds that alcohol and other drug use, abuse and addiction:

(a) Pose significant social and public health problems for Oregon;

(b) Impact the budgets and workloads of state and local agencies that provide services for children and families and contribute to incidences of crime, violence, accidents and deaths, as well as reducing worker productivity; and

(c) Contribute substantially to the problems faced by a significant number of persons served by the Department of Human Services, Department of Corrections, Oregon Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families.

(2) The Department of Human Services, Department of Corrections, Oregon Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families shall contribute to the development of a comprehensive state plan for alcohol and other drug prevention, intervention and treatment services.

(3) The administrative heads of the Department of Education, Department of Human Services, Oregon State Police, Department of Transportation, Oregon Liquor Control Commission, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families shall each designate an individual, or in the instance of multidivisional departments, individuals, to serve as liaison to and assist *[both]* the Governor's Council on Alcohol and Drug Abuse Programs *[and the Assistant Director for Alcohol and Drug Abuse Programs]* in meeting the policies, duties and re-

sponsibilities set forth in this section and ORS 409.010, 430.250, 430.255, 430.258, 430.259, 430.270, 430.290, 430.359, 430.368, 430.535 and 430.630.

SECTION 136. ORS 430.306 is amended to read:

430.306. As used in ORS 430.315 to 430.335, 430.397 and 430.399, unless the context requires otherwise:

[(1) "Assistant director" means the assistant director of the division.]

[(2)] (1) "Alcoholic" means any person who has lost the ability to control the use of alcoholic beverages, or who uses alcoholic beverages to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. An alcoholic may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages.

[(3)] (2) "Applicant" means a city, county or any combination thereof.

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

(4) "Detoxification center" means a publicly or privately operated profit or nonprofit facility approved by the [division] department that provides emergency care or treatment for alcoholics or drug-dependent persons.

(5) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at a treatment facility.

[(6) "Division" means the Mental Health and Developmental Disability Services Division of the Department of Human Services.]

[(7)] (6) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

[(8)] (7) "Halfway house" means a publicly or privately operated profit or nonprofit, residential facility approved by the [division] department that provides rehabilitative care and treatment for alcoholics or drug-dependent persons.

[(9)] (8) "Local alcoholism planning committee" means a committee appointed or designated by the county governing body under ORS 430.342.

[(10)] (9) "Other treatment facility" includes outpatient facilities, inpatient facilities and such other facilities as the [division] department determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the [division] department.

SECTION 137. ORS 430.315 is amended to read:

430.315. The Legislative Assembly finds alcoholism or drug dependence is an illness. The alcoholic or drug-dependent person is ill and should be afforded treatment for that illness. To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for alcoholism or drug dependence shall develop criteria consistent with this policy in consultation with the [Mental Health and Developmental Disability Services Division and the office of the director] Department of Human Services. In reviewing applications for certificate of need, the [director] Director of Human Services shall take this policy into account.

SECTION 138. ORS 430.405 is amended to read:

430.405. As used in ORS 161.125, 430.270, 430.405 and 430.415[, *unless the context requires otherwise*]:

(1) **“Department” means the Department of Human Services.**

(2) **“Director of the treatment facility” means the person in charge of treatment and rehabilitation programs at the treatment facility.**

(3) **“Drug abuse” means repetitive, excessive use of drugs or controlled substances short of dependence, without legal or medical supervision, that may have a detrimental effect on the individual or society.**

[(1)] (4) **“Drug-dependent person” means one who has lost the ability to control the use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.**

[(2)] *“Drug abuse” means repetitive, excessive use of drugs or controlled substances short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.*

[(3)] *“Division” means the Mental Health and Developmental Disability Services Division.*

[(4)] *“Assistant director” means the Assistant Director for Mental Health and Developmental Disability Services.*

(5) **“Treatment facility” means profit or nonprofit, public or private detoxification centers, outpatient clinics, residential facilities, hospitals and such other facilities as the [Mental Health and Developmental Disability Services Division] Department of Human Services determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for drug-dependent persons.**

[(6)] *“Director of the treatment facility” means the person in charge of treatment and rehabilitation programs at the treatment facility.*

SECTION 139. ORS 430.450 is amended to read:

430.450. As used in ORS 430.450 to 430.555, unless the context requires otherwise:

[(1)] *“Assistant director” means the Assistant Director for Mental Health and Developmental Disability Services.*

[(2)] (1) **“Community diversion plan” means a system of services approved and monitored by the [Mental Health and Developmental Disability Services Division] Department of Human Services in accordance with approved county mental health plans, which may include but need not be limited to, medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public.**

[(3)] (2) **“Crimes of violence against the person” means criminal homicide, assault and related offenses as defined in ORS 163.165 to 163.208, rape and sexual abuse, incest, or any other crime involving the use of a deadly weapon or which results in physical harm or death to a victim.**

(3) **“Department” means the Department of Human Services.**

(4) **“Diversion” means the referral or transfer from the criminal justice system into a program of treatment or rehabilitation of a defendant diagnosed as drug dependent and in need of treatment at [Mental Health and Developmental Disability Services Division] department approved sites, on the condition that the defendant successfully fulfills the specified obligations of a program designed for rehabilitation.**

(5) **“Diversion coordinator” means a person designated by a county mental health program director to work with the criminal justice system and health care delivery system to screen defendants who may be suitable for diversion; to coordinate the formulation of individual diversion plans for**

such defendants; and to report to the court the performance of those defendants being treated under an individual diversion plan.

(6) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility.

[(7) "Division" means the *Mental Health and Developmental Disability Services Division*.]

[(8)] (7) "Drug abuse" means repetitive, excessive use of a drug or controlled substance short of dependence, without medical supervision, which may have a detrimental effect on the individual or society.

[(9)] (8) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

[(10)] (9) "Evaluation" means any diagnostic procedures used in the determination of drug dependency, and may include but are not limited to chemical testing, medical examinations and interviews.

[(11)] (10) "Individual diversion plan" means a system of services tailored to the individual's unique needs as identified in the evaluation, which may include but need not be limited to medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public. The plan shall include appropriate methods for monitoring the individual's progress toward achievement of the defined treatment objectives and shall also include periodic review by the court.

[(12)] (11) "Treatment facility" means detoxification centers, outpatient clinics, residential care facilities, hospitals and such other facilities determined to be suitable by the [*Mental Health and Developmental Disability Services Division*,] **Department of Human Services**, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation.

SECTION 140. ORS 430.610 is amended to read:

430.610. It is declared to be the policy and intent of the Legislative Assembly that:

(1) Subject to the availability of funds, mental health services should be available to all mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons regardless of age, county of residence or ability to pay;

(2) The [*divisions of the*] Department of Human Services and other state agencies shall conduct their activities in the least costly and most efficient manner so that delivery of services to the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons shall be effective and coordinated;

(3) To the greatest extent possible, mental health services shall be delivered in the community where the person lives in order to achieve maximum coordination of services and minimum disruption in the life of the person; and

(4) The State of Oregon shall encourage, aid and financially assist its county governments in the establishment and development of community mental health and developmental disabilities programs, including but not limited to, treatment and rehabilitation services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons and prevention of these problems through county administered community mental health and developmental disabilities programs.

SECTION 140a. ORS 430.705 is amended to read:

430.705. **Notwithstanding ORS 430.640**, the State of Oregon, through the [*State Office for Services to Children and Families*] **Department of Human Services**, may establish the necessary facilities and provide comprehensive mental health services for children throughout the state. These

services may include, but not be limited to the prevention of mental illness, and the prevention, treatment and restoration of emotionally disturbed, mentally ill and drug-dependent children.

SECTION 141. ORS 430.743 is amended to read:

430.743. (1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be made immediately by telephone or otherwise to the [*Mental Health and Developmental Disability Services Division's designee*] **designee of the Department of Human Services** or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

- (a) The name, age and present location of the allegedly abused adult;
- (b) The names and addresses of persons responsible for the adult's care;
- (c) The nature and extent of the alleged abuse, including any evidence of previous abuse;
- (d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and
- (e) The date of the incident.

(2) When a report is received by the [*division's*] **department's** designee under this section, the designee shall immediately determine whether the reported victim has sustained any serious injury. If so, the designee shall immediately notify the [*division*] **department**. If there is reason to believe a crime has been committed, the designee shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the [*division*] **department** in cases of serious injury or death.

SECTION 142. ORS 430.955 is amended to read:

430.955. (1) The **Department of Human Services** [*Health Division, the office of Alcohol and Drug Abuse Programs*] and the Oregon Health Sciences University shall develop a standardized screening instrument designed to identify the use of substances during pregnancy.

(2) The **department** [*Health Division, the office of Alcohol and Drug Abuse Programs*] and the Oregon Health Sciences University shall request the boards responsible for the licensing of health care providers and appropriate professional organizations to work with them to conduct a series of training sessions for health professionals who provide maternity care on how to assess drug use in pregnancy.

SECTION 143. ORS 431.045 is amended to read:

431.045. [(1) *The Assistant Director for Health, after interview of qualified persons, shall appoint a Deputy Assistant Director for Health who shall be responsible for such duties as the assistant director may prescribe.*]

[(2) *Either the Assistant Director for Health or the Deputy Assistant Director for Health shall be* **The Director of Human Services shall appoint** a physician licensed by the Board of Medical Examiners for the State of Oregon and certified by the American Board of Preventive Medicine who shall serve as the Public Health Officer and be responsible for the medical and paramedical aspects of the health programs within the [*division*] **department**.

[(3) *The Deputy Assistant Director for Health shall be in the unclassified service and shall receive such salary as may be provided by law.*]

SECTION 144. ORS 431.140 is amended to read:

431.140. [(1) *All rules of the Health Division shall have the force and effect of law.*]

[(2)] All state and local officers and employees, including peace officers, shall enforce [*such*] rules **adopted by the Department of Human Services relating to public health and other health matters** subject to the authority of the [*Assistant Director for Health*] **Director of Human Services**.

SECTION 145. ORS 431.155 is amended to read:

431.155. (1) Whenever it appears to the [*Health Division*] **Department of Human Services** that any person is engaged or about to engage in any acts or practices [*which*] **that** constitute a violation of any statute **relating to public health** administered by the [*division or its assistant director*] **department**, or any rule or order issued thereunder, the [*division*] **department** may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the [*Health Division or its assistant director*] **department**.

SECTION 146. ORS 431.170 is amended to read:

431.170. (1) The [*Assistant Director for Health*] **Director of Human Services** shall take direct charge of the functions that are necessary to preserve the public health in any county or district whenever any county or district official fails or refuses to administer or enforce the public health laws or rules [*which*] **that** the [*Assistant Director for Health, the department of the assistant director*] **director** or board is charged to enforce.

(2) The [*Assistant Director for Health*] **director** may call to the aid of the [*assistant*] director such assistance as is necessary for the enforcement of such statutes and rules, the expense of which shall be borne by the county or district making the use of this procedure necessary, to be paid out of the respective county or district treasury upon vouchers properly certified by the [*Assistant Director for Health*] **director**.

SECTION 147. ORS 431.195 is amended to read:

431.195. (1) There is established the Oregon Public Health Advisory Board to serve as an advisory body to the [*Assistant Director for Health*] **Director of Human Services**.

(2) The members of the board shall be residents of this state and shall be appointed by the Governor. The board shall consist of 15 members at least one-half of whom shall be public members broadly representing the state as a whole and the others to include representatives of local government and public and private health providers. At least two representatives, one consumer and one provider, from the Oregon Health Council shall serve on the board.

(3) The Oregon Public Health Advisory Board shall:

(a) Advise the [*Assistant Director for Health*] **director** on policy matters related to the operation of the [*agency*] **Department of Human Services**.

(b) Provide a review of statewide public health issues and make recommendations to the [*assistant*] director.

(c) Participate in public health policy development.

(4) Members shall be appointed for four-year terms. No person shall serve more than two consecutive terms.

(5) The board shall meet at least quarterly.

(6) Members of the board shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) Vacancies on the board shall be filled by appointments of the Governor for the unexpired term.

SECTION 148. ORS 431.210 is amended to read:

431.210. (1) There is established in the General Fund the [*Health Division*] **Public Health Account**, classified separately as to federal and other moneys.

(2) All fines, fees, penalties, federal apportionments or contributions and other moneys received by the [*Health Division*] **Department of Human Services relating to public health** shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the [*division*] **department** and shall be credited to the [*Health Division*] **Public Health Account**.

(3) All moneys credited to the [*Health Division*] **Public Health** Account hereby are appropriated and made available for the payment of expenses of the [*Health Division*] **department**.

SECTION 149. ORS 431.250 is amended to read:

431.250. (1) The Department of Human Services hereby is designated as the state agency to apply to and receive from the federal government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control and industrial hygiene programs, as may be available to this state or any of its political subdivisions or agencies. [*The department may designate any of its divisions to make applications and receive funds for the purposes set forth in this subsection.*]

(2) For the purposes of subsection (1) of this section, the department shall:

(a) Disburse or supervise the disbursement of all funds made available at any time by the federal government or this state for those purposes.

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made statewide in application insofar as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the federal government or any of its agencies, not inconsistent with the laws of the state.

SECTION 150. ORS 431.416 is amended to read:

431.416. The local public health authority or health district shall:

(1) Administer and enforce the rules of the local public health authority or the health district and public health laws and [*the*] rules of the [*Health Division*] **Department of Human Services**.

(2) Assure activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction as provided in the annual plan of the authority or district are performed. These activities shall include but not be limited to:

(a) Epidemiology and control of preventable diseases and disorders;

(b) Parent and child health services, including family planning clinics as described in ORS 435.205;

(c) Collection and reporting of health statistics;

(d) Health information and referral services; and

(e) Environmental health services.

SECTION 151. ORS 431.705 is amended to read:

431.705. As used in ORS 431.705 to 431.760, unless the context requires otherwise:

[(1) "*Assistant director*" means the *Assistant Director for Health*.]

[(2)] (1) "Affected territory" means an area that is the subject of a proceedings under ORS 431.705 to 431.760 where there is a danger to public health or an alleged danger to public health.

[(3)] (2) "Boundary commission" means a local government boundary commission created under ORS 199.410 to 199.430, 199.435 to 199.464, 199.480 to 199.505 and 199.510.

[(4)] (3) "Commission" means the Environmental Quality Commission.

[(5)] (4) "Danger to public health" means a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including a condition such as:

(a) Impure or inadequate domestic water.

(b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.

(c) Inadequate improvements for drainage of surface water and other fluid substances.

(5) "**Department**" means the **Department of Human Services**.

(6) "**Director**" means the **Director of Human Services**.

[(6)] (7) "District" means any one of the following:

(a) A metropolitan service district formed under ORS chapter 268.

(b) A county service district formed under ORS chapter 451.

(c) A sanitary district formed under ORS 450.005 to 450.245.

(d) A sanitary authority, water authority or joint water and sanitary authority formed under ORS 450.600 to 450.989.

(e) A domestic water supply district formed under ORS chapter 264.

[(7) "Division" means the Health Division of the Department of Human Services.]

(8) "Requesting body" means the county court, or local or district board of health that makes a request under ORS 431.715.

(9) "Service facilities" means water or sewer installations or works.

SECTION 152. ORS 431.830 is amended to read:

431.830. (1) The [*Adult and Family Services Division*] **Department of Human Services** shall establish an acquired immune deficiency syndrome program:

(a) [*for its clientele*] To provide education and prevention services[. *The Health Division shall establish*] **to its clients; and**

(b) [*an acquired immune deficiency syndrome program*] To provide education and prevention services to the public.

(2) [*Program*] **Programs** authorized by this section may be operated by [*either division*] **the department** directly or under contract with public and private agencies.

SECTION 153. ORS 431.990 is amended to read:

431.990. Unless otherwise specifically provided by any other statute, failure to obey any rules **relating to public health** of the [*Health Division,*] **Department of Human Services** or failure to obey any lawful written order **relating to public health** issued by the [*Assistant Director for Health*] **Director of Human Services** or any district or county public health administrator is a Class A misdemeanor.

SECTION 154. ORS 432.005 is amended to read:

432.005. As used in this chapter, unless the context requires otherwise:

[(1) "*Assistant director*" means the Assistant Director for Health.]

[(2)] (1) "Dead body" means a human body or such parts of such human body from the condition of which it reasonably may be concluded that death occurred.

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

[(3) "*Division*" means the Health Division of the Department of Human Services.]

(3) "**Director**" means the **Director of Human Services**.

(4) "Divorce" means dissolution of a marriage.

(5) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of the voluntary muscles.

(6) "File" means the presentation and acceptance of a vital record or vital report provided for in this chapter by the Center for Health Statistics.

(7) "Final disposition" means the burial, interment, cremation, removal from the state or other authorized disposition of a dead body or fetus, except that when removal from the state is conducted by the holder of a certificate of removal registration issued under ORS 692.270, the final disposition may not be considered complete until the certificate of death is filed.

(8) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and that does not result in a live birth.

(9) "Institution" means any establishment, public or private, that provides inpatient or outpatient medical, surgical or diagnostic care or treatment or nursing, custodial or domiciliary care, or to which persons are committed by law.

(10) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, that, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the

umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(11) "Person acting as a funeral service practitioner" means:

(a) A person other than a funeral service practitioner licensed under ORS 692.045, including but not limited to a relative, friend or other interested party, who performs the duties of a funeral service practitioner without payment; or

(b) A funeral service practitioner who files death certificates in another state if the funeral service practitioner is employed by a funeral establishment licensed in another state and registered with the State Mortuary and Cemetery Board under ORS 692.270.

(12) "Physician" means a person authorized or licensed under the laws of this state to practice medicine, osteopathy, chiropractic or naturopathic medicine.

(13) "Registration" means the process by which vital records and vital reports are completed, filed and incorporated into the official records of the Center for Health Statistics.

(14) "State registrar" means the State Registrar of the Center for Health Statistics.

(15) "System of vital statistics" means the registration, collection, preservation, amendment and certification of vital records and vital reports; the collection of other reports required by this chapter, and activities related thereto including the tabulation, analysis, dissemination and publication of vital statistics and training in the use of health data.

(16) "Vital records" means certificates or reports of birth, death, marriage, dissolution of marriage and data related thereto.

(17) "Vital reports" means reports of fetal death, induced termination of pregnancy, suicide attempts by persons under 18 years of age and survey and questionnaire documents and data related thereto.

(18) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, suicide attempts by persons under 18 years of age and related reports.

SECTION 155. ORS 433.001 is amended to read:

433.001. As used in ORS 433.001 to 433.045 and 433.106 to 433.770 unless the context requires otherwise:

[1] "*Assistant director*" means the Assistant Director for Health or authorized representative.]

[2] (1) "Communicable disease" means a disease or condition, the infectious agent of which may be transmitted from one person or an animal to another person, either by direct contact or through an intermediate host, vector or inanimate object, and that may result in illness, death or severe disability.

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

[3] "*Division*" means the Health Division of the Department of Human Services.]

(3) "**Director**" means the Director of Human Services.

(4) "Local public health administrator" means the local public health administrator of the county or district under ORS 431.418 or the authorized representative of the public health administrator.

(5) "Property" means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.

(6) "Public health measure" means isolation, quarantine or other preventative public health measure imposed on persons or property in order to prevent the spread of or exposure to diseases or contaminants of threat to the public.

(7) "Reportable disease" means a disease or condition, the reporting of which enables a public health agency to take action to protect or to benefit the public health.

(8) "Toxic substance" means a substance that may cause illness, disability or death to persons who are exposed to it.

SECTION 156. ORS 433.235 is amended to read:

433.235. As used in ORS 433.235 to 433.284:

(1) "Administrator" means the principal or other person having general control and supervision of a school or children's facility.

(2) "Children's facility" or "facility" means:

(a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except as exempted by rule of the [*Health Division*] **Department of Human Services**;

(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the [*Health Division*] **department**; or

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the [*Health Division*] **department**.

(3) "Local health department" [*or "department"*] means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

(5) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or by the Naturopathic Board of Examiners or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private or parochial school offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the [*Health Division*] **Department of Human Services**.

SECTION 157. ORS 433.260 is amended to read:

433.260. (1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable disease [*as prescribed by rules of the Health Division pursuant to ORS 433.273*] **and is** required by the rules of the [*Health Division*] **Department of Human Services** to be excluded from a school or children's facility, the administrator shall send such person home and, if the disease is one that must be reported to the [*Health Division*,] **department**, report the occurrence to the local health department by the most direct means available.

(2) Any person excluded under subsection (1) of this section shall not be permitted to be in the school or facility until the person presents a certificate from a physician, local health department nurse or school nurse stating that the person does not have or is not a carrier of any restrictable disease.

SECTION 158. ORS 433.267 is amended to read:

433.267. (1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the [*Health Division*] **Department of Human Services** as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis;

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization; or

(d) A statement signed by the parent of a child transferring to a school or facility from another school or facility that the parent will have records required by paragraphs (a) to (c) of this subsection for the child sent to the school or facility within 30 days of initial attendance of the child

therein. The statement shall be accompanied by a presigned exclusion order from the local health department to be used as described in subsection (6) of this section.

