

CHAPTER 382

AN ACT

SB 924

Relating to the deinstitutionalization of children taken into protective custody; creating new provisions; amending ORS 169.070, 169.080, 169.085, 417.020, 419A.004, 419A.010, 419A.014, 419A.050, 419A.059, 419A.245, 419B.121, 419B.150, 419B.160, 419B.165, 419B.168, 419B.171, 419B.175, 419B.180, 419B.183, 419B.185, 419C.010, 419C.156 and 420.915; and declaring an emergency.

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

SECTION 1. ORS 419A.004 is amended to read:

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

(1) "Age-appropriate or developmentally appropriate activities" means:

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

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

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

(a) By adoption;

(b) With a legal guardian; or

(c) With a fit and willing relative.

(3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon Department of Administrative Services under ORS 184.492 to recruit, train and supervise volunteers to serve as court appointed special advocates.

(4) "Child care center" means a residential facility for wards or youth offenders that is licensed, certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

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

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

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

(8) "Court" means the juvenile court.

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

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

(11) "Current caretaker" means a foster parent:

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

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

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

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

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

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

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

(a) A member of an Indian tribe; or

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

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

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

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

(a) A person who has adopted the child, ward, youth or youth offender or whose parentage has been established or declared under ORS 109.065 or 416.400 to 416.465 or by a juvenile court; and

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

(20) "Permanent foster care" means an out-of-home placement in which there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.

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

(22) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child or ward while

encouraging the emotional and developmental growth of the child or ward, that a substitute care provider shall use when determining whether to allow a child or ward in substitute care to participate in extracurricular, enrichment, cultural and social activities.

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

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

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

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

(27) "Serious physical injury" means:

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

(b) A physical injury that:

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

(B) Results in substantial and recurring pain; or

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

(28) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.

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

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

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

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

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

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

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

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

(32) "Surrogate" means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safe-

guards with respect to the provision of free appropriate public education.

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

(34) "Victim" means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor, "victim" includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be determined, the people of Oregon, as represented by the district attorney, are considered the victims.

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

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

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

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

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

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

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

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

SECTION 2. ORS 419A.010 is amended to read:

419A.010. (1)(a) Subject to paragraph (b) of this subsection, the governing body of any county, after consultation with the judges of the juvenile court in that county, shall appoint or designate one or more persons of good moral character as counselors of the juvenile department of the county, to serve at the pleasure of and at a salary designated by the governing body of the county.

(b) The governing bodies of two or more contiguous counties may, pursuant to an agreement between the counties concerned, and after consultation with the judges of the juvenile courts in those counties, jointly appoint one or more persons of good moral character as counselors of the juvenile departments of the counties, to serve at the pleasure

of and at a salary designated by the governing bodies of the counties concerned.

(c) When more than one person is appointed under this subsection, the appointing authority may designate one as director of the juvenile department or departments and the others to serve as juvenile counselors or staff members.

(d) Additional qualifications for a person appointed director of a juvenile department of a county under this subsection may be established by the governing body of a county, subject to the approval of such qualifications by the judge of the juvenile court in that county.

(e) When the chairperson of the governing body of the county is also the judge of the juvenile court under ORS 5.020, only the judge shall make the decisions described in this subsection.

(2) The director shall be the administrator of the juvenile department or departments for the county or counties, including any juvenile detention facilities maintained by the county or by the counties jointly, and the supervisor of the staff of the juvenile department or departments and detention facilities, subject to the direction of the appointing authority.

(3) Notwithstanding subsection (2) of this section, if the county has entered into a written agreement under ORS 190.010 with any other unit or units of local government to coordinate juvenile detention facilities established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of [*children, wards,*] youths or youth offenders pursuant to a judicial commitment or order, a juvenile director oversight committee may assume the duties and powers described in subsection (2) of this section and ORS 419A.012, 419A.014, 419A.015 and 419A.016 if the following requirements have been met:

(a) The agreement to coordinate juvenile detention facilities provides for the formation and operation of a juvenile director oversight committee;

(b) A juvenile director oversight committee consisting of the juvenile director of each county that has entered into the agreement has been formed; and

(c) Each juvenile director has an equal vote on the juvenile director oversight committee.

SECTION 3. ORS 419A.014 is amended to read:

419A.014. The juvenile department of a county shall report annually to the [*Oregon Criminal Justice Commission*] **Youth Development Council** the frequency with which [*runaway children held under ORS 419C.156, youths and youth offenders*] **the following persons** are held in preadjudicative detention and the duration of the detention:

(1) **Out-of-state runaways, as defined in ORS 419C.156; or**

(2) **Runaway youth and youth offenders.**

SECTION 4. ORS 419A.050 is amended to read:

419A.050. (1) Any county may acquire in any lawful manner, equip and maintain within the county suitable facilities for the shelter [*or detention*] of children, wards, youths and youth offenders, **or the detention of youths and youth**

offenders, confined pursuant to a judicial commitment or order pending final adjudication of the case by the juvenile court.

(2) When two or more counties have entered into an agreement under ORS 419A.010, the counties jointly may acquire in any lawful manner, equip and maintain, at a suitable site or sites in the counties, facilities suitable for the shelter [*or detention*] of children, wards, youths and youth offenders, **or the detention of youths and youth offenders**, confined pursuant to judicial commitment or order pending final adjudication of the case by the juvenile court.

(3) Any county may designate, equip and maintain a short-term detention facility for [*children,*] youths and youth offenders in transit. The facility may house up to a total of five [*children,*] youths and youth offenders in transit for a period not to exceed four continuous days pending further placement. Short-term detention facilities:

(a) May not be located with detention facilities established under subsection (1) or (2) of this section; and

(b) Are subject to the standards and specifications found in ORS 169.740 and 419A.052. Upon written request of the county, the Department of Corrections may approve waivers and variances from the standards and specifications as long as the waivers or variances are consistent with the safety and welfare of detained [*children,*] youths and youth offenders.

SECTION 5. ORS 419A.059 is amended to read:

419A.059. (1) The juvenile court of each county shall designate the place or places in which children, wards, youths or youth offenders are to be placed in [*detention or*] shelter care, **or in which youths or youth offenders are to be placed in detention**, when taken into temporary custody.

(2) If the county is adjacent to another state, the court may designate a place or places in the adjoining state where children, wards, youths or youth offenders, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in [*detention or*] shelter care when taken into custody.

(3) **If the county is adjacent to another state, the court may designate a place or places in the adjoining state where youths or youth offenders, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention when taken into custody.** A county juvenile department may not enter into an agreement with an out-of-state place for placement in detention as provided in this [*section*] **subsection**, unless the place or places conform to standards of this state for such a place and unless the agreement includes a provision that the place be subject to inspection by officers of this state under ORS 419A.061.

SECTION 6. ORS 419A.245 is amended to read:

419A.245. (1) During the transportation of a youth, youth offender, young person, ward or child by the Department of Human Services, the Oregon Health Authority or an agent of the department or authority:

[(1)] (a) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets, cloth restraints, leather restraints, plastic restraints and other