(2) A child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of majority as provided in ORS 109.510 or 109.520 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child shall not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) If the records are not received within 30 days, as provided in subsection (1)(d) of this section, the administrator shall enforce the presigned exclusion order and exclude the child in accordance with a time schedule established by rule of the [Health Division] **department**.

(7) At the time specified by the [Health Division] **department** by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the **local health** department.

(8) The **local health** department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection (1)(a), (b) or (d) of this section. If the child is determined to be in noncompliance, the **local health** department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(9) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(10) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the [Health Division] **department** pursuant to ORS 433.273.

(11) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(12) All statements required by this section shall be on forms approved or provided by the [Health Division] **department**.

(13) In lieu of signed statements from practitioners of the healing arts, the [division] **department** may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the [division] **department** determines such records are accurate.

SECTION 159. ORS 435.205 is amended to read:

435.205. (1) The Department of Human Services and every county health department shall offer family planning and birth control services within the limits of available funds. Both agencies jointly may offer such services. The Director of Human Services **or a designee** [may designate which divisions] shall initiate and conduct discussions of family planning with each person who might have

an interest in and benefit from such service. The Department of Human Services [*through its divisions*] shall furnish consultation and assistance to county health departments.

(2) Family planning and birth control services may include [*interview*] **interviews** with trained personnel; distribution of literature; referral to a licensed physician for consultation, examination, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products.

(3) Any literature, charts or other family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English shall be made available in the appropriate foreign language for that segment of the population.

(4) In carrying out its duties under this section, and with the consent of the county governing body, any county health department may adopt a fee schedule for services provided by the **county health** department. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

(5) The county health department shall collect fees according to the schedule adopted under subsection (4) of this section. Such fees may be used to meet the expenses of providing the services authorized by this section.

NOTE: Section 160 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 161. ORS 441.020 is amended to read:

441.020. (1) Licenses for health care facilities [*except*] **including** long term care facilities, as defined in ORS 442.015, shall be obtained from the [*Health Division.*] **Department of Human Services.**

[(2) Licenses for long term care facilities shall be obtained from the Senior and Disabled Services Division.]

[(3)] (2) Applications shall be upon such forms and shall contain such information as the [*appropriate division*] **department** may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.055.

[(4)] (3) Each application shall be accompanied by the license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the [*appropriate division*] **Department of Human Services Account** for carrying out the functions under ORS 441.015 to 441.063 and 431.607 to 431.619.

[(5)] (4) Except as otherwise provided in subsection [(6)] (5) of this section, for hospitals with:

- (a) Fewer than 26 beds, the annual license fee shall be \$750.
- (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.
- (c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$1,900.
- (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.
- (e) Two hundred or more beds, the annual license fee shall be \$3,400.

[(6)] (5) For long term care facilities with:

- (a) Fewer than 16 beds, the annual license fee shall be up to \$120.
- (b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.
- (c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.
- (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to

\$450.

(e) Two hundred beds or more, the annual license fee shall be up to \$580.

[(7)] (6) For special inpatient care facilities with:

- (a) Fewer than 26 beds, the annual license fee shall be \$750.
- (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.
- (c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be \$1,900.
- (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.
- (e) Two hundred beds or more, the annual license fee shall be \$3,400.

[(8)] (7) For ambulatory surgical centers, the annual license fee shall be \$1,000.

[(9)] **(8)** For birthing centers, the annual license fee shall be \$250.

[(10)] **(9)** During the time the licenses remain in force holders thereof are not required to pay inspection fees to any county, city or other municipality.

[(11)] **(10)** Any health care facility license may be indorsed to permit operation at more than one location. In such case the applicable license fee shall be the sum of the license fees which would be applicable if each location were separately licensed.

[(12)] **(11)** Licenses for health maintenance organizations shall be obtained from the Director of the Department of Consumer and Business Services pursuant to ORS 731.072.

SECTION 162. ORS 441.022 is amended to read:

441.022. In determining whether to license a health care facility pursuant to ORS 441.025, the [Health Division or the Senior and Disabled Services Division] **Department of Human Services** shall consider only factors relating to the health and safety of individuals to be cared for therein and shall not consider whether the health care facility is or will be a governmental, charitable or other nonprofit institution or whether it is or will be an institution for profit.

SECTION 163. ORS 441.025 is amended to read:

441.025. (1) Upon receipt of an application and the license fee, the [Health Division or the Senior and Disabled Services Division] **Department of Human Services** shall issue a license if it finds that the applicant and health care facility comply with ORS 441.015 to 441.063, 441.085 and 441.087 and the rules of the [appropriate division] **department** provided that it does not receive within the time specified a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

(2) Each license, unless sooner suspended or revoked, shall be renewable annually for the calendar year upon payment of the fee, provided that a certificate of noncompliance has not been issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

(3) Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable.

(4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by rule of the [appropriate division] **department**.

(5) No license shall be issued or renewed for any health care facility or health maintenance organization that offers or proposes to develop a new health service unless a certificate of need has first been issued therefor pursuant to ORS 442.340 (1987 Replacement Part) or approval has been granted under ORS 442.315 or section 9, chapter 1034, Oregon Laws 1989.

(6) No license shall be issued or renewed for any skilled nursing facility or intermediate care facility, as defined in ORS 442.015, unless the applicant has included in the application the name and such other information as may be necessary to establish the identity and financial interests of any person who has incidents of ownership in the facility representing an interest of 10 percent or more thereof. If the person having such interest is a corporation, the name of any stockholder holding stock representing an interest in the facility of 10 percent or more shall also be included in the application. If the person having such interest is any other entity, the name of any member thereof having incidents of ownership representing an interest of 10 percent or more in the facility shall also be included in the application.

(7) A license may be denied to any applicant for a license or renewal thereof or any stockholder of any such applicant who has incidents of ownership in the facility representing an interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for the facility, if during the five years prior to the application the applicant or any stockholder of the applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has divested that interest after receiving written notice from the [division] **department** of intention to suspend or revoke the license or to decertify the home from eligibility to receive payments for services provided under this section.

(8) No license shall be issued or renewed for any long term care facility, as defined in ORS 442.015, unless the applicant has included in the application the identity of any person who has in-

cident of ownership in the facility who also has a financial interest in any pharmacy, as defined in ORS 689.005.

SECTION 164. ORS 441.030 is amended to read:

441.030. (1) The [*Health Division or the Senior and Disabled Services Division of the*] Department of Human Services, pursuant to ORS 479.215, shall deny, suspend or revoke a license in any case where the State Fire Marshal, or the representative of the State Fire Marshal, certifies that there is a failure to comply with all applicable laws, lawful ordinances and rules relating to safety from fire.

(2) The [*appropriate division*] **department** may deny, suspend or revoke a license in any case where it finds that there has been a substantial failure to comply with ORS 441.015 to 441.063, 441.085, 441.087, 441.990 (3) or the rules or minimum standards adopted under those statutes.

(3) The [*appropriate division*] **department** may suspend or revoke a license issued under ORS 441.025 for failure to comply with a [*division*] **department** order arising from a health care facility's substantial lack of compliance with the provisions of ORS 441.015 to 441.063, 441.084 to 441.087 and 441.990 (3), or the rules adopted thereunder, or for failure to pay a civil penalty imposed under ORS 441.710.

(4) The [*Senior and Disabled Services Division*] **department** may order a long term care facility licensed under ORS 441.025 to restrict the admission of patients when the [*division*] **department** finds an immediate threat to patient health and safety arising from failure of the long term care facility to be in compliance with ORS 441.015 to 441.063, 441.084 to 441.087 and the rules adopted pursuant thereto.

(5) Any long term care facility which has been ordered to restrict the admission of patients pursuant to subsection (4) of this section shall post a notice of such restriction, provided by the [*division*] **department**, on all doors providing ingress to and egress from the facility, for the duration of the restriction.

SECTION 165. ORS 441.037 is amended to read:

441.037. (1) When the [*Health Division or the Senior and Disabled Services Division*] **Department of Human Services** proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.550.

SECTION 166. ORS 441.050 is amended to read:

441.050. Notwithstanding the existence and pursuit of any other remedy, the [*Health Division or the Senior and Disabled Services Division*] **Department of Human Services** may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a health care facility or health maintenance organization without a license.

SECTION 167. ORS 441.055 is amended to read:

441.055. (1) The [*Health Division and the Senior and Disabled Services Division*] **Department of Human Services** shall adopt such rules with respect to the different types of health care facilities as may be designed to further the accomplishment of the purposes of ORS 441.015 to 441.087. No rules shall require any specific food so long as the necessary nutritional food elements are present.

(2) Rules describing care given in health care facilities shall include, but not be limited to, standards of patient care or patient safety, adequate professional staff organizations, training of staff for whom no other state regulation exists, suitable delineation of professional privileges and adequate staff analyses of clinical records. The [*appropriate division*] **department** may in its discretion accept certificates by the Joint Commission on Accreditation of Hospitals or the Committee on Hospitals of the American Osteopathic Association as evidence of compliance with acceptable standards.

(3) The governing body of each health care facility shall be responsible for the operation of the facility, the selection of the medical staff and the quality of care rendered in the facility. The governing body shall:

(a) Ensure that all health care personnel for whom state licenses, registrations or certificates are required are currently licensed, registered or certified;

(b) Ensure that physicians admitted to practice in the facility are granted privileges consistent with their individual training, experience and other qualifications;

(c) Ensure that procedures for granting, restricting and terminating privileges exist and that such procedures are regularly reviewed to assure their conformity to applicable law;

(d) Ensure that physicians admitted to practice in the facility are organized into a medical staff in such a manner as to effectively review the professional practices of the facility for the purposes of reducing morbidity and mortality and for the improvement of patient care; and

(e) Ensure that a physician is not denied medical staff membership or privileges at the facility solely on the basis that the physician holds medical staff membership or privileges at another health care facility.

(4) The physicians organized into a medical staff pursuant to subsection (3) of this section shall propose medical staff bylaws to govern the medical staff. The bylaws shall include, but not be limited to the following:

(a) Procedures for physicians admitted to practice in the facility to organize into a medical staff pursuant to subsection (3) of this section;

(b) Procedures for ensuring that physicians admitted to practice in the facility are granted privileges consistent with their individual training, experience and other qualifications;

(c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or remove officers and other persons to carry out medical staff activities with accountability to the governing body;

(d) Procedures for ensuring that physicians admitted to practice in the facility are currently licensed by the Board of Medical Examiners for the State of Oregon;

(e) Procedures for ensuring that the facility's procedures for granting, restricting and terminating privileges are followed and that such procedures are regularly reviewed to assure their conformity to applicable law; and

(f) Procedures for ensuring that physicians provide services within the scope of the privileges granted by the governing body.

(5) Amendments to medical staff bylaws shall be accomplished through a cooperative process involving both the medical staff and the governing body. Medical staff bylaws shall be adopted, repealed or amended when approved by the medical staff and the governing body. Approval shall not be unreasonably withheld by either. Neither the medical staff nor the governing body shall withhold approval if such repeal, amendment or adoption is mandated by law, statute or regulation or is necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or if the failure to approve would subvert the stated moral or ethical purposes of the institution.

(6) The Board of Medical Examiners for the State of Oregon may appoint one or more physicians to conduct peer review for a health care facility upon request of such review by all of the following:

(a) The physician whose practice is being reviewed.

(b) The executive committee of the health care facility's medical staff.

(c) The governing body of the health care facility.

(7) The physicians appointed pursuant to subsection (6) of this section shall be deemed agents of the Board of Medical Examiners for the State of Oregon, subject to the provisions of ORS 30.310 to 30.400 and shall conduct peer review. Peer review shall be conducted pursuant to the bylaws of the requesting health care facility.

(8) Any person serving on or communicating information to a peer review committee shall not be subject to an action for damages for action or communications or statements made in good faith.

(9) All findings and conclusions, interviews, reports, studies, communications and statements procured by or furnished to the peer review committee in connection with a peer review are confi-

dential pursuant to ORS 192.501 to 192.505 and 192.690 and all data is privileged pursuant to ORS 41.675.

(10) Notwithstanding subsection (9) of this section, a written report of the findings and conclusions of the peer review shall be provided to the governing body of the health care facility who shall abide by the privileged and confidential provisions set forth in subsection (9) of this section.

(11) Procedures for peer review established by subsections (6) to (10) of this section are exempt from ORS 183.310 to 183.550.

(12) The [*Health Division*] **department** shall adopt by rule standards for rural hospitals, as defined in ORS 442.470, that specifically address the provision of care to postpartum and newborn patients so long as patient care is not adversely affected.

(13) For purposes of this section, "physician" has the meaning given the term in ORS 677.010.

SECTION 168. ORS 441.057 is amended to read:

441.057. (1) Rules adopted by the [*Health Division or the Senior and Disabled Services Division*] **Department of Human Services** pursuant to ORS 441.055 shall include procedures for the filing of complaints as to the standard of care in any health care facility and provide for the confidentiality of the identity of any complainant.

(2) No health care facility, or person acting in the interest of the facility, shall take any disciplinary or other adverse action against any employee who in good faith brings evidence of inappropriate care or any other violation of law or rules to the attention of the proper authority solely because of the employee's action as described in this subsection.

(3) Any employee who has knowledge of inappropriate care or any other violation of law or rules shall utilize established reporting procedures of the health care facility administration before notifying the [*Health Division, the Senior and Disabled Services Division*] **department** or other state agency of the alleged violation, unless the employee believes that patient health or safety is in immediate jeopardy or the employee makes the report to the [*Health Division or the Senior and Disabled Services Division*] **department** under the confidentiality provisions of subsection (1) of this section.

(4) The protection of health care facility employees under subsection (2) of this section shall commence with the reporting of the alleged violation by the employee to the administration of the health care facility or to the [*Health Division, the Senior and Disabled Services Division*] **department** or other state agency pursuant to subsection (3) of this section.

(5) Any person suffering loss or damage due to any violation of subsection (2) of this section has a right of action for damages in addition to other appropriate remedy.

SECTION 169. ORS 441.060, as amended by section 178, chapter 104, Oregon Laws 2001 (Enrolled House Bill 2609), is amended to read:

441.060. (1) The [*Health Division or the Senior and Disabled Services Division*] **Department of Human Services** shall make or cause to be made such inspections as it may deem necessary.

(2) The Department of Human Services may prescribe by rule that any licensee or prospective applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, either prior to or after receiving a certificate of need pursuant to ORS 442.340 (1987 Replacement Part), if required, submit plans and specifications therefor to the department[,] for preliminary inspection and approval or recommendations with respect to compliance with the rules authorized by ORS 441.055 and 443.420 and for compliance with National Fire Protection Association standards when the facility is also to be Medicare or Medicaid certified. The department may require by rule payment of a fee for project review services at a variable rate, dependent on total project cost. For health care facilities, the department shall develop a review fee schedule as minimally necessary to support the staffing level and expenses required to administer the program. The fee for project review of residential care facilities shall equal two-thirds that required of health care facilities. The department may also [*participate in*] **conduct** an on-site review of projects [*in cooperation with the Health Division and Senior and Disabled Services Division*] as a prerequisite to licensure of new facilities, major renovations and expansions. The department shall, at least annually, [*in cooperation with the Health*

Division, Senior and Disabled Services Division and] with the advice of facilities covered by this review, present proposed rule changes regarding facility design and construction to such agencies for their consideration. The department shall also publish a state submissions guide for health and residential care facility projects and advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

SECTION 170. ORS 441.062 is amended to read:

441.062. (1) In conducting inspections for the purpose of licensing health care facilities under ORS 441.020, the [*Health Division and the Senior and Disabled Services Division*] **Department of Human Services** shall avoid unnecessary facility disruption by coordinating inspections performed by the [*divisions*] **department** with inspections performed by other federal, state and local agencies that have responsibility for health care facility licensure.

(2) Whenever possible, the [*Health Division and the Senior and Disabled Services Division*] **department** shall avoid duplication of inspections by accepting inspection reports or surveys prepared by other state agencies that have responsibility for health care facility licensure for purposes of the inspection required for licensure.

(3) The [*Health Division and the Senior and Disabled Services Division*] **department** shall adopt all rules necessary to implement this section.

SECTION 171. ORS 441.085 is amended to read:

441.085. (1) The [*Health Division and the Senior and Disabled Services Division*] **Department of Human Services** may by rule establish classifications and descriptions for the various types of health care facilities [*which*] **that** are 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.

(2) A health care facility licensed by the [*appropriate division*] **department** shall neither assume a descriptive title nor be represented under any descriptive title other than the classification title established by the [*appropriate division*] **department** and under which it is licensed.

SECTION 172. ORS 441.109 is amended to read:

441.109. The office of the Long Term Care Ombudsman shall carry out the following duties:

(1) Investigate and resolve complaints made by or for residents of long term care facilities about administrative actions that may adversely affect their health, safety, welfare or rights, including subpoenaing any person to appear, give sworn testimony or to produce documentary or other evidence that is reasonably material to any matter under investigation.

(2) Undertake, participate in or cooperate with persons and agencies in such conferences, inquiries, meetings or studies as may lead to improvements in the functioning of long term care facilities.

(3) Monitor the development and implementation of federal, state and local laws, regulations and policies that relate to long term care facilities in this state.

(4) Provide information to public agencies about the problems of residents of long term care facilities.

(5) Work closely with cooperative associations and citizen groups in this state.

(6) Widely publicize the Long Term Care Ombudsman's service, purpose and mode of operation.

(7) Collaborate with the Department of Human Services[, *specifically the Senior and Disabled Services Division, the Adult and Family Services Division, the Health Division*] and the Board of Examiners of Nursing Home Administrators to establish a statewide system to collect and analyze information on complaints and conditions in long term care facilities for the purpose of publicizing improvements and resolving significant problems.

(8) Appoint designees to serve as local representatives of the office in various districts of the state and regularly monitor their functions.

(9) Specify qualifications and duties of designees.

(10) Adopt rules necessary for carrying out ORS 441.100 to 441.133, after consultation with the committee.

(11) Provide periodically, or at least twice annually, a report to the Governor, [*Health Division, Senior and Disabled Services Division*] **department** and the Legislative Assembly.

(12) Prepare necessary reports with the assistance of the [*Senior and Disabled Services Division*] **department**.

SECTION 173. ORS 441.277 is amended to read:

441.277. As used in ORS 441.277 to 441.323:

[(1) "Assistant director" means the Assistant Director for Senior and Disabled Services of the Department of Human Services.]

[(2) "Division" means the Senior and Disabled Services Division of the Department of Human Services.]

(1) "**Department**" means the **Department of Human Services**.

(2) "**Director**" means **Director of Human Services**.

(3) "Facility" means a long term care facility as defined in ORS 442.015 or a residential care facility as defined in ORS 443.400. Facilities [*under the jurisdiction of the State Office for Services to Children and Families*] **licensed under ORS 418.205 to 418.325 by the department** are exempt from ORS 441.277 to 441.323.

(4) "Monitor" means an agent of the [*assistant*] director designated by the [*assistant*] director to observe the operation of a facility.

SECTION 174. ORS 441.678 is amended to read:

441.678. (1) If a nursing assistant found by the [*Senior and Disabled Services Division*] **Department of Human Services** to be responsible for abuse does not respond to the [*division*] **department** within 30 days after notice of the opportunity for an administrative review, the [*division*] **department** shall notify the Oregon State Board of Nursing, which shall place the abuse finding in the registry maintained under ORS 678.150.

(2) If a nursing assistant is found to be responsible for abuse, neglect or misappropriation of a resident's funds, the nursing assistant is entitled to an administrative review under subsection (3) of this section. If, after the review, the nursing assistant is found responsible, the [*division*] **department** shall notify the Oregon State Board of Nursing of its finding, which shall place the finding in the registry maintained under ORS 678.150.

(3) The administrative review shall be conducted by a panel of three persons, consisting of one person from the [*division's*] **department's** management staff **who is responsible for the monitoring of nursing homes**, one person who is a registered nurse and who is on the staff of [*or is a member of*] the Oregon State Board of Nursing and one person who is on the staff of the [*Department of Human Services*] **department** but [*not on the division's staff*] **not directly involved in the monitoring of nursing homes** and who has expertise in areas related to nursing care in a facility.

SECTION 175. ORS 441.685 is amended to read:

441.685. (1) Upon receipt of a report under ORS 441.645 to 441.680 or upon receipt of a complaint by a resident or legal guardian of a resident, or other public or private official, as defined in ORS 441.630 by the [*appropriate division*] **Department of Human Services**, the [*Assistant Director for Senior and Disabled Services*] **Director of Human Services** may designate monitors who shall observe the activities of the facility and report to the [*assistant*] director. The monitors may be designated without prior notice to the operator or owner of the facility. The monitors shall observe the operations of the facility for a period of not to exceed 10 days, assist the facility by advising it on how to comply with state requirements and shall submit a written report periodically to the [*assistant*] director on the operation and condition of the facility.

(2) The monitors shall have access to the facilities to the extent necessary to carry out their duties. The monitors shall also have access to all records pertaining to the operation of the facility.

(3) Upon completion of their investigations, the monitors shall file a final report with the [*assistant*] director and may:

(a) Find that problems in the facility have been resolved and recommend that further action by the [*Senior and Disabled Services Division*] **department** is unnecessary;

(b) Find that the problems in the facility are continuing but the facility owner, operator or other controlling person can resolve them within a period of not more than three months, and that during

the three-month period the health and welfare of the residents of the facility are not jeopardized thereby; or

(c) Find that the problems of the facility have not been resolved and the [*Senior and Disabled Services Division*] **department** should take steps to obtain compliance with resident care standards and continue monitoring for an additional period.

[(4) *With the consent of the Director of Human Services, the assistant director may designate monitors from other divisions of the Department of Human Services.*]

[(5)] **(4)** Associations representing long term care facilities may initiate a peer review process for any facility that is a member of the association and that is the subject of any complaint filed against it under ORS 441.630 to 441.685, 678.037 and 678.155 or any other provision of law. The report of the peer review process shall be submitted to the [*division*] **department**. The peer review described in this subsection is in addition to and not in lieu of any other investigation, observation or report of the monitors otherwise required or authorized by ORS 441.630 to 441.685, 678.037 and 678.155. The association and persons conducting the peer review process acting in good faith shall not be subject to an action for civil damages as a result thereof.

[(6)] **(5)** As used in this section:

[(a) *“Assistant director” means the Assistant Director for Senior and Disabled Services of the Department of Human Services.*]

[(b) *“Division” means the Senior and Disabled Services Division of the Department of Human Services.*]

(a) “Department” means the Department of Human Services.

(b) “Director” means the Director of Human Services.

(c) “Facility” means a long term care facility as defined in ORS 442.015.

(d) “Monitor” means an agent of the [*assistant*] director designated by the [*assistant*] director to observe the operation of a facility.

SECTION 176. ORS 441.690 is amended to read:

441.690. Upon the request of any person filing a complaint to be investigated by [*the Senior and Disabled Services Division or*] the Department of Human Services against a long term care facility, as defined in ORS 442.015, or against a residential care facility, as defined in ORS 443.400, the complainant or a designee thereof, or both, shall be allowed to accompany an investigator to the site of the alleged violation.

SECTION 177. ORS 441.705 is amended to read:

441.705. (1) “Person” means a licensee 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 a person whom the [*assistant director*] **Director of Human Services** finds should be so licensed but is not, but does not include any employee of such licensee or person.

(2) “Direct patient care or feeding” means any care provided directly to or for any patient related to that patient’s physical, medical and dietary well-being as defined by rules of the [*Health Division or the Senior and Disabled Services Division*] **Department of Human Services**.

(3) “Staff to patient ratio” means the number and training of persons providing direct patient care as defined in rules of the [*Health Division or the Senior and Disabled Services Division*] **department**.

SECTION 178. ORS 441.990 is amended to read:

441.990. (1) Violation of ORS 441.015 (1) is a violation punishable, upon conviction, by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation. Each day of continuing violation after a first conviction shall be considered a subsequent violation.

(2)(a) Violation of ORS 441.815 (1) is a violation punishable by a fine of \$10.

(b) Violation of ORS 441.815 (2) or (3) is a Class D violation.

(3) Any person who willfully prevents, interferes with, or attempts to impede in any way the work of any duly authorized representative of the [*Senior and Disabled Services Division*] **Department of Human Services** in the lawful carrying out of the provisions of ORS 441.087 (1) is guilty of a Class C misdemeanor.

(4) The removal of the notice required by ORS 441.030 (5) by any person other than an official of [the Health Division or the Senior and Disabled Services Division of] the **department** [Department of Human Services, as appropriate.] is a Class C misdemeanor.

SECTION 179. ORS 442.015, as amended by section 1, chapter 100, Oregon Laws 2001 (Enrolled House Bill 2241), and section 181a, chapter 104, Oregon Laws 2001 (Enrolled House Bill 2609), is amended to read:

442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

(1) "Acquire" or "acquisition" refers to obtaining equipment, supplies, components or facilities by any means, including purchase, capital or operating lease, rental or donation, with intention of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

(2) "Adjusted admission" means the sum of all inpatient admissions divided by the ratio of inpatient revenues to total patient revenues.

(3) "Affected persons" has the same meaning as given to "party" in ORS 183.310 (6).

(4) "Ambulatory surgical center" means a facility that performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(5) "Audited actual experience" means data contained within financial statements examined by an independent, certified public accountant in accordance with generally accepted auditing standards.

(6) "Budget" means the projections by the hospital for a specified future time period of expenditures and revenues with supporting statistical indicators.

(7) "Case mix" means a calculated index for each hospital, based on financial accounting and case mix data collection as set forth in ORS 442.425, reflecting the relative costliness of that hospital's mix of cases compared to a state or national mix of cases.

(8) "Council" means the Oregon Health Council.

(9) "Department" means the Department of Human Services of the State of Oregon.

(10) "Develop" means to undertake those activities which on their completion will result in the offer of a new institutional health service or the incurring of a financial obligation, as defined under applicable state law, in relation to the offering of such a health service.

(11) "Director" means the Director of Human Services.

(12) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a donation or grant in lieu of an expenditure but not including any interest thereon.

(13) "Freestanding birthing center" means a facility licensed for the primary purpose of performing low risk deliveries.

(14) "Governmental unit" means the state, or any county, municipality or other political subdivision, or any related department, division, board or other agency.

(15) "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges and other operating revenue. "Gross revenue" does not include contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

(16)(a) "Health care facility" means a hospital, a long term care facility, an ambulatory surgical center, a freestanding birthing center or an outpatient renal dialysis facility.

(b) "Health care facility" does not mean:

(A) An establishment furnishing residential care or treatment not meeting federal intermediate care standards, not following a primarily medical model of treatment, prohibited from admitting persons requiring 24-hour nursing care and licensed or approved under the rules of the **Department of Human Services or the** [Mental Health and Developmental Disability Services Division, Senior and Disabled Services Division, State Office for Services to Children and Families,] Department of Corrections [or Vocational Rehabilitation Division]; or

(B) An establishment furnishing primarily domiciliary care.

(17) "Health maintenance organization" or "HMO" means a public organization or a private organization organized under the laws of any state which:

(a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

(b)(A) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;

(B) Is compensated, except for copayments, for the provision of the basic health care services listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate basis; and

(C) Provides physicians' services primarily directly through physicians who are either employees or partners of such organization, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(18) "Health services" means clinically related diagnostic, treatment or rehabilitative services, and includes alcohol, drug or controlled substance abuse and mental health services that may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

(19) "Hospital" means a facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities.

(20) "Institutional health services" means health services provided in or through health care facilities and includes the entities in or through which such services are provided.

(21) "Intermediate care facility" means a facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services above the level of room and board that can be made available to them only through institutional facilities.

(22) "Long term care facility" means a facility with permanent facilities that include inpatient beds, providing medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the director, to provide treatment for two or more unrelated patients. "Long term care facility" includes skilled nursing facilities and intermediate care facilities but may not be construed to include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

(23) "Major medical equipment" means medical equipment that is used to provide medical and other health services and that costs more than \$1 million. "Major medical equipment" does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services, if the clinical laboratory is independent of a physician's office and a hospital and has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of that Act.

(24) "Medically indigent" means a person who has insufficient resources or assets to pay for needed medical care without utilizing resources required to meet basic needs for shelter, food and clothing.

(25) "Net revenue" means gross revenue minus deductions from revenue.

(26) "New hospital" means a facility that did not offer hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services. "New hospital" also includes any replacement of an existing hospital that involves a substantial increase or change in the services offered.

(27) "New skilled nursing or intermediate care service or facility" means a service or facility that did not offer long term care services on a regular basis by or through the facility within the prior 12-month period and is initiating or proposing to initiate such services. A "new skilled nursing or intermediate care service or facility" also includes the rebuilding of a long term care facility, the

relocation of buildings which are a part of a long term care facility, the relocation of long term care beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

(28) "Offer" means that the health care facility holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(29) "Operating expenses" means the sum of daily hospital service expenses, ambulatory service expenses, ancillary expenses and other operating expenses, excluding income taxes.

(30) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services directly to outpatients.

(31) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.

(32) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(33) "Special inpatient care facility" means a facility with permanent inpatient beds and other facilities designed and utilized for special health care purposes, including but not limited to a rehabilitation center, a college infirmary, a chiropractic facility, a facility for the treatment of alcoholism or drug abuse, an inpatient care facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the [division] **Department of Human Services**, after determination of the need for such classification and the level and kind of health care appropriate for such classification.

(34) "Total deductions from gross revenue" or "deductions from revenue" means reductions from gross revenue resulting from inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative, courtesy and policy discounts and adjustments and other such revenue deductions. The deduction shall be net of the offset of restricted donations and grants for indigent care.

SECTION 180. ORS 442.807 is amended to read:

442.807. (1) Within 30 days of receiving the recommendations of the Advisory Committee on Physician Credentialing Information, the Administrator of the Office for Oregon Health Plan Policy and Research shall forward the recommendations to the Director of the Department of Consumer and Business Services and to the [Assistant Director for Health] **Director of Human Services**. The administrator shall request that the [department] **Department of Consumer and Business Services** and the [Health Division] **Department of Human Services** adopt rules to carry out the efficient implementation and enforcement of the recommendations of the committee.

(2) The [department] **Department of Consumer and Business Services** and the [division] **Department of Human Services** shall:

(a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures Act, for the purpose of effectuating the provisions of ORS 442.800 to 442.807; and

(b) Consult with each other and with the administrator to ensure that the rules adopted by the [department] **Department of Consumer and Business Services** and the [division] **Department of Human Services** are identical and are consistent with the recommendations developed pursuant to ORS 442.805 for affected hospitals and health care service contractors.

(3) The uniform credentialing information required pursuant to the administrative rules of the [department] **Department of Consumer and Business Services** and the [division] **Department of Human Services** represent the minimum uniform credentialing information required by the affected hospitals and health care service contractors. Nothing in ORS 442.800 to 442.807 shall be interpreted to prevent an affected hospital or health care service contractor from requesting additional credentialing information from a licensed physician for the purpose of completing physician credentialing procedures used by the affected hospital or health care service contractor.

SECTION 181. ORS 443.205 is amended to read:

443.205. As used in ORS 443.215 and 443.225, "domiciliary care facilities" means facilities providing residential care to adults, including adult foster care homes, group care facilities or residential treatment, training or care facilities, established, contracted for or operated by [any division of] the Department of Human Services.

SECTION 182. ORS 443.340 is amended to read:

443.340. [(1)] The Department of Human Services shall adopt administrative rules necessary for the implementation and administration of ORS 443.305 to 443.350. These rules shall include, but are not limited to, a requirement that an in-home care agency must conduct criminal background checks on all individuals employed by or contracting with the agency as in-home caregivers.

[(2) *The Health Division, the Mental Health and Developmental Disability Services Division and the Senior and Disabled Services Division shall jointly make recommendations to the department about the administrative rules to be adopted under subsection (1) of this section.*]

SECTION 183. ORS 443.400 is amended to read:

443.400. As used in ORS 443.400 to 443.455 and 443.991 (2), unless the context requires otherwise:

(1) "Department" means the [*Mental Health and Developmental Disability Services Division or the Senior and Disabled Services Division or the office of Alcohol and Drug Abuse Programs, as appropriate*] **Department of Human Services.**

(2) "Director" means the [*Assistant Director for Mental Health and Developmental Disability Services Division, the Assistant Director for Senior and Disabled Services or the Assistant Director for Alcohol and Drug Abuse Programs, as appropriate*] **Director of Human Services.**

(3) "Resident" means any individual residing in a facility who receives residential care, treatment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be a resident if he or she is related by blood or marriage within the fourth degree as determined by civil law to the person licensed to operate or maintain the facility.

(4) "Residential care" means services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(5) "Residential care facility" means a facility that provides, for six or more physically disabled or socially dependent individuals, residential care in one or more buildings on contiguous properties.

(6) "Residential facility" means a residential care facility, residential training facility, residential treatment facility, residential training home or residential treatment home.

(7) "Residential training facility" means a facility that provides, for six or more mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties.

(8) "Residential training home" means a facility that provides, for five or fewer mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties, when so certified and funded by the [*Mental Health and Developmental Disability Services Division*] **department.**

(9) "Residential treatment facility" means a facility that provides, for six or more mentally, emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties.

(10) "Residential treatment home" means a facility that provides for five or fewer mentally, emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties.

(11) "Training" means the systematic, planned maintenance, development or enhancement of self-care skills, social skills or independent living skills, or the planned sequence of systematic interactions, activities or structured learning situations designed to meet each resident's specified needs in the areas of physical, social, emotional and intellectual growth.

(12) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-

tional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

SECTION 184. ORS 443.415 is amended to read:

443.415. (1) Applications for licensure to maintain and operate a residential facility shall be made to the department on forms provided for that purpose by the department. Each application shall be accompanied by a fee of \$60 for facilities defined in ORS 443.400 (5), (7) and (9) and a fee of \$30 for homes defined in ORS 443.400 (8) and (10). No fee is required of any governmentally operated residential facility.

(2) Upon receipt of an application and fee, the department shall **conduct an investigation** [*cause an investigation to be made by the appropriate divisions, as determined by the director*]. The department shall issue a license to any applicant for operation of a residential facility in compliance with ORS 443.400 to 443.455 and 443.991 (2) and the rules of the director. Licensure may be denied when a residential facility is not in compliance with ORS 443.400 to 443.455 and 443.991 (2) or the rules of the director. Licensure shall be denied if the State Fire Marshal or other authority has given notice of noncompliance of facilities defined in ORS 443.400 (5), (7) and (9) pursuant to ORS 479.220.

SECTION 185. ORS 443.445 is amended to read:

443.445. (1) No residential facility or home shall admit individuals who require continuous nursing care except as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, if any resident of a residential facility or home requires nursing care for eight or more consecutive days or a physician or the designee of a physician or a registered nurse certifies that continued nursing care is required, the resident shall be transferred to an appropriate health care facility for as long as necessary.

(3) A resident of a residential facility or home who requires nursing care in addition to training, treatment or care needs, or any combination thereof, may be served by that facility or home with approval from the [*Mental Health and Developmental Disability Services Division or the Senior and Disabled Services Division*] **Department of Human Services** and in accordance with the rules of [*those divisions*] **the department** and consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 (9).

(4) No residential facility or home shall admit individuals of categories other than those designated on its license without prior written consent of the department.

(5) In the case of residential facilities or homes supervised by and operated exclusively for persons who rely upon prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized church or religious denomination, no medical, psychological or rehabilitative procedures shall be required.

SECTION 186. ORS 443.455 is amended to read:

443.455. For purposes of imposing civil penalties, residential facilities approved under ORS 443.400 to 443.455 and 443.991 (2) are considered to be long-term care facilities, subject to ORS 441.705 to 441.745. However, the [*Assistant Director for the Senior and Disabled Services Division, the Assistant Director for the Mental Health and Developmental Disability Services Division or the Assistant Director for Alcohol and Drug Abuse Programs*] **Director of Human Services** shall exercise the powers conferred under ORS 441.705 to 441.745. The director shall by rule prescribe a schedule of penalties appropriate to residential facilities licensed under ORS 443.400 to 443.455 and 443.991 (2).

SECTION 187. ORS 443.705 is amended to read:

443.705. As used in ORS 443.705 to 443.825:

(1) "Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.

(2) "Department" means[, *as appropriate, the Senior and Disabled Services Division or the Mental Health and Developmental Disability Services Division of*] the Department of Human Services.

(3) "Director" means the Director of Human Services.

(4) "Licensed adult foster home" means a home which has been investigated and approved by the department. This includes an on-site inspection of the facility.

(5) "Provider" means any person operating an adult foster home and includes a resident manager. "Provider" does not include the owner or lessor of the building in which the adult foster home is located or the owner or lessor of the land on which the adult foster home is situated unless the owner or lessor is also the operator of the adult foster home.

(6) "Residential care" means the provision of room and board and services that assist the resident in activities of daily living, such as assistance with bathing, dressing, grooming, eating, medication management, money management or recreation.

(7) "Substitute caregiver" means any person who provides care and services in an adult foster home under the jurisdiction of the [*Senior and Disabled Services Division*] **department** in the absence of the provider or resident manager.

SECTION 188. ORS 443.715 is amended to read:

443.715. For purposes of ORS 443.705 to 443.825, "adult foster home" does not include:

(1) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, if no resident thereof requires any element of care.

(2) Any specialized living situation for physically disabled persons where the [*Senior and Disabled Services Division*] **Department of Human Services** provides payment for personal care services other than to an adult foster home provider.

(3) Any residential facility, as defined in ORS 443.400, licensed and funded by the **department**. [*Mental Health and Developmental Disability Services Division or by the office of Alcohol and Drug Abuse Programs.*]

(4) Any residential treatment home, as defined in ORS 443.400, licensed and funded by the department.

[*(4) Any residential treatment home, as defined in ORS 443.400, licensed and funded by the Mental Health and Developmental Disability Services Division or by the office of Alcohol and Drug Abuse Programs.*]

SECTION 189. ORS 443.735 is amended to read:

443.735. (1) Applications for license to maintain and operate an adult foster home shall be made on forms provided by the [*department*] **Department of Human Services**. Each application shall be accompanied by a fee of \$20 per bed requested for license.

(2) Upon receipt of an application and fee, the department shall **conduct an investigation**. [*cause an investigation to be made by the appropriate divisions, as determined by the Director of Human Services.*]

(3) The department shall not issue an initial license unless:

(a) The applicant and adult foster home are in compliance with ORS 443.705 to 443.825 and the rules of the department;

(b) The department has completed an inspection of the adult foster home;

(c) The department has completed a criminal records check on the applicant and any person, other than a resident, 16 years of age or older who will be residing in the adult foster home. The criminal records check shall be conducted in accordance with rules adopted under ORS 181.537;

(d) The department has checked the record of sanctions available [*from the Senior and Disabled Services Division*], including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry under ORS 441.678; and

(e) The applicant has demonstrated to the department the financial ability and resources necessary to operate the adult foster home. The department shall adopt rules as the department deems appropriate that establish the financial standards an applicant must meet to qualify for issuance of a license and that protect financial information from public disclosure. The demonstration of financial ability under this paragraph shall include, but need not be limited to, providing the department with a list of any unsatisfied judgments, pending litigation and unpaid taxes and notifying the department regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate

the financial ability and resources required by this paragraph, the department may require the applicant to furnish a financial guarantee as a condition of initial licensure.

(4) The department shall not renew a license under this section unless:

(a) The applicant and the adult foster home are in compliance with ORS 443.705 to 443.825 and the rules of the department;

(b) The department has completed an inspection of the adult foster home;

(c) The department has completed a criminal records check on the applicant and any person, other than a resident, 16 years of age or older who will be residing in the adult foster home. The criminal records check under this paragraph shall be conducted in accordance with rules adopted under ORS 181.537; and

(d) The department has checked the record of sanctions available [*from the Senior and Disabled Services Division*], including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry under ORS 441.678.

(5)(a) In seeking an initial license and renewal of a license when an adult foster home has been licensed for less than 24 months, the burden of proof shall be upon the provider and the adult foster home to establish compliance with ORS 443.705 to 443.825 and the rules of the department.

(b) In proceedings for renewal of a license when an adult foster home has been licensed for at least 24 continuous months, the burden of proof shall be upon the department to establish noncompliance with ORS 443.705 to 443.825 and the rules of the department.

(6)(a) Persons who have been convicted of one or more crimes that, as determined by rules of the department, are substantially related to the qualifications, functions or duties of a provider, resident manager, substitute caregiver or other household member of an adult foster home shall be prohibited from operating, working in or residing in an adult foster home.

(b) The department shall adopt rules that distinguish the criminal convictions and types of abuse that permanently prohibit a person from operating, working in or living in an adult foster home from the convictions and types of abuse that do not permanently prohibit the person from operating, working in or living in an adult foster home.

(c) A provider may not hire, retain in employment or allow to live in an adult foster home, other than as a resident, any person who the provider knows has been convicted of a disqualifying crime or has been found responsible for a disqualifying type of abuse.

(7) A license under ORS 443.725 is effective for one year from the date of issue unless sooner revoked. Each license shall state the name of the resident manager of the adult foster home, the names of all providers who own the adult foster home, the address of the premises to which the license applies, the maximum number of residents and the classification of the home. If, during the period covered by the license, a resident manager changes, the provider must within 15 days request modification of the license. The request must be accompanied by a fee of \$10.

(8) No license under ORS 443.725 is transferable or applicable to any location, persons operating the adult foster home or the person owning the adult foster home other than that indicated on the application for licensing.

(9) The department shall not issue a license to operate an additional adult foster home to a provider unless the provider has demonstrated the qualifications and capacity to operate the provider's existing licensed home or homes and has demonstrated the ability to provide care to the residents of those homes that is adequate and substantially free from abuse and neglect.

(10) All moneys collected under ORS 443.725 to 443.780 shall be deposited in a special account in the General Fund, and are appropriated continuously for payment of expenses incurred by the Department of Human Services.

(11) Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the [*Senior and Disabled Services Division*] **department** may issue a 60-day provisional license to a qualified person if the [*division*] **department** determines that an emergency situation exists after being notified that the licensed provider of an adult foster home is no longer overseeing operation of the adult foster home.

SECTION 190. ORS 443.767 is amended to read:

443.767. (1) When the [*Senior and Disabled Services Division*] **Department of Human Services** receives a complaint that alleges that a resident **of a licensed adult foster home** has been injured, abused or neglected, and that [*any*] **the** resident's health or safety is in imminent danger, or that the resident has died or been hospitalized, the investigation shall begin immediately after the complaint is received. If the investigator determines that the complaint is substantiated, the [*division*] **department** shall take appropriate corrective action immediately.

(2) When the [*Senior and Disabled Services Division*] **department** receives a complaint that alleges the existence of any circumstance that could result in injury, abuse or neglect of a resident **of a licensed adult foster home**, and that the circumstance could place the resident's health or safety in imminent danger, the [*division*] **department** shall investigate the complaint promptly. If the investigator determines that the complaint is substantiated, the [*division*] **department** shall take appropriate corrective action promptly.

(3) After public hearing, the [*Senior and Disabled Services Division*] **department** shall by rule set standards for the procedure, content and time limits for the initiation and completion of investigations of complaints. The time limits shall be as short as possible and shall vary in accordance with the severity of the circumstances alleged in the complaint. In no event shall the investigation exceed a duration of 60 days, unless there is an ongoing concurrent criminal investigation, in which case the department may take a reasonable amount of additional time in which to complete the investigation.

(4) The [*Senior and Disabled Services Division*] **department** shall take no longer than 60 days from the completion of the investigation report to take appropriate corrective action in the case of any complaint that the investigator determines to be substantiated.

(5)(a) The [*Senior and Disabled Services Division*] **department** shall [*cause*] **mail** a copy of the investigation report [*to be mailed*] within seven days of the completion of the report to:

(A) The complainant, unless the complainant requests anonymity;

(B) The resident, and any person designated by the resident to receive information concerning the resident;

(C) The facility; and

(D) The Long Term Care Ombudsman.

(b) The copy of the report shall be accompanied by a notice that informs the recipient of the right to submit additional evidence.

(6) The complaint and the investigation report shall be available to the public at the local [*Senior and Disabled Services Division*] **department** office or the type B area agency on aging, if appropriate.

(7) A copy of the report shall be forwarded to the [*central office of the division,*] **department** whether or not the investigation report concludes that the complaint is substantiated.

SECTION 191. ORS 443.775 is amended to read:

443.775. (1) The Department **of Human Services** shall adopt rules governing adult foster homes and the level of care provided in such homes, including the provision of care to more than one person with nursing care needs under specified conditions and department approval, such as are necessary to protect the health, safety or welfare of the residents and to provide for an appropriate continuum of care, but shall not be inconsistent with the residential nature of the living accommodations and the family atmosphere of the home. The rules shall be consistent with rules adopted by the Oregon State Board of Nursing under ORS 678.150 (9).

(a) An exception to the limit of one resident with nursing care needs may be granted if the provider proves to the department by clear and convincing evidence that such an exception will not jeopardize the care, health, safety or welfare of the residents and that the provider is capable of meeting the additional care needs of the new resident.

(b) The department, and the counties acting under the exemption granted pursuant to ORS 443.780, shall report on a quarterly basis to the Legislative Assembly on the number of exceptions granted during the quarter pursuant to paragraph (a) of this subsection.

(2) The provider may not employ a resident manager who does not meet the classification standard for the adult foster home.

(3) The provider shall be able to meet the night care needs of a resident before admitting the resident. The provider shall include night care needs in the resident's care plan.

(4) The provider shall screen a prospective resident before admitting the resident. The screening shall include but is not limited to diagnosis, medications, personal care needs, nursing care needs, night care needs, nutritional needs, activities and lifestyle preferences. A copy of the screening shall be given to the prospective resident or the prospective resident's representative.

(5) The department shall make rules to assure that any employee who makes a complaint pursuant to ORS 443.755 shall be protected from retaliation.

(6) For adult foster homes in which clients reside for whom the department pays for care, including homes in which the provider and the resident are related, the department may require substantial compliance with its rules relating to standards for care of the client as a condition for paying for care.

(7) By order the Director of Human Services may delegate authority under this section to personnel other than of [*Senior and Disabled Services Division and Mental Health and Developmental Disability Services Division*] **the department**.

(8) The department may commence a suit in equity to enjoin maintenance of an adult foster home if:

(a) The home is operated without a valid license under this section; or

(b) After the license to maintain the home is ordered suspended or revoked, a reasonable time for placement of residents in other facilities has been allowed but such placement has not been accomplished.

(9) The department shall establish by rule the maximum capacity of adult foster homes, including all nonrelated and related persons receiving residential care and day care.

(10) Any person who violates a provision of ORS 443.705 to 443.825 or the rules adopted thereunder may be subjected to the imposition of a civil penalty, to be fixed by the director by rule, not to exceed \$100 per violation, to a maximum of \$250 or, per occurrence of substantiated abuse, a maximum of \$1,000.

SECTION 192. ORS 443.830 is amended to read:

443.830. As used in this section and ORS 443.835:

(1) "Child" means a person under 18 years of age for whom developmental disability services are planned and provided.

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

[(2)(a)] **(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.

[(3) "*Division*" means the *Mental Health and Developmental Disability Services Division*.]

SECTION 193. ORS 443.886 is amended to read:

443.886. (1) On and after June 1, 1993, whenever any facility intends to provide care for patients or residents with Alzheimer's disease or other dementia by means of an Alzheimer's care unit, the facility must obtain a special indorsement on its license or registration.

(2) The Department of Human Services, [*acting through the Senior and Disabled Services Division*] with the input from representatives of advocate groups and the long term care industry, shall adopt by rule standards that assure that the special needs of any Alzheimer's patient or resi-

dent who is cared for in a special unit are met and that quality care is provided. The standards must include but are not limited to provisions for:

(a) Care planning, including physical design, staffing, staff training, safety, egress control, individual care planning, admission policy, family involvement, therapeutic activities and social services;

(b) Continuity of basic care requirements; and

(c) Marketing and advertising of the availability of and services from Alzheimer's care units.

(3) The department shall adopt a fee schedule for indorsement, taking into account the type of facility and the number of patients and residents.

(4) The department [*or division*] shall enforce rules adopted under subsection (2) of this section and shall allow a licensee or registrant to retain the special indorsement required to care for patients and residents with Alzheimer's disease or other dementia only so long as the licensee or registrant complies with the rules.

(5) The special indorsement may be suspended or revoked in the same manner as the license or registration is suspended or revoked.

(6) Unless a facility has obtained the indorsement required by subsection (1) of this section, the facility shall not:

(a) Advertise the facility as providing an Alzheimer's care unit; or

(b) Market the facility as providing an Alzheimer's care unit.

(7) As used in this section:

(a) "Alzheimer's care unit" means a special care unit in a designated, separated area for patients and residents with Alzheimer's disease or other dementia that is locked, segregated or secured to prevent or limit access by a patient or resident outside the designated or separated area.

(b) "Facility" means a nursing home, residential care facility, assisted living facility or any other like facility required to be licensed by the [*Senior and Disabled Services Division*] **department**.

(c) "Registry" means a facility will provide the [*Senior and Disabled Services Division*] **department** with information relating to the Alzheimer's care unit including the number of residents in the unit, stage of dementia for each resident, description of how services are provided, and length of time the unit has been operating.

SECTION 194. ORS 446.310 is amended to read:

446.310. As used in ORS 446.310 to 446.350, unless the context requires otherwise:

[1] "*Assistant director*" means the Assistant Director for Health.]

[2] "*Division*" means the Health Division of the Department of Human Services.]

[3] (1) "Camping vehicle" means either a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use and which is intended for human occupancy and is being used for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet.

(2) "**Construction**" means work regulated by the state building code as defined in ORS 455.010.

(3) "**Department**" means the Department of Human Services.

(4) "**Director**" means the Director of Human Services.

[4] (5) "Health official" means a local public health administrator appointed pursuant to ORS 431.418.

[5] (6) "Hostel" means any establishment having beds rented or kept for rent on a daily basis to travelers for a charge or fee paid or to be paid for rental or use of facilities and which are operated, managed or maintained under the sponsorship of a nonprofit organization which holds a valid exemption from federal income taxes under the Internal Revenue Code of 1954 as amended.

[6] (7) "Organizational camp" includes any area designated by the person establishing, operating, managing or maintaining the same for recreational use by groups or organizations which include but are not limited to youth camps, scout camps, summer camps, day camps, nature camps, survival camps, athletic camps, camps which are operated and maintained under the guidance,

supervision or auspices of religious, public and private educational systems and community service organizations.

[(7)] **(8)** "Picnic park" means any recreation park which is for day use only and provides no recreation vehicle or overnight camping spaces.

[(8)] **(9)** "Tourist facility" means any travelers' accommodation, hostel, picnic park, recreation park and organizational camp.

[(9)] **(10)** "Recreation park" means any area designated by the person establishing, operating, managing or maintaining the same for picnicking, overnight camping or use of recreational vehicles by the general public or any segment of the public. "Recreation park" includes but is not limited to areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to those areas divided into two or more lots, parcels, units or other interests for purposes of such use.

[(10)] **(11)** "Regulating agency" means, with respect to a tourist facility, the [Health Division of the] Department of Human Services.

[(11)] **(12)** "Travelers' accommodation" includes any establishment, which is not a hostel, having rooms, apartments or sleeping facilities rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.

[(12)] "Construction" means work regulated by the state building code as defined in ORS 455.010.]

SECTION 195. ORS 448.005 is amended to read:

448.005. As used in ORS 448.005 to 448.090, unless the context requires otherwise:

[(1)] "Assistant director" means the Assistant Director for Health.]

[(2)] **(1)** "Bathhouse" means a structure that contains dressing rooms, showers and toilet facilities for use with an adjacent public swimming pool.

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

(3) "Director" means the Director of Human Services.

[(3)] "Division" means the Health Division of the Department of Human Services.]

(4) "Person" has the meaning given that term in ORS 174.100, but also includes municipalities, recreation districts, counties and state agencies or instrumentalities.

(5) "Public spa pool" means a public swimming pool or wading pool designed primarily to direct water or air-enriched water under pressure onto the bather's body with the intent of producing a relaxing or therapeutic effect.

(6) "Public swimming pool" means an artificial structure, and its appurtenances, that contains water more than two feet deep, is expressly designated or used with the knowledge and consent of the owner or operator for swimming or recreational bathing, and is for the use of any segment of the public. "Public swimming pool" includes, but is not limited to, swimming pools owned or operated by:

- (a) Travelers' accommodations;
- (b) Recreation parks;
- (c) Colleges;
- (d) Schools;
- (e) Organizational camps as defined in ORS 446.310;
- (f) Clubs;
- (g) Associations;
- (h) Business establishments for their patrons or employees;
- (i) Private persons and that are open to the public;
- (j) Recreation districts;
- (k) Municipalities;
- (L) Counties; or
- (m) A state agency.

(7) "Public wading pool" means an artificial structure, and its appurtenances, that contains water less than two feet deep, is expressly designated or used with the knowledge and consent of

the owner or operator for wading or recreational bathing, and is for the use of any segment of the public, whether limited to patrons of a companion facility or not.

(8) "Recreation park" means those facilities as defined by ORS 446.310.

(9) "Travelers' accommodation" means those facilities as defined by ORS 446.310.

(10) "Variance" means written permission from the [division] **department** for a public swimming pool, public spa pool or public wading pool to be operated when it does not comply with all the applicable rules for public swimming pools, public spa pools or public wading pools.

SECTION 196. ORS 448.115 is amended to read:

448.115. As used in ORS 448.115 to 448.285, 454.235 and 454.255 unless the context requires otherwise:

[(1)] "*Assistant director*" means the Assistant Director for Health.]

[(2)] **(1)** "Connection" means the connection between a water system and a customer that enables the customer to receive potable water from the system.

[(3)] **(2)** "Construction standards" means criteria for constructing or installing water system facilities.

[(4)] "*Division*" means the Health Division of the Department of Human Services.]

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

(4) "Director" means the Director of Human Services.

(5) "Emergency" means a condition resulting from an unusual calamity such as a flood, an earthquake or an accidental spill of hazardous material that can endanger the quality of the water produced by a water system.

(6) "Operational requirements" means requirements that prescribe the manner in which water systems must be operated.

(7) "Permit" means a document issued to a water system that authorizes it to commence or continue to operate in the State of Oregon and lists the conditions the system must meet to continue operating.

(8) "Safe drinking water" means water that is sufficiently free from biological, chemical, radiological or physical impurities such that individuals will not be exposed to disease or harmful physiological effects.

(9) "Sanitary survey" means an on-site review of the source, facilities, equipment, operation and maintenance of a water system, including related land uses, for the purpose of evaluating the capability of that water system to produce and distribute safe drinking water.

(10) "Special master" means the person appointed by the court to administrate the water system.

(11) "Variance" means permission from the agency for a water system to provide water that does not meet water quality standards.

(12) "Water supplier" means any person, group of persons, municipality, district, corporation or entity that owns or operates a water system.

(13) "Water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances.

(14) "Waterborne disease" means disease caused by chemical, physical, radiological or biological agents epidemiologically associated with infection, illness or disability that is transported to human beings by water that has been ingested or through contact as in bathing or other domestic uses.

SECTION 197. ORS 448.405 is amended to read:

448.405. As used in ORS 448.405 to 448.470:

(1) "Commission" means the Environmental Quality Commission.

(2) "Department" means the Department of Environmental Quality.

(3) "Director" means the Director of the Department of Environmental Quality.

[(4)] "*Division*" means the Health Division of the Department of Human Services.]

[(5)] **(4)** "Operator" means a person responsible for the operation of a potable water treatment plant, water distribution system or sewage treatment works.

[(6)] **(5)** "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooper-

ative, municipality or any other political subdivision of this state, any interstate body or any other legal entity.

[(7)] **(6)** "Potable water treatment plant" means that portion of a water system that in some way alters the physical, chemical or bacteriological quality of the water being treated.

[(8)] **(7)** "Sewage treatment works" means any structure, equipment or process required to collect, carry away and treat domestic waste and dispose of sewage as defined in ORS 454.010.

[(9)] **(8)** "Supervise" means to operate or to be responsible for directing employees that are responsible for the operation of a water system.

[(10)] **(9)** "Water distribution system" means that portion of the water system in which water is stored and conveyed from the potable water treatment plant or other supply point to the premises of a consumer.

[(11)] **(10)** "Water system" means potable water treatment plants and water distribution systems:

(a) That have 15 or more service connections used by year-round residents or that regularly serve 25 or more year-round residents; or

(b) That regularly serve at least 25 of the same persons for more than six months per year.

SECTION 198. ORS 448.409 is amended to read:

448.409. On or before January 1, 1989, and biennially thereafter, the Department of Environmental Quality and [Health Division] **Department of Human Services** shall develop and submit a joint report to the Legislative Assembly. The report shall include, but need not be limited to:

(1) A summary of actions taken under ORS 448.405 to 448.470, 448.992 and 448.994;

(2) An evaluation of the effectiveness of such actions; and

(3) Any information and recommendations, including legislative recommendations the [department or the division] **Department of Environmental Quality or the Department of Human Services** considers appropriate.

SECTION 199. ORS 448.450 is amended to read:

448.450. (1) The [Health Division] **Department of Human Services** shall:

(a) Adopt rules necessary to carry out the provisions of ORS 448.450 to 448.470, 448.992 and 448.994.

(b) Classify all potable water treatment plants and water distribution systems actually used or intended for use by the public. In classifying the potable water treatment plants and water distribution systems, the [division] **department** shall take into consideration size and type, character of water to be treated and other physical conditions affecting the treatment plants and distribution systems and the skill, knowledge and experience required of an operator.

(c) Certify persons qualified to supervise the operation of a potable water treatment plant or a water distribution system.

(d) Subject to the prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, establish a schedule of fees for certification under paragraph (c) of this subsection. The fees established under the schedule shall be sufficient to pay the cost of the [division] **department** in carrying out the provisions of ORS 448.450 to 448.470, 448.992 and 448.994 and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) The [division] **department** may grant a variance from the requirements of ORS 448.455 according to criteria established by rule by the [division] **department**.

(3) In adopting rules under this section, the [division] **Department of Human Services** shall consult with the Department of Environmental Quality in order to coordinate rules adopted under this section with rules adopted by the Environmental Quality Commission under ORS 448.410.

SECTION 199a. If House Bill 2239 becomes law, section 199 of this 2001 Act (amending ORS 448.450) is repealed and ORS 448.450, as amended by section 1, chapter 723, Oregon Laws 2001 (Enrolled House Bill 2239), is amended to read:

448.450. (1) The [Health Division] **Department of Human Services** shall:

(a) Adopt rules necessary to carry out the provisions of ORS 448.450 to 448.470, 448.992 and 448.994.

(b) Classify all potable water treatment plants and water distribution systems actually used or intended for use by the public. In classifying the potable water treatment plants and water distribution systems, the [division] **department** shall take into consideration size and type, character of water to be treated and other physical conditions affecting the treatment plants and distribution systems and the skill, knowledge and experience required of an operator.

(c) Certify persons qualified to supervise the operation of a potable water treatment plant or a water distribution system.

(d) Subject to the prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, establish a schedule of fees for certification under paragraph (c) of this subsection. The fees established under the schedule shall be sufficient to pay the cost of the [division] **Department of Human Services** in carrying out the provisions of ORS 448.450 to 448.470, 448.992 and 448.994 and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) Notwithstanding the authority of the [division] **Department of Human Services** to establish fees for certification under subsection (1)(d) of this section, the [division] **department** will not establish fees for certification of operators of water systems serving ground water to fewer than 150 service connections.

(3) In adopting rules under this section, the [division] **Department of Human Services** shall consult with the Department of Environmental Quality in order to coordinate rules adopted under this section with rules adopted by the Environmental Quality Commission under ORS 448.410.

SECTION 200. ORS 453.001 is amended to read:

453.001. As used in ORS 453.001 to 453.185 and 453.605 to 453.807, unless the context requires otherwise:

[(1) "Assistant director" means the Assistant Director for Health.]

[(2) "Division" means the Health Division of the Department of Human Services.]

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

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

SECTION 201. ORS 456.541 is amended to read:

456.541. The Housing and Community Services Department shall and the State Housing Council may consult generally with [the administrators of the appropriate divisions within] the Department of Human Services and such other persons as the council or [department] **Housing and Community Services Department** may consider appropriate concerning project applications for housing for disabled households. The [department] **Housing and Community Services Department** shall seek comment on such project applications concerning:

(1) The need for and design of the project generally, considering the proposed location of the housing;

(2) The means proposed for screening eligibility for occupancy to assure that priority will be given to members of the target populations of disabled persons; and

(3) The adequacy of the provisions for assuring the availability of health, mental health and other supportive services necessary to maintain disabled households in the housing.

SECTION 202. ORS 458.525 is amended to read:

458.525. (1) The Housing and Community Services Department shall serve as the lead agency to coordinate state efforts in meeting the problem of hunger. The Director of the Housing and Community Services Department shall establish an interagency coordinating council consisting of representatives of the Housing and Community Services Department, the Department of Education, the State Department of Agriculture,] **and** the Department of Human Services [and the Divisions of Adult and Family Services, Senior and Disabled Services and Health].

(2) The administrative heads of the agencies listed in subsection (1) of this section shall serve on the council or shall designate an agency representative who has an agency policy-making role affecting hunger, food programs, nutrition and related areas.

(3) The council shall be responsible for:

(a) Implementing recommendations of the Hunger Relief Task Force;

- (b) Ensuring that food and nutrition programs operate efficiently and effectively;
- (c) Monitoring federal programs;
- (d) Encouraging coordination of state and local programs and of public and private organizations engaged in food distribution programs; and
- (e) Making recommendations to affected agencies and programs.

(4) The Director of the Housing and Community Services Department shall convene council meetings at least quarterly.

SECTION 203. ORS 458.532 is amended to read:

458.532. (1) The Hunger Relief Task Force is established in the Housing and Community Services Department. The task force shall consist of 24 members appointed as follows:

(a) Two Senators, one each appointed by the President of the Senate and the Minority Leader of the Senate;

(b) Two Representatives, one each appointed by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(c) The Director of the Housing and Community Services Department shall appoint one member, unless otherwise indicated, from each of the following:

(A) The Department of Education Child Nutrition Program;

(B) *[Adult and Family Services Division]* **The Department of Human Services** Food Stamp Program;

(C) **The Department of Human Services** Women, Infants and Children (WIC) *[Section of the Health Division]* **Program;**

[(D) The Office of the Director of Human Services;]

[(E)] **(D)** The State Department of Agriculture;

[(F)] **(E)** Oregon Food Bank;

[(G)] **(F)** United Way of the Columbia-Willamette;

[(H)] **(G)** The Human Rights Coalition;

[(I)] **(H)** A student from an institution of higher education;

[(J)] **(I)** The Community Action Directors of Oregon;

[(K)] **(J)** The retail food industry;

[(L)] **(K)** The grower and processor food industry;

[(M)] **(L)** A direct service provider;

[(N)] **(M)** The Association of Oregon Counties;

[(O)] **(N)** The migrant community;

[(P)] **(O)** Three members from the religious community; and

[(Q)] **(P)** No more than six additional persons.

(2) Of the members described in subsection (1)(c) of this section, at least one member shall be a member of a minority ethnic group and at least two members shall be representatives of rural areas and areas of eastern Oregon.

(3) A member serves for a three-year term. A member may be reappointed.

(4) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term. The appointing authority may appoint a replacement for any member of the task force who misses more than two consecutive meetings of the task force.

(5) The task force shall select one member as chairperson and one member as vice chairperson, for such terms and with duties and powers as the task force determines necessary for the performance of the functions of such offices.

(6) Twelve members shall constitute a quorum for the transaction of business.

(7) The task force shall meet at least once each month at a place, day and hour determined by the task force. The task force also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the task force.

(8) The task force may appoint a director to serve at the pleasure of the task force and with duties determined by the task force.

(9) In addition to other funds made available for the work of the task force, the task force may accept gifts and grants from public and private sources to be used to carry out the purposes for which the task force exists and to alleviate hunger in the state.

(10) The moneys received under subsection (9) of this section shall be deposited in a special account, separate and distinct from the General Fund, to be named the Hunger Relief Account which account is established. All moneys in the account and all earnings thereon are continuously appropriated to the Hunger Relief Task Force to be used together with any federal funds that may be available to carry out the work of the task force and to alleviate hunger in the state.

SECTION 204. ORS 471.333 is amended to read:

471.333. (1) Except as provided in subsections (2) and (3) of this section, the Oregon Liquor Control Commission shall not refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment.

(2) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of a city ordinance relating to sanitation only if the licensee is convicted of violating the ordinance.

(3) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of ORS 447.010 to 447.160 or the laws, orders or rules **relating to public health** of [*the Health Division of*] the Department of Human Services or the State Department of Agriculture only when the agency charged with enforcing those laws, orders or rules finds that the licensee is in violation of them and renders a final order adverse to the licensee.

SECTION 205. ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(2) "Debilitating medical condition" means:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(i) Cachexia;

(ii) Severe pain;

(iii) Severe nausea;

(iv) Seizures, including but not limited to seizures caused by epilepsy; or

(v) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

or

(c) Any other medical condition or treatment for a medical condition adopted by the [*division*] **department** by rule or approved by the [*division*] **department** pursuant to a petition submitted pursuant to ORS 475.334.

(3) "Delivery" has the meaning given that term in ORS 475.005.

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

[(4)] **(5) "Designated primary caregiver"** means an individual eighteen years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the [*division*] **department**. "Designated primary caregiver" does not include the person's attending physician.

[(5) "*Division*" means the Health Division of the Oregon Department of Human Services.]

(6) "Marijuana" has the meaning given that term in ORS 475.005.

(7) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(8) "Production" has the same meaning given that term in ORS 475.005.

(9) "Registry identification card" means a document issued by the [division] **department** that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(10) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for medical use as allowed in ORS 475.300 to 475.346. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(11) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

SECTION 206. ORS 476.030 is amended to read:

476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

(a) The prevention of fires.

(b) The storage and use of combustibles and explosives.

(c) The maintenance and regulation of structural fire safety features in occupied structures and overseeing the safety of and directing the means and adequacy of exit in case of fire from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose except that structural changes shall not be required in buildings built, occupied and maintained in conformity with state building code regulations applicable at the time of construction.

(d) Standards for equipment used for fire protection purposes within this state including standard thread for fire hose couplings and hydrant fittings.

(2) The State Fire Marshal and deputies shall have such powers and perform such other duties as are prescribed by law.

(3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal may exempt the area subject to such regulation either partially or fully from the statutes, rules and regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the exemption. The exemption may extend for a two-year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire Marshal any amendment thereto within 30 days before the effective date of such amendment. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

(4) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as the State Fire Marshal may find appropriate to promote fire protection and prevention.

(5) The State Fire Marshal shall provide training in fire safety inspection to [*the Senior and Disabled Services Division and Mental Health and Developmental Disability Services Division* of] the Department of Human Services, area agencies, community mental health and developmental disabilities programs and to designees of the Long Term Care Ombudsman. If an adult foster home has been inspected by the [*Senior and Disabled Services Division, Mental Health and Developmental Disability Services Division*] **Department of Human Services**, an area agency or community mental health and developmental disabilities program and the agency conducting the inspection reasonably

believes that the adult foster home is not in compliance with applicable fire safety rules, the agency conducting the inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a designee of the Long Term Care Ombudsman, in the course of visiting an adult foster home, believes that the adult foster home is not in compliance with applicable fire safety rules, the designee shall report the problem to the appropriate agency to request a fire safety inspection by the office of the State Fire Marshal or by a designated representative of the office of the State Fire Marshal.

(6) Upon the request of the [*Senior and Disabled Services Division, Mental Health and Developmental Disability Services Division*] **Department of Human Services**, an area agency or community mental health and developmental disabilities program, the State Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home is in compliance with rules jointly adopted by [*the Senior and Disabled Services Division and Mental Health and Developmental Disability Services Division of*] the Department of Human Services and the State Fire Marshal establishing fire safety standards for adult foster homes.

(7) As used in subsections (5) and (6) of this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705.

(b) "Area agency" has the meaning given that term in ORS 410.040.

(c) "Community mental health program" means a program established under ORS 430.620.

SECTION 207. ORS 497.162 is amended to read:

497.162. (1) Upon application of the Oregon Youth Authority[, *the State Office for Services to Children and Families or the Mental Health and Developmental Disability Services Division*] **or the Department of Human Services**, the State Fish and Wildlife Commission shall issue, without fee, a license to angle for the temporary use of any person in a state institution as defined in ORS 179.610, any student in a youth correction facility or related camps or programs operated by the Oregon Youth Authority, any child placed by the [*State Office for Services to Children and Families*] **department** and under the care of a foster home or a private nonprofit child-caring agency certified by the [*office*] **department**, or any person in a [*Mental Health and Developmental Disability Services Division*] **department** alternatives to state hospitalization program as defined in ORS 430.630 (2)(b) or (c). The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling, shall be used as the authority[, *office or division*] **or department** directs.

(2) Upon application of the director of any veteran's administration hospital or domiciliary within this state, the commission shall issue, without fee, to each hospital or domiciliary 30 licenses to angle 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, shall be used as the director of the hospital or domiciliary provides.

SECTION 208. ORS 616.020 is amended to read:

616.020. (1) In addition to any [*Health Division*] **Department of Human Services** survey, investigation or inquiry authorized by law, which involves the production, processing or distribution of agricultural products, the [*Health Division*] **Department of Human Services** shall make such further surveys, investigations or inquiries as may be requested by the Director of Agriculture for the purpose of showing the manner in which the production, processing or distribution of agricultural products may affect the public health.

(2) In order that maximum protection to the public health may result from the activities of the [*Health Division*] **Department of Human Services** and the State Department of Agriculture, the [*Health Division*] **Department of Human Services** shall notify the Director of Agriculture in writing of any contemplated survey which affects or may affect agricultural products which are under the regulation of the [*department*] **Department of Agriculture**. The notice shall cover in detail the scope of the survey under consideration, and the reasons therefor. However, this section shall not be construed as prohibiting [*such division*] **the Department of Human Services** from taking immediate action in any case where such action seems necessary in the interests of public health. The

written notice is not required in the case of a survey instituted on the request of the Director of Agriculture.

(3) Not less than 30 days after the completion of any such survey, the [*Health Division*] **Department of Human Services** shall file with the Director of Agriculture a certified copy of its report. The report shall include the findings of the [*division*] **Department of Human Services** with respect to all matters covered thereby. Whenever the findings in the report of any survey, investigation or inquiry made by the [*division*] **Department of Human Services** show any hazard to public health existing incident to the production, processing or distribution of any agricultural commodity, the [*department*] **Department of Agriculture** shall take such action as may be necessary and within the scope of its resources to remove such hazards.

SECTION 209. ORS 619.095 is amended to read:

619.095. (1) Game meat donated to charitable organizations shall be inspected by the State Department of Agriculture to determine fitness for human consumption as provided in ORS 603.045 and 619.031 or shall be inspected and determined fit for human consumption by employees of the State Department of Fish and Wildlife or the Department of State Police who have been trained by the State Department of Agriculture in the procedures provided in ORS 603.045 and 619.031, and shall be processed by an establishment approved by the State Department of Agriculture as provided in ORS 619.026 and 619.031 and may be served for human consumption by charitable organizations.

(2) As used in subsection (1) of this section:

(a) "Charitable organization" means the [*Adult and Family Services Division, State Office for Services to Children and Families*] **Department of Human Services**, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions approved by the State Department of Fish and Wildlife.

(b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

SECTION 210. ORS 624.010, as amended by section 38, chapter 351, Oregon Laws 1999, is amended to read:

624.010. As used in ORS 624.010 to 624.120, unless the context requires otherwise:

[*(1) "Assistant director" means the Assistant Director for Health or an authorized representative.*]

[*(2)*] **(1)** "Bed and breakfast facility" means any establishment located in a structure designed for a single family residence and structures appurtenant thereto, regardless of whether the owner or operator of the establishment resides in any of the structures, that:

(a) Has more than two rooms for rent on a daily basis to the public; and

(b) Offers a breakfast meal as part of the cost of the room.

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

[*(3) "Division" means the Health Division of the Department of Human Services.*]

(3) "Director" means the Director of Human Services.

(4) "Limited service restaurant" means a restaurant serving only prewrapped sandwiches, or a single dish or food product, and nonperishable beverages.

(5) "Restaurant" includes any establishment where food or drink is prepared for consumption by the public or any establishment where the public obtains food or drink so prepared in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where prepared, and also includes establishments that prepare food or drink in consumable form for service outside the premises where prepared, but does not include railroad dining cars, bed and breakfast facilities or temporary restaurants as defined in subsection (6) of this section.

(6) "Temporary restaurant" means any establishment operating temporarily in connection with any fair, carnival, circus or similar public gathering or entertainment, food product promotion or any other event where food is prepared or served for consumption by the public. "Temporary restaurant" does not include:

(a) An establishment where food is prepared and served by a fraternal, social or religious organization only to its own members and guests.

(b) An approved school lunchroom where food is prepared and served for school and community activities, where the preparation and service are under the direction of the school lunchroom supervisor.

(c) A food product promotion where only samples of a food or foods are offered to demonstrate the characteristics of the food product. For the purposes of this paragraph, a sample shall not include a meal, an individual hot dish or a whole sandwich.

(d) A private residence, or part thereof, including the grounds, areas and facilities held out for the use of the occupants generally, for which a temporary sales license is issued under ORS 471.190 for a period not exceeding one day.

SECTION 211. ORS 624.165 is amended to read:

624.165. (1) Subject to ORS 624.070, game meat that has been donated to a charitable organization and has been inspected and processed as provided in ORS 619.095 may be served for human consumption by that charitable organization.

(2) As used in subsection (1) of this section:

(a) "Charitable organization" means the [Adult and Family Services Division, State Office for Services to Children and Families] **Department of Human Services**, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions approved by the State Department of Fish and Wildlife.

(b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

SECTION 212. ORS 624.310 is amended to read:

624.310. As used in ORS 624.310 to 624.440 unless the context requires otherwise:

(1) "Approved" means approved by the administrator.

(2) "Commissary" means commissary catering establishment, restaurant or any other place in which food, beverage, ingredients, containers or supplies are kept, handled, prepared or stored, and from which vending machines or mobile units are serviced.

[(3) "Division" means the Health Division of the Department of Human Services.]

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

(4) "Director" means the Director of Human Services.

[(4)] **(5) "Employee"** means any operator or any person employed by an operator who handles any food, beverage, or ingredient to be dispensed through vending machines or mobile units, or who comes into contact with product contact surfaces of the container, equipment, utensils or packaging materials, used in connection with vending machines or mobile unit operations, or who otherwise services or maintains one or more such machines or units.

[(5)] **(6) "Food"** means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.

[(6) "Assistant director" means the Assistant Director for Health.]

(7) "Machine location" means the room, enclosure, space or area where one or more vending machines are installed and are in operation.

(8) "Mobile unit" means any vehicle on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

(9) "Operator" means any person, who by contract, agreement or ownership is responsible for furnishing, installing, servicing, operating or maintaining one or more vending machines or mobile units.

(10) "Person" means any individual, partnership, corporation, company, firm, institution, association or any other public or private entity.

(11) "Product contact surface" means any surface of the vending machine or mobile unit, appurtenance or container which comes into direct contact with any food, beverage or ingredient.

(12) "Readily perishable food" means any food, beverage or ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or any other food capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications. However, "readily perishable food" does not include products in hermetically sealed containers

processed by heat to prevent spoilage or dehydrated, dry or powdered products which are so low in moisture content as to preclude development of microorganisms.

(13) "Single-service article" means any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

(14) "Utensil" means any kitchenware, tableware, glassware, cutlery, container, cleaning brush or other equipment that comes into contact with food or product contact surfaces during cleaning of vending machines, mobile units or commissary equipment, or during storage, preparation, serving, dispensing or consumption of food.

(15) "Vending machine" means any self-service device offered for public use which, upon insertion of a coin, coins, currency or token, or by other means, dispenses unit servings of food or beverage, either in bulk or package, without the necessity of replenishing the device between each vending operation.

(16) "Warehouse" means any place where food, utensils, single-service articles, cleaning or servicing supplies for vending machines, mobile units or commissaries are stored.

SECTION 213. ORS 655.605 is amended to read:

655.605. As used in ORS 655.605 and 655.615:

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

[(1)] **(2)** "Employer" means any person who provides on-the-job training for trainees in cooperation with the [*Vocational Rehabilitation Division*] **department** or the Commission for the Blind even though no wages or salary is paid to the trainee.

[(2)] **(3)** "Employment" means work experience through nonremunerative, on-the-job training as a part of a special training program of the [*Vocational Rehabilitation Division*] **department** or the Commission for the Blind occurring on the premises of the employer or at such other places as the [*Vocational Rehabilitation Division*] **department** or the Commission for the Blind and the employer may agree.

[(3)] **(4)** "Injury" means any personal injury sustained by a trainee by accident, disease or infection arising out of and in the course of employment, or death resulting proximately therefrom as provided in ORS chapter 656.

[(4)] **(5)** "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

[(5)] **(6)** "Trainee" or "client" means an occupationally limited person who is participating in a special training or evaluation program of the [*Vocational Rehabilitation Division*] **department** or the Commission for the Blind in which the trainee is enrolled.

[(6)] *"Division" means the Vocational Rehabilitation Division or the Commission for the Blind.*

SECTION 214. ORS 657A.420 is amended to read:

657A.420. The Child Care Division may enter into cooperative arrangements with the [*State Office for Services to Children and Families, the Health Division,*] **Department of Human Services**, the State Fire Marshal and other public agencies for the provision of services in the inspection of child care facilities in the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450. The arrangements shall designate which services shall be reimbursed and the rate and manner of reimbursement.

SECTION 215. ORS 685.055 is amended to read:

685.055. The [*Office of Medical Assistance Programs in the office of the*] Director of Human Services shall not discriminate between licensed naturopathic physicians and any other person authorized by law to render professional services that a licensed naturopathic physician may render, when such services are required. If the [*Office of Medical Assistance Programs*] **Department of Human Services** is responsible for paying for such services, the services shall be paid for in the same manner and under the same standards as similar professional services.

SECTION 216. ORS 691.405 is amended to read:

691.405. As used in ORS 691.405 to 691.585:

(1) "American Dietetic Association" means the national professional organization of dietitians that provides direction and leadership for quality dietetic practice, education and research.

(2) "Board" means the Board of Examiners of Licensed Dietitians established under ORS 691.485.

(3) "Commission on Dietetic Registration" means the commission on dietetic registration that is a member of the National Commission for Health Certifying Agencies.

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

~~[(4)]~~ **(5) "Dietetics practice" means the integration and application of principles derived from the sciences of nutrition, biochemistry, food, management, physiology and behavioral and social sciences to achieve and maintain the health of people through:**

(a) Assessing the nutritional needs of clients;

(b) Establishing priorities, goals and objectives that meet nutritional needs of clients;

(c) Advising and assisting individuals or groups on appropriate nutritional intake by integrating information from a nutritional assessment with information on food and other sources of nutrients and meal preparation; and

(d) Evaluating, making changes in and maintaining appropriate standards of quality in food and nutrition services.

~~[(5) "Division" means the Health Division of the Department of Human Services.]~~

(6) "Licensed dietitian" means a dietitian licensed as provided in ORS 691.435.

SECTION 217. ORS 743.556 is amended to read:

743.556. A group health insurance policy providing coverage for hospital or medical expenses shall provide coverage for expenses arising from treatment for chemical dependency including alcoholism and for mental or nervous conditions. The following conditions apply to the requirement for such coverage:

(1) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance. Deductibles and coinsurance for treatment in health care facilities or residential programs or facilities shall be no greater than those under the policy for expenses of hospitalization in the treatment of illness. Deductibles and coinsurance for outpatient treatment shall be no greater than those under the policy for expenses of outpatient treatment of illness.

(2) Treatment provided in health care facilities, residential programs or facilities, day or partial hospitalization programs or outpatient services shall be considered eligible for reimbursement if it is provided by:

(a) Programs or providers described in ORS 430.010 or approved by the ~~[office of Alcohol and Drug Abuse Programs or by the Mental Health and Developmental Disability Services Division]~~ **Department of Human Services** under subsection (3) of this section.

(b) Programs accredited for the particular level of care for which reimbursement is being requested by the Joint Commission on Accreditation of Hospitals or the Commission on Accreditation of Rehabilitation Facilities.

(c) Inpatient programs provided by health care facilities as defined in ORS 442.015. Residential, outpatient, or day or partial hospitalization programs offered by or through a health care facility must meet the requirements of either paragraph (a) or (b) of this subsection in order to be eligible for reimbursement.

(d) Residential programs or facilities described in subsection (3) of this section if the patient is staying overnight at the facility and is involved in a structured program at least eight hours per day, five days per week.

(e) Programs in which staff are directly supervised or in which individual client treatment plans are approved by a person described in ORS 430.010 ~~[(4)(d)]~~ **(4)(a)** and which meet the standards established under subsection (3) of this section.

(3) Subject to ORS 430.065, the ~~[office of Alcohol and Drug Abuse Programs]~~ **Department of Human Services** shall adopt rules relating to the approval, for insurance reimbursement purposes, of noninpatient chemical dependency programs that are not related to the ~~[division]~~ **department** or any county mental health program. The ~~[Mental Health and Developmental Disability Services Division]~~ **department** shall adopt rules relating to the approval, for insurance reimbursement purposes,

of noninpatient programs for mental or nervous conditions that are not related to the [division] **department** or any county mental health program.

(4) A program that provides services for persons with both a chemical dependency diagnosis and a mental or nervous condition shall be considered to be a distinct and specialized type of program for both chemical dependency and mental or nervous conditions. The [Mental Health and Developmental Disability Services Division and the office of Alcohol and Drug Abuse Programs jointly] **Department of Human Services** shall develop specific standards related to such programs for program approval purposes and shall adopt rules relating to the approval, for insurance reimbursement purposes, of such noninpatient programs that are not related to the [office or the division] **department** and any county mental health program.

(5) As used in this section:

(a) "Chemical dependency" means the addictive relationship with any drug or alcohol characterized by either a physical or psychological relationship, or both, that interferes with the individual's social, psychological or physical adjustment to common problems on a recurring basis. For purposes of this section, chemical dependency does not include addiction to, or dependency on, tobacco, tobacco products or foods.

(b) "Child or adolescent" means a person who is 17 years of age or younger.

(c) "Facility" means a corporate or governmental entity or other provider of services for the treatment of chemical dependency or for the treatment of mental or nervous conditions.

(d) "Program" means a particular type or level of service that is organizationally distinct within a facility.

(6) Notwithstanding the limits for particular types of services specified in this section, a policy shall not limit the total of payments for all treatment of any kind under this section for chemical dependency, together with payments for all treatment of any kind for mental or nervous conditions, to less than \$13,125 for adults and \$15,625 for children or adolescents. For persons requesting payments for treatment of any kind for chemical dependency, but not requesting payments for treatment of any kind of mental or nervous condition, a policy shall not limit the total of payments for all treatment to less than \$8,125 for adults and \$13,125 for children and adolescents.

(7) The limits for mental or nervous conditions specified in this section shall apply to persons with diagnoses of both chemical dependency and mental or nervous conditions, who are being treated for both types of diagnosis, as well as persons with only a diagnosis of a mental or nervous condition.

(8) The higher benefit levels in this section for children or adolescents are in recognition of the longer period of treatment and the greater levels of staffing that may be required for children or adolescents and are intended to permit more services to meet the needs of children and adolescents.

(9) Payments shall not be made under this section for educational programs to which drivers are referred by the judicial system, nor for volunteer mutual support groups.

(10) Except as permitted by subsections (1), (6) and (12) of this section, the policy shall not limit payments for inpatient treatment in hospitals and other health care facilities thereunder:

(a) For chemical dependency to an amount less than \$5,625 for adults and \$5,000 for children or adolescents; and

(b) For mental or nervous conditions to an amount less than \$5,000 for adults and \$7,500 for children or adolescents.

(11) Except as permitted by subsections (1), (6) and (12) of this section, the policy shall not limit payments for treatment in residential programs or facilities or day or partial hospitalization programs:

(a) For chemical dependency to an amount less than \$4,375 for adults and \$3,750 for children or adolescents; and

(b) For mental or nervous conditions to an amount less than \$1,250 for adults and \$3,125 for children or adolescents.

(12) Notwithstanding the minimum benefits for particular types of services specified in subsections (10) and (11) of this section, and except as permitted by subsection (1) of this section, the

policy shall not limit total payments for inpatient, residential and day or partial hospitalization program care or treatment:

(a) For chemical dependency to an amount less than \$10,625 for children or adolescents; and

(b) For mental or nervous conditions to an amount less than \$10,625 for adults and \$13,125 for children or adolescents.

(13) Except as permitted by subsections (1) and (6) of this section, in the case of benefits for outpatient services, the policy shall not limit payments:

(a) For chemical dependency to an amount less than \$1,875 for adults and \$2,500 for children or adolescents; and

(b) For mental or nervous conditions to an amount less than \$2,500.

(14) If so specified in the policy, outpatient coverage may include follow-up in-home service associated with any health care facility, residential, day or partial hospitalization or outpatient services. The policy may limit coverage for in-home service to persons who have completed their initial health care facility, residential, day or partial hospitalization or outpatient treatment and did not terminate that initial treatment against advice. The policy may also limit coverage for in-home service by defining the circumstances of need under which payment will or will not be made.

(15) Under ORS 430.021 and 430.315, the Legislative Assembly has found that health care cost containment is necessary and intends to encourage insurance policies designed to achieve cost containment by assuring that reimbursement is limited to appropriate utilization under criteria incorporated into such policies, either directly or by reference.

(16) A group health insurance policy may provide, with respect to treatment for chemical dependency or mental or nervous conditions, that any one or more of the following cost containment methods shall be in effect and the method or methods used by an insurer in one part of the state may be different from the method or methods used by that insurer in another part of the state:

(a) Proportion of coinsurance required for treatment in residential programs or facilities, day or partial hospitalization programs or outpatient services less than the proportion of coinsurance required for treatment in health care facilities.

(b) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists and ORS 40.250 and 675.580 relating to licensed clinical social workers, review for level of treatment of admissions and continued stays for treatment in health care facilities, residential programs or facilities, day or partial hospitalization programs and outpatient services by either insurer staff or personnel under contract to the insurer, or by a utilization review contractor, who shall have the authority to certify for or deny level of payment:

(A) This review shall be made according to criteria made available to providers in advance upon request.

(B) To facilitate implementation of utilization review programs by insurers, *[the office of]* the Director of Human Services shall draft an advisory or model set of criteria for appropriate utilization of inpatient, residential, day or partial hospitalization, and outpatient facilities, programs and services by adults, children and adolescents, and persons with both a chemical dependency diagnosis and a mental or nervous condition. These criteria shall be consistent with this section and shall not be binding on any insurer or other party. However, at the time of contract negotiation or amendment, with the agreement of the parties to the contract, any insurer may adopt the criteria or similar criteria with or without modification. The *[office of the]* director shall revise these criteria at least every two years. In developing and revising these criteria, the *[office of the]* director shall organize a technical advisory panel including representatives of the Department of Consumer and Business Services, *[the office of Alcohol and Drug Abuse Programs, the Mental Health and Developmental Disability Services Division, the Health Division]* **the Department of Human Services**, the insurance industry, the business community and providers of each level of care. The *[office of the]* director shall place substantial weight on the advice of this panel.

(C) Review shall be performed by or under the direction of a medical or osteopathic physician licensed by the Board of Medical Examiners for the State of Oregon; a psychologist licensed by the

State Board of Psychologist Examiners; a nurse practitioner registered by the Oregon State Board of Nursing; or a clinical social worker licensed by the State Board of Clinical Social Workers, with physician consultation readily available. The reviewer shall have expertise in the evaluation of mental or nervous condition services or chemical dependency services.

(D) Review may involve prior approval, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior approval is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review. If prior approval is not required, insurers shall permit treatment providers, policy holders or persons acting on their behalf to make advance inquiries regarding the appropriateness of a particular admission to a treatment program. Insurers shall provide a timely response to such inquiries. Approval of a particular admission does not represent a guarantee of future payment.

(E) An appeals process shall be provided.

(F) An insurer may choose to review all providers on a sampling or audit basis only; or to review on a less frequent basis those providers who consistently supply full documentation, consistent with confidentiality statutes on each case in a timely fashion to the insurer.

(17) For purposes of subsection (16)(b) of this section, a utilization review contractor is a professional review organization or similar entity which, under contract with an insurance carrier, performs certification of reimbursability of level of treatment for admissions and maintained stays in treatment programs, facilities or services.

(18) For purposes of subsection (16)(b) of this section, when implemented through an insurance contract, reimbursability of inpatient treatment requires demonstration that medical circumstances require 24-hour nursing care, or physician or nurse assessment, treatment or supervision that cannot be readily made available on an outpatient basis, or in:

- (a) The current living situation;
- (b) An alternative, nontreatment living situation;
- (c) An alternative residential program or facility; or
- (d) A day or partial hospitalization program.

(19) For purposes of subsection (16)(b) of this section, when implemented through an insurance contract, reimbursability of treatment at the residential, day or partial hospitalization level of treatment shall require demonstration that outpatient services, if appropriate and less costly than residential, day or partial hospitalization services:

- (a) Are not presently appropriate and available;
- (b) Cannot be readily and timely made available; and
- (c) Cannot meet documented needs for nonmedical supervision, protection, assistance and treatment, either in the current living situation or in a readily and timely available alternative, non-treatment living situation, taking into account the extent of both the available positive support and existing negative influences in the occupational, social and living situations; risks to self or others; and readiness to participate consistently in treatment.

(20) For purposes of subsection (16)(b) of this section, reimbursability of treatment at the level for outpatient facility, service or program shall require demonstration that treatment is justified, considering the individual's history, and the current medical, occupational, social and psychological situation, and the overall prognosis.

(21) Discrete medical or neurologic diagnostic or treatment services including any professional component of that service, costing in excess of \$300, occurring concurrently with but not directly related to treatment of mental or nervous conditions shall not be charged against the inpatient benefit level.

(22) The benefits described in this section shall renew in full either on the first day of the 25th month of coverage following the first use of services for the treatment of chemical dependency or mental or nervous conditions, or both, or on the first day following two consecutive contract years.

(23) Health maintenance organizations, as defined in ORS 750.005 (3), shall be subject to the following conditions and requirements in their provision of benefits for chemical dependency or mental or nervous conditions to enrollees:

(a) Notwithstanding the provisions of subsection (1) of this section, health maintenance organizations may establish reasonable provisions for enrollee cost-sharing, so long as the amount the enrollee is required to pay does not exceed the amount of coinsurance and deductible customarily required by other insurance policies which are subject to the provisions of this chapter for that type and level of service.

(b) Nothing in this section prevents health maintenance organizations from establishing durational limits which are actuarially equivalent to the benefits required by this section.

(c) Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers associated with the health maintenance organization.

(d) The Department of **Human Services** shall make rules establishing objective and quantifiable criteria for determining when a health maintenance organization meets the conditions and requirements of this subsection.

(24) Nothing in this section shall prevent an insurer or health care service contractor other than a health maintenance organization, except as provided in subsection (23) of this section, from contracting with providers of health care services to furnish services to policy holders or certificate holders according to ORS 743.531 or 750.005, subject to the following conditions:

(a) An insurer or health care service contractor may establish limits for contracted services which are actuarially equivalent to the benefits required by this section, so long as the same range of treatment settings is made available.

(b) An insurer or health care service contractor, other than a health maintenance organization, may negotiate with contracting providers as to the cost of actuarially equivalent benefits, and such actuarially equivalent benefits for services of contracting providers shall be deemed to equal the minimum benefit levels specified in this section.

(c) An insurer or health care service contractor is not required to contract with all eligible providers, and payment for covered services of contracting providers may be in alternative methods or amounts rather than as specified in this section.

(d) Insurers and health care service contractors other than health maintenance organizations shall pay benefits toward the covered charges of noncontracting providers of services for the treatment of chemical dependency or mental or nervous conditions at the same level of deductible or coinsurance as would apply to covered charges of noncontracting providers of other health services under the same group policy or contract. The insured shall have the right to use the services of a noncontracting provider of services for the treatment of chemical dependency or mental or nervous conditions. Policies described in this subsection shall be subject to the provisions of subsection (1) of this section, whether or not the services for chemical dependency or mental or nervous conditions are provided by contracting or noncontracting providers.

(e) The department shall make rules establishing objective and quantifiable criteria for determining that a contract meets the conditions and requirements of this subsection and that actuarially equivalent services of contracting providers equal or exceed services obtainable with the minimum benefits specified in this section.

(25) The intent of the Legislative Assembly in adopting this section is to reserve benefits for different types of care to encourage cost effective care and to assure continuing access to levels of care most appropriate for the insured's condition and progress.

(26) The director, after notice and hearing, may adopt reasonable rules not inconsistent with this section that are considered necessary for the proper administration of these provisions.

SECTION 218. ORS 411.062 is amended to read:

411.062. (1) When the caseload of [*an Adult and Family Services Division branch*] a **Department of Human Services local** office consists of 35 or more non-English-speaking households which share the same language, the [*division*] **department** shall provide at that [*branch*] **local** office written materials in that language and access to a bilingual assistance worker or caseworker fluent in both that language and English.

(2) As used in this section:

(a) A “non-English-speaking household” is a household that does not have an adult member who is fluent in English.

(b) “Written materials” includes all forms, notices and other documents which the [division] **Department of Human Services** provides to any English-speaking client for the establishment, maintenance and explanation of eligibility for public assistance.

(3) The Personnel Division of the Oregon Department of Administrative Services shall recruit qualified individuals and shall maintain lists of such individuals for purposes of meeting the requirements of this section [and ORS 411.064].

SECTION 219. ORS 411.070 is amended to read:

411.070. The [Adult and Family Services Division] **Department of Human Services** shall by rule fix statewide uniform standards for all public assistance programs and effect uniform observance thereof throughout the state. In establishing statewide standards for public assistance, the [Adult and Family Services Division] **department**, within the limits of available funds, shall take into consideration all basic requirements for a standard of living compatible with decency and health, including food, shelter, clothing, fuel, public utilities, telecommunications service, medical care and other essential items and, upon the basis of investigations of the facts, shall provide budgetary guides for determining minimum costs of meeting such requirements. [Family support services provided by the Adult and Family Services Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.]

SECTION 220. ORS 411.620 is amended to read:

411.620. (1) The [Adult and Family Services Division] **Department of Human Services** may prosecute a civil suit or action against any person who has obtained, for personal benefit or for the benefit of any other person, any amount or type of general assistance or public assistance, as defined in ORS 411.010, or has aided any other person to obtain such general assistance or public assistance, in violation of any provision of ORS 411.630, or in violation of ORS 411.640. In such suit or action the [division] **department** may recover the amount or value of such general assistance or public assistance so obtained in violation of ORS 411.630, or in violation of ORS 411.640, with interest thereon, together with costs and disbursements incurred therein.

(2) Excepting as to bona fide purchasers for value, the [division] **department**, the conservator for the recipient or the personal representative of the estate of a deceased recipient may prosecute a civil suit or action to set aside the transfer, gift or other disposition of any money or property made in violation of any provisions of ORS 411.630, 412.600, 413.200[,] and 414.105 [and 416.280] and the [Adult and Family Services Division] **department** may recover out of such money or property, or otherwise, the amount or value of any general assistance or public assistance obtained as a result of such violation, with interest thereon, together with costs and disbursements incurred therein.

SECTION 221. ORS 412.600 is amended to read:

412.600. (1) The amount of any aid to the disabled assistance paid under the provisions of this chapter is a claim against the property or interest therein belonging to and a part of the estate of any deceased recipient, or if there be no estate, the estate of the surviving spouse, if any, shall be charged for such aid paid to either or both. However, there shall be no adjustment or recovery of public assistance correctly paid on behalf of any individual under this chapter except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such assistance without adequate consideration are voidable and may be set aside under ORS 411.620 (2) [and shall disqualify applicants or recipients for aid, in all respects as provided in ORS 413.170 (1)].

(2) Except where there is a surviving spouse, or a surviving child who is under 21 years of age or who is blind or permanently and totally disabled, the amount of any aid paid under this chapter is a claim against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

SECTION 222. ORS 414.095 is amended to read:

414.095. Neither medical assistance nor amounts payable to vendors out of public assistance funds are transferable or assignable at law or in equity and none of the money paid or payable under the provisions of [*ORS 411.405 and*] this chapter is subject to execution, levy, attachment, garnishment or other legal process.

SECTION 223. ORS 414.105 is amended to read:

414.105. (1) The Department of Human Services may recover from any person the amounts of medical assistance incorrectly paid on behalf of such person.

(2) Medical assistance pursuant to [*ORS 411.405 and*] this chapter paid on behalf of an individual who was 55 years of age or older when the individual received such assistance may be recovered from the estate of the individual or from any recipient of property or other assets held by the individual at the time of death including the estate of the surviving spouse. Claim for such medical assistance correctly paid to the individual may be established against the estate, but there shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) In any action or proceeding under this section to recover medical assistance paid, it shall be the legal burden of the person who receives the property or other assets from a Medicaid recipient to establish the extent and value of the Medicaid recipient's legal title or interest in the property or assets in accordance with rules established by the department.

(5) As used in this section, "estate" includes all real and personal property and other assets in which the deceased individual had any legal title or interest at the time of death including assets conveyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other similar arrangement.

SECTION 224. ORS 414.106 is amended to read:

414.106. (1) [*Notwithstanding ORS 414.105,*] Subject to the requirements of subsection (2) of this section, if 42 U.S.C. 1396p (b)(1)(B) as in effect on January 1, 1995, is repealed without replacement or is declared unconstitutional, the Director of Human Services shall limit the recovery of medical assistance paid pursuant to [*ORS 411.405 or*] ORS chapter 414 from the estate of an individual or a recipient of property or other assets held by an individual at the time of death, including a surviving spouse of the individual, to the recovery of medical assistance payments paid on behalf of the individual on or after the date that the individual attained 65 years of age.

(2) The director shall limit the recovery of medical assistance as described under subsection (1) of this section only if the director determines, after receiving the written opinion of the Attorney General, that the recovery limitation will not violate any federal law in effect on the operative date of the recovery limitation. The director may condition, limit, modify or terminate any recovery limitation as the director considers necessary to avoid a violation of federal law.

SECTION 225. ORS 416.990 is amended to read:

416.990. Any person who makes, renders, signs or verifies any false or fraudulent statement, or supplies any false or fraudulent information with intent to evade [*any requirement of ORS 416.020, 416.030 and 416.061 or*] any lawful requirement of the [*Adult and Family Services Division*] **Department of Human Services** [*thereunder*] is guilty of a misdemeanor.

SECTION 226. ORS 417.747 is amended to read:

417.747. [*Notwithstanding ORS 409.190,*] Beginning on August 18, 1993, the department and the state commission may agree to establish pilot programs in counties that are capable of handling the

program to administer foster care programs under the department's jurisdiction. The pilot program must be accepted by the board of county commissioners in the local coordinated comprehensive plan. The pilot program shall be subject to federal requirements and the restrictions agreed upon between the department and the county where the pilot program is located.

SECTION 227. ORS 417.787 is amended to read:

417.787. The State Commission on Children and Families shall:

(1) Determine when funds for services for children and families not described in ORS [409.190] **409.010 (2)(a)** and 430.215 are to be transferred to the local commission. If a local commission with an approved local coordinated comprehensive plan requests a transfer, the state commission shall determine whether funds can be transferred.

(2) Determine which, if any, services for children and families that are not described in ORS [409.190] **409.010 (2)(a)** and 430.215 are not to be transferred to local commissions but are to remain state responsibilities.

SECTION 228. ORS 430.165 is amended to read:

430.165. The [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** may prescribe fee schedules for any of the programs [*which*] **that** it establishes and operates under ORS [430.260,] 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to 430.880, 813.500 and 813.510. The fees shall be charged and collected by the [*division*] **department** in the same manner as charges are collected under ORS 179.610 to 179.770. When the [*division*] **department** acts under this section, "person in a state institution" or "person at a state institution" or any similar phrase, as defined in ORS 179.610, includes a person who receives services from a program for which fee schedules are established under this section.

SECTION 229. ORS 441.624 is amended to read:

441.624. (1) ORS 124.050, 124.080, 410.190, 441.020 to 441.057, 441.060, 441.061, 441.067, 441.073, 441.085, 441.087, 441.277 to 441.289, 441.303, 441.316, 441.318, 441.367, 441.600, 441.610, [441.623,] 441.630, 441.650 to 441.665, 441.685, 441.690, 441.703 and 441.705 to 441.720 address the consolidation of the regulatory functions of licensing, certification, inspection of care, utilization review, abuse reporting and abuse investigation.

(2) It is legislative intent that:

(a) The [*Senior and Disabled Services Division*] **Department of Human Services** focus administrative effort on the integration and consistent application and interpretation of the regulatory functions at the nursing facility level;

(b) Surveys and other reports, especially with respect to client assessment, be consistently and reliably performed throughout the state;

(c) Positive and negative findings and sanctions be proportional to the strengths and problems identified, within the limits of federal statute and regulations; and

(d) The interpretation of regulatory criteria be independent of influence from budgetary limitations.

SECTION 230. ORS 743.412 is amended to read:

743.412. A health insurance policy providing coverage for hospital or medical expenses not limited to expenses from accidents or specified sicknesses shall provide, at the request of the applicant, coverage for expenses arising from treatment for alcoholism. The following conditions apply to the requirement for such coverage:

(1) The applicant shall be informed of the applicant's option to request this coverage.

(2) The inclusion of the coverage may be made subject to the insurer's usual underwriting requirements.

(3) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance.

(4) The policy may limit hospital expense coverage to treatment provided by the following facilities:

(a) A health care facility licensed as required by ORS 441.015.

(b) A health care facility accredited by the Joint Commission on Accreditation of Hospitals.

[(c) A rehabilitation clinic and agency established, maintained, contracted with or operated by the Mental Health and Developmental Disability Services Division under ORS 430.260.]

(5) Except as permitted by subsection (3) of this section, the policy shall not limit payments thereunder for alcoholism to an amount less than \$4,500 in any 24-consecutive month period and the policy shall provide coverage, within the limits of this subsection, of not less than 80 percent of the hospital and medical expenses for treatment for alcoholism.

SECTION 231. ORS 344.690 is amended to read:

344.690. (1) The warrants shall be drawn as provided by law in favor of the [division] **Department of Human Services** on funds in the State Vocational Rehabilitation Account in the State Treasury. The funds so advanced shall be used by the [Vocational Rehabilitation Division] **department** for the revolving fund set forth in ORS 344.685 (1).

(2) At any time during the biennium for which the advances mentioned in subsection (1) of this section were made, upon written request together with a check drawn on the Vocational Rehabilitation [Division] Revolving Fund by the [division] **department**, the Secretary of State shall return such advances to the State Vocational Rehabilitation Account.

(3)(a) The State Treasurer shall, from time to time, advance from funds in the hands of the treasurer not required to meet current demands, to the Vocational Rehabilitation [Division] Revolving Fund established by ORS 344.685 (1), an amount not to exceed \$40,000.

(b) The amounts so advanced shall be returned without interest by the [division] **department** to the State Treasurer at times and in amounts agreed upon between the State Treasurer and the [division] **department**.

SECTION 232. ORS 430.190 is amended to read:

430.190. There is hereby established in the General Fund the Mental Health and Developmental Disability Services [Division] Institution Account. Such amounts appropriated, collected or received by the [Mental Health and Developmental Disability Services Division] **Department of Human Services** for the purpose of institution operations shall be available for deposit in the Mental Health and Developmental Disability Services [Division] Institution Account. The Mental Health and Developmental Disability Services [Division] Institution Account is continuously appropriated to the [Mental Health and Developmental Disability Services Division] **Department of Human Services** for institution operations.

SECTION 233. Section 13, chapter 653, Oregon Laws 1991, is amended to read:

Sec. 13. As used in sections 12 to 14, **chapter 653, Oregon Laws 1991** [of this Act]:

(1) "Facility approved by the [Health Division] **Department of Human Services**" means a facility for which there is a license, permit, letter of agreement or other means by which the state officially accepts the treatment, storage, recycling, incineration or disposal method for radioactive material.

(2) "Radioactive material" means any radioactive waste or other radioactive material resulting from activities of the federal government, the United States Nuclear Regulatory Commission or its licensees or licensees of a state that has entered into an agreement under 42 U.S.C. 2021 and that satisfies the definition of low-level radioactive waste in the federal Low-Level Radioactive Waste Policy Act, 42 U.S.C. 2021b(9)(a), as of January 1, 1989. "Radioactive material" does not include naturally occurring radionuclides, uranium mill tailings or high-level radioactive waste.

SECTION 234. Section 14, chapter 653, Oregon Laws 1991, is amended to read:

Sec. 14. Notwithstanding any declaration by the federal government that certain radioactive material may be exempt from regulatory control or below regulatory concern, no radioactive material may be recycled, incinerated or disposed of in Oregon except at a facility approved by the [Health Division] **Department of Human Services** specifically for the recycling, incineration or disposal of radioactive material.

SECTION 235. ORS 18.400 is amended to read:

18.400. (1) Subject to subsection (5) of this section, when any judgment is paid or satisfied, that fact may be noted upon the judgment docket of original entry over the signature of the officer having the official custody of such docket, or of the party entitled to receive and receiving payment

or satisfaction, or of the attorney or attorneys representing the judgment creditor in the suit, action or proceeding in which the judgment was rendered; provided, such satisfaction shall not be made by an attorney whose authority over the judgment has expired. Upon annulment or payment or satisfaction and entry thereof being so made, the officer having the official custody of the judgment docket of original entry shall, upon request of any person and payment of the applicable fee, issue a certificate showing the fact of satisfaction of such judgment, or annulment of the lien thereof, describing the same sufficiently for identification; and such certificate shall, upon presentation to the officer having official custody of the judgment docket or the clerk in any county in which a certified copy of the judgment or lien record abstract may have been docketed or recorded, be entered upon such docket or recorded in the County Clerk Lien Record where a certified copy of the judgment or a lien record abstract has been recorded for the purpose of making the satisfaction of judgment a matter of record in such county.

(2) Evidence of the satisfaction of any judgment may also be perpetuated by the execution and acknowledgment by the judgment creditor, or the assignee or personal representative of the judgment creditor, of a certificate describing the judgment with convenient certainty, and specifying that the judgment has been paid or otherwise satisfied or discharged. Such certificate shall be acknowledged or proved and certified in the manner provided by law for conveyances of real property, and may be recorded in the County Clerk Lien Record of any county or counties. In case such judgment has been docketed in the judgment docket of a court of any such county, the official custodian of such docket shall, upon filing of such certificate of annulment or satisfaction, make notation thereof in the judgment docket. The procedures authorized by this subsection may be used only when the judgment does not arise pursuant to a support order entered under ORS 108.010 to 108.550, 110.303 to 110.452, [416.010 to 416.270,] 416.310 to 416.340 and 416.510 to 416.990 or 419B.400 or 419C.590 or ORS chapter 25, 107 or 109 which directs that payments are to be made to the Department of Justice.

(3) An assignment of any judgment, executed in like manner, may be:

(a) Filed with the official custodian of the judgment docket of any county in which the judgment has been docketed, and upon such filing shall be docketed therein; or

(b) Recorded in the office of the county clerk of any county in which the judgment was recorded in the County Clerk Lien Record.

(4) In any case in which a state agency is assigned or subrogated to the support rights of a person under ORS 418.032, 418.042, 419B.406 or 419C.597 or similar statutes of another state, a notice of assignment of judgment bearing the signature of the Administrator of the Division of Child Support or the authorized representative of the administrator shall be entitled to record, and with like effect, as an assignment of judgment under subsection (3) of this section.

(5)(a) In cases where support payments ordered under ORS 110.303 to 110.452, [416.010 to 416.270,] 416.310 to 416.340 and 416.510 to 416.990 or 419B.400 or 419C.590 or ORS chapter 25, 107, 108 or 109 are to be paid to the Department of Justice, any full or partial satisfaction of a support payment judgment signed by an obligee or an attorney representing the obligee must be mailed to or delivered to the Department of Justice, and not to the clerk of the court. The Department of Justice may provide support satisfaction forms, along with specific instructions. No credit shall be given for such support satisfaction except as provided by this subsection. The department shall credit such support satisfaction to the support judgment pay records maintained by the department, except to the extent that the judgment is assigned to the Department of Human Services [*or its divisions*] or subrogated to a state agency under ORS 418.032, 418.042, 419B.406 or 419C.597. The department shall then promptly forward the satisfaction instrument to the appropriate clerk of the court together with a Department of Justice certificate stating the amount of support satisfaction entered on the pay records of the department. The clerk of the court shall enter on the judgment docket only the amount of the support satisfaction shown on the Department of Justice certificate, and not the amount shown on the satisfaction instrument.

(b) In addition to or in lieu of a certificate and satisfaction instrument provided for in paragraph (a) of this subsection, the Department of Justice may execute and file satisfactions for judgments

based on support orders subject to paragraph (a) of this subsection if the obligor provides a sworn affidavit that indicates that the judgment has been paid in full and the department certifies that the department has a complete pay record for the support payment judgment and further certifies that there are no arrearages. The department shall be considered to have a complete pay record if the department has kept the pay record for the support payment judgment from the date of the first support payment required under the judgment, or if the obligee or an entity providing enforcement services under ORS 25.080 establishes arrearages for the time period the pay record was not kept by the department. A satisfaction of judgment under this paragraph need not be notarized. If the satisfaction of judgment is for any payment made to the Department of Justice for amounts that have not been assigned by the obligee to the state, the department shall give notice to the obligee in the manner provided by ORS 25.085. The notice must inform the obligee that the Department of Justice will execute and file the satisfaction of judgment unless the department receives a request for a hearing within 30 days after the date of the mailing of the notice. If an obligee requests a hearing, the Department of Justice shall conduct the hearing as a contested case under ORS 183.310 to 183.550 before a hearings officer appointed by the Department of Justice.

(c) Satisfactions of support payment judgments in cases where support payments are not ordered to be paid to the Department of Justice or where enforcement services are not provided pursuant to ORS 25.080 must be filed with the clerk of the court.

(6) The Department of Human Services, the Oregon Youth Authority, assistant attorneys general representing these agencies, the administrator of the Division of Child Support and the administrator's designees may, in their discretion, sign and mail or deliver to the Department of Justice a full or partial satisfaction of a support payment judgment to the extent that such judgment is assigned to the Department of Human Services or Oregon Youth Authority. Notwithstanding subsection (5) of this section, the Department of Justice may give credit for such satisfaction and shall forward to the clerk of the court the satisfaction instrument together with a Department of Justice certificate stating the amount of support satisfaction entered on the pay records of the department for entry on the judgment docket of the amount of satisfaction shown on the certificate and not the amount shown on the satisfaction instrument.

SECTION 236. ORS 25.080 is amended to read:

25.080. (1) This subsection describes the entity primarily responsible for providing support enforcement services described in subsection (4) of this section for any order or decree that is or could be entered under ORS chapter 107, 108, 109 or 416 or ORS 110.303 to 110.452, 419B.400 or 419C.590. The entity shall provide the support enforcement services described in subsection (4) of this section on behalf of the State of Oregon and no other party or either parent. The following entity is primarily responsible:

(a) The Division of Child Support of the Department of Justice:

(A) If support rights are, or were within the past five months, assigned to the Department of Human Services, [*one of its divisions,*] the Oregon Youth Authority or a public assistance agency of another state; or

(B) In any case where arrearage under a support order is assigned or owed to or the right to recover back support or state debt is held by a government agency.

(b) Except as provided in subsection (5) of this section, the district attorney in cases other than those described in paragraph (a) of this subsection if the obligee, obligor, beneficiary or person having physical custody of a minor child regarding any support order that has been imposed or could be imposed requests support enforcement services.

(2) The Department of Human Services shall establish rules addressing the provision of support enforcement services when the purposes of the state in providing those services may be contradictory in individual cases.

(3) Notwithstanding the division of responsibility for providing support enforcement services between the Division of Child Support of the Department of Justice and the district attorney as described in subsection (1) of this section, provision of support enforcement services shall not be

challenged on the basis that the entity providing the services in a particular case is not the entity responsible for the case under subsection (1) of this section.

(4) When responsible for providing support enforcement services and there is sufficient evidence available to support the action to be taken, the entity described in subsection (1) of this section:

(a) Shall establish and enforce any child support obligation;

(b) Shall establish paternity;

(c) Shall enforce spousal support when the obligee is living with the obligor's child for whom support enforcement services are being provided and those services are funded in part by federal moneys;

(d) May enforce any other order or decree for spousal support;

(e) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a substantial change of circumstances;

(f) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a modification conducted under ORS 25.287 concerning existing child support orders;

(g) Shall establish and enforce obligations to provide medical insurance coverage for dependent children;

(h) Shall insure compliance with the provisions of 42 U.S.C. 651 to 669 and 45 CFR Chapter III as authorized by state law;

(i) Shall carry out the policy of the State of Oregon regarding child support obligations as expressed in ORS 416.405; and

(j) Shall insure that child support orders are in compliance with the formula established by this chapter.

(5) The district attorney of any county, the Department of Human Services and the Division of Child Support of the Department of Justice may provide by agreement for assumption by the Division of Child Support of the functions of the district attorney under subsection (1) of this section or for redistribution between the district attorney and the Division of Child Support of all or any portion of the duties, responsibilities and functions set forth in subsections (1) and (4) of this section.

(6) All county governing bodies and all district attorneys shall enter into child support cooperative agreements with the Department of Human Services. The following apply to this subsection:

(a) The agreements shall contain appropriate terms and conditions sufficient for the state to comply with all child support enforcement service requirements under federal law; and

(b) If this state loses any federal funds due to the failure of a county governing body or district attorney to either enter into an agreement under this subsection or to provide sufficient support enforcement service, the county shall be liable to the department for, and the liability shall be limited to, the amount of money the state determines it lost because of the failure. The state shall offset the loss from any moneys the state is holding for or owes the county or from any moneys the state would pay to the county for any purpose.

(7) The district attorney or the Division of Child Support, whichever is appropriate, shall provide the services specified in subsections (1) and (4) of this section to any person requesting them, but may in their discretion, upon a determination and notice to the person requesting the service that prospect of successful recovery from the obligor of a portion of the delinquency or future payments is remote, require payment to the district attorney or the Division of Child Support of an application fee, in accordance with an application fee schedule established by rule by the Department of Human Services. If service performed results in the district attorney or the Division of Child Support recovering any support enforcement fees, such fees shall be paid to the applicant in an amount equal to the amount of the application fee.

(8) An obligee may request the Division of Child Support of the Department of Justice or a district attorney to cease all collection efforts if it is anticipated that physical or emotional harm will be caused to the parent or caretaker relative or the child for whom support was to have been paid. The Department of Human Services, by rule, shall set out the circumstances under which such requests shall be honored.

SECTION 237. ORS 108.610 is amended to read:

108.610. As used in ORS 108.610 to 108.660 unless the context requires otherwise:

[(1) "Assistant director" means Assistant Director for Services to Children and Families.]

[(2)] (1) "Crisis line" means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral and advocacy to victims of domestic violence and their families.

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

(3) "Family violence" means the physical injury, sexual abuse or forced imprisonment, or threat thereof, of a person by another who is related by blood, marriage or intimate cohabitation at the present or has been related at some time in the past, to the extent that the person's health or welfare is harmed or threatened thereby, as determined in accordance with rules prescribed by the [assistant] director.

(4) "Safe house" means a place of temporary refuge, offered on an "as needed" basis to victims of domestic violence and their families.

(5) "Shelter home" means a place of temporary refuge, offered on a 24-hour, seven-day per week basis to victims of domestic violence and their children.

SECTION 238. ORS 222.850 is amended to read:

222.850. As used in ORS 222.840 to 222.915, unless the context requires otherwise:

(1) "Affected territory" means an area within the urban growth boundary of a city and which is otherwise eligible for annexation to that city and in which there exists an actual or alleged danger to public health.

[(2) "Assistant director" means the Assistant Director for Health.]

[(3)] (2) "City council" means the legislative body of a city.

[(4)] (3) "Commission" means the Environmental Quality Commission.

[(5)] (4) "Danger to public health" means a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including a condition such as:

(a) Impure or inadequate domestic water.

(b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrifying waste.

(c) Inadequate improvements for drainage of surface water and other fluid substances.

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

(6) "Director" means the Director of Human Services.

[(6)] (7) "District" means any one of the following:

(a) A metropolitan service district formed under ORS chapter 268.

(b) A county service district formed under ORS chapter 451.

(c) A sanitary district formed under ORS 450.005 to 450.245.

(d) A sanitary authority, water authority or joint water and sanitary authority formed under ORS 450.600 to 450.989.

(e) A domestic water supply district formed under ORS chapter 264.

[(7) "Division" means the Health Division of the Department of Human Services.]

SECTION 239. ORS 243.140 is amended to read:

243.140. (1) Persons whose homes are certified as a foster home by the [State Office for Services to Children and Families] **Department of Human Services** under ORS 418.630 and as defined in ORS 418.625 [(2)] (3) may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the foster parent. For such purposes, foster parents shall be considered eligible employees.

(2) A person who maintains a developmental disability child foster home that is certified by the [Mental Health and Developmental Disability Services Division] **department** under ORS 443.830 and 443.835 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the person. For such purposes, the person maintaining the home shall be considered an eligible employee.

(3) Persons who participate in the health benefit plan pursuant to subsections (1) and (2) of this section may also participate in a dental plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the foster parent or the person maintaining the developmental disability child foster home.

SECTION 240. ORS 327.023 is amended to read:

327.023. In addition to those moneys distributed through the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

(1) Special schools for children who are deaf or blind as defined in ORS 346.010.

(2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.

(3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disability as described in ORS 343.261.

(4) Private agency programs for education services to children who are placed by the state in long term care or treatment facilities as described in ORS 343.961.

(5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.

(6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(7) Early intervention services for preschool children from birth until age three as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.146.

(9) Education services to children residing at state hospitals [*and training centers as described in ORS 343.975*].

(10) Disadvantaged children program under ORS 343.680.

(11) Early childhood education under ORS 329.215 to 329.235.

(12) Child development specialist under ORS 329.255.

(13) Youth care centers under ORS 420.885.

(14) Staff development and mentoring.

(15) Professional technical education grants.

(16) Special science education programs.

(17) Talented and Gifted children program under ORS 343.391 to 343.413.

SECTION 241. ORS 339.137 is amended to read:

339.137. (1) A student described in ORS 336.580 shall be considered a resident of the school district in which the student resides by reason of the placement under ORS 336.580 for purposes of distribution of the State School Fund.

(2) A student described in subsection (1) of this section must be admitted to the public schools of the school district where the student is placed pursuant to ORS 336.580.

(3) Except as provided in ORS 343.261, 343.961[, 343.975] and 346.010, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with disabilities to receive special education and related services enumerated in ORS 343.035 and services related to a disadvantaged child as defined in ORS 343.650. Suspension or expulsion of a student from the regular school program does not relieve the district of the obligation to provide instruction in the residential program in which the child resides or in another appropriate facility.

SECTION 242. ORS 343.035 is amended to read:

343.035. As used in this chapter unless the context requires otherwise:

(1) "Children with disabilities" means those school age children who are entitled to a free appropriate public education as specified by ORS 339.115 and who require special education because

they have been evaluated as having one of the following conditions as defined by rules established by the State Board of Education: Mental retardation, hearing impairment including difficulty in hearing and deafness, speech or language impairment, visual impairment, including blindness, deaf-blindness, emotional disturbance, orthopedic or other health impairment, autism, traumatic brain injury or specific learning disabilities.

(2) "Decision" means the decision of the hearing officer.

(3) "Determination" means the determination by the school district concerning the identification, evaluation or educational placement of a child with disabilities or the provision of a free appropriate public education to the child in a program paid for by the district.

(4) "Developmental delay" means:

(a) Delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas: Cognitive development; physical development, including vision and hearing; communication development; social or emotional development or adaptive development; or

(b) A disability, in accordance with criteria established by rules of the State Board of Education, that can be expected to continue indefinitely and is likely to cause a substantial delay in a child's development and ability to function in society.

(5) "Early childhood special education" means free, appropriate, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for kindergarten, where instruction is provided in any of the following settings: Home, hospitals, institutions, special schools, classrooms, and community child care or preschool settings, or both.

(6) "Early intervention services" means services for preschool children with disabilities from birth until three years of age that are:

(a) Designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child's development;

(b) Selected in collaboration with the parents; and

(c) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan.

(7) "Individualized education program" means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under this chapter.

(8) "Individualized family service plan" means a written plan of early childhood special education, related services, early intervention services and other services developed in accordance with criteria established by rules of the State Board of Education for each child eligible for services under this chapter.

(9) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's individualized family service plan and working with preschool children with disabilities in one or more of the following developmental areas: Communication development, social or emotional development, physical development, including vision and hearing, adaptive development and cognitive development.

(10) "Mediation" means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated.

(11) "Order" has the meaning given that term in ORS 183.310 to 183.550.

(12) "Other services" means those services which may be provided to preschool children with disabilities and to their families that are not early childhood special education or early intervention services and are not paid for with early childhood special education or early intervention funds.

(13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate parent.

(14) "Preschool children with disabilities" means all children from:

(a) Birth until three years of age who are eligible for early intervention services because they are experiencing developmental delay or have diagnosed mental or physical conditions that will result in developmental delay; or

(b) Three years of age to eligibility for entry into kindergarten who need early childhood special education services because they are experiencing developmental delay or because they have been evaluated as having one of the conditions listed for school age children under subsection (1) of this section.

(15) "Related services" means transportation and such developmental, corrective and other supportive services as are required to assist a child with disabilities to benefit from special education, and includes speech-language and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in children, counseling services including rehabilitation counseling, orientation and mobility services and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services, social work services in schools and parent counseling and training.

(16) "School district" means a common or union high school district or an education service district that is charged with the duty or contracted with by a public agency to educate children eligible for special education [*and includes the Department of Education for the purpose of carrying out the procedures required by ORS 343.165 to 343.175 for education programs under ORS 343.975*].

(17) "Service coordination" means the activities carried out by a service coordinator to assist and enable a preschool child with disabilities and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's early intervention and early childhood special education programs and to coordinate access to other services designated on the individualized family service plan.

(18)(a) "Special education" means specially designed instruction at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, and instruction in physical education.

(b) "Special education" also includes speech-language services, transition services or other related services designated by rule if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.

SECTION 243. ORS 343.243 is amended to read:

343.243. (1) The Department of Education shall bill annually an education service district for each child who is a resident of a school district in the education service district and is enrolled in a special education program under ORS 343.261, 343.961[, 343.975] and 346.010. Where there is no education service district, the department shall bill the county school district or a common school district having county-wide jurisdiction.

(2) The billing shall be equal to (a) the average net operating expenditure per student of all school districts in the education service district during the preceding school year multiplied by (b) the resident average daily membership of students enrolled in the special education program one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

(3) The children covered by this section shall be enumerated in the average daily membership of the district providing the instruction but credit for days' attendance of such children shall not accrue to such school district for the purpose of distributing state school funds.

(4) The department shall notify each executive officer of the administrative office for the county, as defined in ORS 328.001, of its estimated billing not later than March 1 of each year. Not later than August 15, the department shall submit the actual billing to the executive officer. The due date

for payment of the billing to the department shall be not later than December 15 following that August 15.

(5) The education service district, county school district or common school district shall pay the amount of the billing from the county school fund. In cases where this billing exceeds the amount in the county school fund, the unpaid balance shall be recovered by the department from the State School Fund.

(6) The liability of a district shall not exceed the amount established under this section even if the child is otherwise subject to ORS 336.575 and 336.580.

(7) The amounts received by the department shall be credited to the appropriate subaccount in the Special Education Account.

SECTION 244. ORS 409.093 is amended to read:

409.093. It shall be the policy of the Department of Human Services to incorporate the family support policies under ORS [344.530, 409.010, 409.210, 410.070, 411.070,] 417.340 to 417.348[, 430.021 and 431.110] into staff training and information given to the general public.

SECTION 245. ORS 409.096 is amended to read:

409.096. (1) The Department of Human Services shall develop a plan for incorporating family support consultants into a percentage of cases managed within the department. The consultants shall work directly with families to develop support in a manner consistent with the family support policies under ORS [344.530, 409.010, 409.210, 410.070, 411.070,] 417.340 to 417.348[, 430.021 and 431.110] **and section 6 of this 2001 Act.**

(2) The department shall consult with the Family Support Advisory Council established under ORS 417.346, to develop protocol and training consistent with the family support policies under ORS [344.530, 409.010, 409.210, 410.070, 411.070,] 417.340 to 417.348[, 430.021 and 431.110] **and section 6 of this 2001 Act.**

SECTION 246. ORS 410.080 is amended to read:

410.080. (1) The Department of Human Services is the designated single state agency for all federal programs under ORS 327.525, 409.010, 410.040 to 410.320, 411.590 and 441.630.

(2) Except as provided in ORS 410.070 [(3)(d)] **(2)(d)** and 410.100, the administration of services to clients under ORS 327.525, 409.010, 410.040 to 410.320, 411.590 and 441.630 shall be through area agencies, and shall comply with all applicable federal regulations.

SECTION 247. ORS 411.095 is amended to read:

411.095. (1) Where the [*Adult and Family Services Division*] **Department of Human Services** conducts a hearing pursuant to ORS [416.010 to 416.270,] 416.310 to 416.340 and 416.510 to 416.830 and 416.990 or the [*Adult and Family Services Division*] **department** proposes to refuse, suspend or revoke a grant of general assistance or a grant of public assistance, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) When emergency assistance or the continuation of assistance pending a hearing on the reduction, suspension or termination of public assistance is denied, and the applicant for or recipient of public assistance requests a hearing on the denial, an expedited hearing on the denial shall be held within five working days after the request. A written decision shall be issued within three working days after the hearing is held.

(3) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.550.

SECTION 248. ORS 411.972 is amended to read:

411.972. The [*Adult and Family Services Division*] **Department of Human Services** shall provide written receipts to applicants and recipients for all documents delivered to a [*branch*] **local** office by the applicant or recipient upon the request of the applicant or recipient.

SECTION 249. ORS 411.975 is amended to read:

411.975. (1) For all recipients who are on the monthly reporting system, the [*Adult and Family Services Division*] **Department of Human Services** shall have 10 calendar days from the date the [*division*] **department** receives a complete monthly report to issue the recipient's assistance check for that month.

(2) If the [*division*] **department** fails to issue a check in a timely manner pursuant to this section, the recipient may request same day issuance of the check from the [*branch*] **local** office. The [*division*] **department** shall pay the recipient a sum equal to one-tenth of the household's monthly assistance grant if the [*division*] **department** fails to issue the check the same day. The payment shall be treated as a resource and not counted as income by the [*division*] **department**.

(3) As used in this section, "same day" means that the request is received by the [*branch*] **local** office before 12 noon.

SECTION 250. ORS 417.210 is amended to read:

417.210. (1) Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of ORS 110.303 to 110.452 [*and 416.010 to 416.260*] and any other applicable laws also may be invoked.

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

(3) As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the [*State Office for Services to Children and Families*] **Department of Human Services**.

SECTION 251. ORS 417.340 is amended to read:

417.340. As used in ORS [*344.530, 409.010, 410.070, 411.070,*] 417.340 to 417.348[, *430.021 and 431.110*] **and section 6 of this 2001 Act:**

(1) "Family" means the unit that consists of:

- (a) A member with a disability or chronic illness; and
- (b) One or more related persons who reside in the same household.

(2) "Family member with a disability or chronic illness" means a person who has a disability or chronic illness that:

(a) Is likely to continue indefinitely;

(b) Results in substantial functional limitations in one or more of the following areas of major life activity:

- (A) Self-care;
- (B) Receptive and expressive language;
- (C) Learning;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living; or
- (G) Economic self-sufficiency; and

(c) Reflects the person's need for special, interdisciplinary or generic care, treatment or other services that are of lifelong duration and must be individually planned and coordinated.

SECTION 252. ORS 417.342 is amended to read:

417.342. (1) Family support services are based on the belief that all people, regardless of disability, chronic illness or special need, have the right to a permanent and stable familial relationship in the community. However, nothing in ORS [*344.530, 409.010, 410.070, 411.070,*] 417.340 to 417.348[, *430.021 and 431.110*] **or section 6 of this 2001 Act** is intended to keep a family member with a disability or chronic illness in the family home or to require any person with a disability or chronic illness to live in the family home.

(2) Family support services can provide the support necessary to enable the family to meet the needs of caring for a family member with a disability or chronic illness at home and, subject to available funds, shall be based on the following principles:

(a) Family support services may use private and volunteer resources, publicly funded services and other flexible dollars to provide a family with the services needed to care for the family member with a disability or chronic illness.

(b) Family support services must be sensitive to the unique needs, strengths and multicultural values of an individual and the family rather than fitting the individual and family into existing services.

(c) Family support services must be built on a relationship of respect and trust that recognizes that families are better able to determine their own needs than have their needs determined by the state or a public agency.

(d) Family support services shall be provided in a manner that develops comprehensive, responsive and flexible support to families in their role as primary caregivers for family members with disabilities or chronic illnesses.

(e) Family support services shall focus on the entire family and be responsive to the needs of the individual and the family.

(f) Family support services may be needed throughout the lifespan of the individual family member living at home who has a disability or chronic illness.

(g) Family support services shall be available to families before they are in crisis.

(h) Family support services may be a service option offered to families, but not imposed on them.

(i) Family support services shall encourage maximum use of existing social networks and natural sources of support and should encourage community integration.

(j) Family support services shall not be confined to a single program or set of services but shall be a philosophy that permeates all programs and services.

SECTION 253. ORS 426.508 is amended to read:

426.508. (1) Notwithstanding ORS 421.611 to 421.630 or any actions taken under ORS 421.611 to 421.630, the Department of Corrections shall transfer the real property known as the F. H. Dammasch State Hospital and all improvements to the Oregon Department of Administrative Services to be sold for the benefit of the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services**.

(2)(a) Notwithstanding ORS 270.100 to 270.190, and except as provided in subsection (4) of this section, the Oregon Department of Administrative Services shall sell or otherwise convey the real property known as the F. H. Dammasch State Hospital in a manner consistent with the provisions of this section. Conveyance shall not include transfer to a state agency. The sale price of the real property shall equal or exceed the fair market value of the real property. The department shall engage the services of a licensed real estate broker or real estate organization to facilitate the sale of the real property.

(b) The Oregon Department of Administrative Services shall retain from the sale or other conveyance of the real property those costs incurred by the state in selling or conveying the real property, including costs incurred by the Department of Corrections in transferring the real property to the Oregon Department of Administrative Services. The remaining proceeds from the sale or other conveyance shall be transferred to the Community Housing Trust Account created under ORS 426.506 (3).

(3) Redevelopment of the real property formerly occupied by the F. H. Dammasch State Hospital shall be consistent with the Dammasch Area Transportation Efficient Land Use Plan developed by Clackamas County, the City of Wilsonville, the Oregon Department of Administrative Services, the Department of Land Conservation and Development, the Department of Transportation, the State Housing Council, the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** and the Division of State Lands.

(4) The Oregon Department of Administrative Services shall reserve from the sale of the real property under subsection (2) of this section not more than 10 acres. The real property reserved from sale shall be transferred to the [*Mental Health and Developmental Disability Services Division*] **Department of Human Services** for use by the [*division*] **Department of Human Services** to develop community housing for chronically mentally ill persons. The **Oregon Department of Admin-**

istrative Services and the [*division*] **Department of Human Services** shall jointly coordinate with the City of Wilsonville to identify the real property reserved from sale under this subsection.

SECTION 254. ORS 431.110 is amended to read:

431.110. [(1)] Subject to ORS 417.300 and 417.305, the [*Health Division*] **Department of Human Services** shall:

[(a)] (1) Have direct supervision of all matters relating to the preservation of life and health of the people of the state.

[(b)] (2) Keep the vital statistics and other health related statistics of the state.

[(c)] (3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics.

[(d)] (4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915.

[(e)] (5) Have full power in the control of all communicable diseases.

[(f)] (6) Have authority to send a representative of the [*division*] **department** to any part of the state when deemed necessary.

[(g)] (7) From time to time, publish and distribute to the public in such form as the [*division*] **department** determines, such information as in its judgment may be useful in carrying on the work or purposes for which the [*division*] **department** was established.

[(h)] (8) Carry out the duties imposed on the [*division*] **department** under ORS chapter 690.

[(2) *Family support services provided by the Health Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.*]

SECTION 255. ORS 438.010 is amended to read:

438.010. As used in ORS 438.010 to 438.510 and 438.990, unless the context requires otherwise:

(1) "Clinical laboratory" or "laboratory" means a facility where the microbiological, serological, chemical, hematological, immunohematological, immunological, toxicological, cytogenetical, exfoliative cytological, histological, pathological or other examinations are performed on materials derived from the human body, for the purpose of diagnosis, prevention of disease or treatment of patients by physicians, dentists and other persons who are authorized by license to diagnose or treat humans.

(2) "Clinical laboratory specialty" or "laboratory specialty" means the examination of materials derived from the human body for the purpose of diagnosis and treatment of patients or assessment of health, employing one of the following sciences: Serology, microbiology, chemistry, hematology, immunohematology, immunology, toxicology, cytogenetics, exfoliative cytology, histology or pathology.

(3) "Clinician" means a nurse practitioner licensed and certified by the Oregon State Board of Nursing, or a physician assistant licensed by the Board of Medical Examiners for the State of Oregon.

(4) "Custody chain" means the handling of specimens in a way that supports legal testimony to prove that the sample integrity and identification of the sample have not been violated, as well as the documentation describing those procedures from specimen collection to the final report.

(5) "Dentist" means a person licensed to practice dentistry by the Oregon Board of Dentistry.

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

[(6)] (7) "Director of clinical laboratory" or "director" means the person who plans, organizes, directs and participates in any or all of the technical operations of a clinical laboratory, including but not limited to reviewing laboratory procedures and their results, training and supervising laboratory personnel, and evaluating the technical competency of such personnel.

[(7) *"Division" means the Health Division of the Department of Human Services.*]

(8) "Health screen testing" means tests performed for the purpose of identifying health risks, providing health information and referring the person being tested to medical care.

(9) "High complexity laboratory" means a facility that performs testing classified as highly complex in the specialties of microbiology, chemistry, hematology, diagnostic immunology, immunohematology, clinical cytogenetics, cytology, histopathology, oral pathology, pathology,

radiobioassay and histocompatibility and that may also perform moderate complexity tests and waived tests.

(10) "High complexity test" means a procedure performed on materials derived from the human body that meet the criteria for this category of testing in the specialties of microbiology, chemistry, hematology, immunohematology, diagnostic immunology, clinical cytogenetics, cytology, histopathology, oral pathology, pathology, radiobioassay and histocompatibility as established by the [division] **department**.

(11) "Laboratory evaluation system" means a system of testing clinical laboratory methods, procedures and proficiency by periodic performance and reporting on test specimens submitted for examination.

(12) "Moderate complexity laboratory" means a facility that performs testing classified as moderately complex in the specialties of microbiology, hematology, chemistry, immunohematology or diagnostic immunology and may also perform any waived test.

(13) "Moderate complexity test" means a procedure performed on materials derived from the human body that meet the criteria for this category of testing in the specialties of microbiology, hematology, chemistry, immunohematology or diagnostic immunology as established by the [division] **department**.

(14) "Operator of a substances of abuse on-site screening facility" or "operator" means the person who plans, organizes, directs and participates in any or all of the technical and administrative operations of a substances of abuse on-site screening facility.

(15) "Owner of a clinical laboratory" means the person who owns the clinical laboratory, or a county or municipality operating a clinical laboratory or the owner of any institution operating a clinical laboratory.

(16) "Physician" means a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(17) "Physician performed microscopy procedure" means a test personally performed by a physician or other clinician during a patient's visit on a specimen obtained during the examination of the patient.

(18) "Physician performed microscopy procedures" means a limited group of tests that are performed only by a physician or clinician.

(19) "Specimen" means materials derived from a human being or body.

(20) "Substances of abuse" means ethanol and controlled substances, except those used as allowed by law and as defined in ORS chapter 475 or as used in ORS 689.005.

(21) "Substances of abuse on-site screening facility" or "on-site facility" means a location where on-site tests are performed on specimens for the purpose of screening for the detection of substances of abuse.

(22) "Substances of abuse on-site screening test" or "on-site test" means a substances of abuse test that is easily portable and can meet the requirements of the federal Food and Drug Administration for commercial distribution or an alcohol screening test that meets the requirements of the conforming products list found in the United States Department of Transportation National Highway Traffic Safety Administration Docket No. 94-004 and meets the standards of the United States Department of Transportation Alcohol Testing Procedure, 49 C.F.R. part 40, in effect on October 23, 1999.

(23) "Waived test" means a procedure performed on materials derived from the human body that meet the criteria for this category of testing as established by the [division] **department**.

SECTION 256. ORS 446.125 is amended to read:

446.125. A person may occupy a manufactured dwelling or a camping vehicle on private land with the consent of the owner of the land if:

(1) The lot, tract or parcel of land upon which the manufactured dwelling or camping vehicle is situated has an area adequate to provide safe, approved water supply and sewage disposal facilities and is not in conflict with ORS 446.310 [(9)] **(10)**.

(2) The person complies with all applicable standards of sanitation, water, plumbing and electrical and sewerage installations prescribed by the laws of this state and the rules issued thereunder, or by local authorities.

SECTION 257. ORS 448.273 is amended to read:

448.273. The Legislative Assembly finds that an agreement between this state and the federal government to assume primary enforcement responsibility in this state for the federal Safe Drinking Water Act is in the best interest of this state, subject to the following assumptions:

(1) The federal government provides an annual program grant in an amount no less than that allocated for the state in the 1984 fiscal year.

(2) The federal government provides technical assistance to this state, as requested, in emergency situations and during outbreaks of waterborne diseases.

(3) The federal government must negotiate an annual work plan for [*the Health Division of*] the Department of Human Services[, *in cooperation with the division,*] that can be accomplished within the amount of program grant funding available.

(4) The [*Health Division*] **Department of Human Services** adopts standards no less stringent than the National Primary Drinking Water Regulations of the United States Environmental Protection Agency.

(5) The [*Health Division*] **Department of Human Services** provides engineering assistance through regional offices in at least four geographically distributed areas in this state.

(6) In cooperation with representatives of local health departments, the [*Health Division*] **Department of Human Services** develops an equitable formula for distribution of available funds to support local health department water programs.

(7) The primacy agreement may be canceled by the [*Health Division*] **Department of Human Services**, upon 90 days notice, if at any time the federal requirements exceed the amount of federal funding and the cancellation is approved by the legislative review agency as defined in ORS 291.371 (1).

(8) The federal government can impose financial sanctions against this state if the state fails to meet the objectives of the annual negotiated work plan without reasonable explanation by tying the next annual funding to specific state production and by withholding of funds a possibility if continued unexplained failures occur but no sanction exists to interfere with other types of federal funding in this state.

(9) The federal government may seek to enforce the safe drinking water standards if this state fails to take timely compliance action against a public water system that violates such standards.

(10) Enforcement under subsection (9) of this section may be by injunctive relief or, in the case of willful violation, civil penalties authorized by 42 U.S.C. 300g-3 (a) and (b).

SECTION 258. ORS 453.605 is amended to read:

453.605. In ORS 453.605 to 453.800, unless the context requires otherwise:

[(1) "*Division*" means the Health Division of the Department of Human Services.]

[(2) "*Assistant director*" means the Assistant Director for Health.]

[(3)] **(1)** "By-product material" means radioactive material, other than special nuclear material, that is yielded or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

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

(3) "Director" means the Director of Human Services.

(4) "Electronic product" means any manufactured product or device or component part of such a product or device that has an electronic circuit which during operation can generate or emit a physical field of radiation, such as, but not limited to microwave ovens, laser systems or diathermy machines.

(5) "Federal government" means the United States or any agency or instrumentality of the United States.

(6) "General license" means a license, effective under rules of the [*division*] **department** without the filing of an application, to acquire, own, possess, use or transfer a device or equipment that

produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(7) "Person" means any of the following other than the United States Atomic Energy Commission or any successor thereto:

(a) Individual, group, association, firm, partnership, corporation, trust, estate, agency or public or private institution;

(b) Political subdivision or agency of this state;

(c) State other than this state or any political subdivision or agency of a state other than this state; or

(d) The legal successor, representative, agent or agency of a person listed in paragraphs (a) to (c) of this subsection.

(8) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons and other atomic or nuclear particles or rays.

(b) Any electromagnetic radiation [*which*] **that** can be generated during the operations of electronic products and [*which*] **that** the [*division*] **department** has determined to present a biological hazard to the occupational or public health and safety but does not mean electromagnetic radiation [*which*] **that** can be generated during the operation of an electronic product [*which*] **that** is licensed by the Federal Communications Commission.

(c) Any sonic, ultrasonic or infrasonic waves [*which*] **that** are emitted from an electronic product as a result of the operation of an electronic circuit in such product and [*which*] **that** the [*division*] **department** has determined to present a biological hazard to the occupational or public health and safety.

(9) "Source material" means:

(a) Uranium, thorium or any other material [*which*] **that** the [*division*] **department** declares to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be source material; or

(b) Ore that contains such a concentration of one or more materials mentioned in paragraph (a) of this subsection that the [*division*] **department** declares the ore to be essential to the production of special nuclear material by an order made after the United States Atomic Energy Commission or any successor thereto has determined such ore to be source material.

(10) "Special nuclear material" means any of the following that is not source material:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, or any other material [*which*] **that** the [*division*] **department** declares to be capable of releasing substantial quantities of atomic energy by an order made after the United States Atomic Energy Commission or any successor thereto has determined the material to be special nuclear material.

(b) Material artificially enriched by any material mentioned in paragraph (a) of this subsection.

(11) "Specific license" means a license, issued after application, to receive, acquire, own, possess, use, manufacture, produce or transfer a device or equipment that produces radiation, or a quantity of, or a device or equipment that utilizes, by-product material, source material or special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(12) "X-ray machine" means a device or equipment that produces radiation when in operation but does not utilize by-product material, source material, special nuclear material or other radioactive material that occurs naturally or is produced artificially.

(13) "X-ray machine registration" means an authorization granted by the [*division*] **department** allowing the operation of an X-ray machine.

SECTION 259. ORS 657.880 is amended to read:

657.880. In order to provide health care coverage for eligible unemployed individuals, the Employment Department, upon approval and funding by the Emergency Board, is authorized:

(1) To deduct an amount from unemployment compensation otherwise payable to an individual and to use the amount so deducted to pay for health care coverage if the individual voluntarily elects to have such deduction made, and such deduction is made under a program which meets applicable federal requirements and has been approved in accordance with the provisions of this section[,] **and** ORS [411.950 to 411.960 and] 657.885.

(2) To certify to the [Adult and Family Services Division] **Department of Human Services** those unemployed individuals eligible to receive health care coverage pursuant to criteria established by or pursuant to federal law in order to receive federal funds for obtaining such coverage.

(3) To enter into contracts with other appropriate federal or state agencies.

SECTION 260. ORS 657.885 is amended to read:

657.885. For purposes of this section[,] **and** ORS [411.950 to 411.960 and] 657.880, the term "health care coverage" means coverage under:

(1) Health insurance policies issued by qualified insurers and health care service contractors;

(2) Contracts entered into by and between the State of Oregon and qualified insurers and health care service contractors; and

(3) The medical assistance program administered by the Department of Human Services.

SECTION 261. ORS 343.975, 344.520, 344.525, 344.527, 344.573, 344.575, 344.577, 409.190, 410.130, 411.040, 411.064, 411.090, 411.260, 411.270, 411.280, 411.350, 411.405, 411.415, 411.765, 411.775, 411.785, 411.950, 411.955, 411.960, 412.550, 413.170, 413.180, 416.010, 416.020, 416.030, 416.035, 416.040, 416.050, 416.055, 416.061, 416.070, 416.080, 416.090, 416.100, 416.110, 416.120, 416.130, 416.145, 416.170, 416.180, 416.190, 416.200, 416.210, 416.220, 416.240, 416.250, 416.260, 416.270, 416.280, 418.003, 426.360, 426.405, 426.407, 427.009, 430.041, 430.110, 430.260, 430.642, 430.910, 430.950, 431.065, 432.560, 441.097 and 441.623 are repealed.

SECTION 262. This 2001 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect July 1, 2001.

Passed by House July 1, 2001

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Chief Clerk of House

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Speaker of House

Passed by Senate July 5, 2001

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President of Senate

Received by Governor:

.....M.,....., 2001

Approved:

.....M.,....., 2001

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2001

.....
Secretary of State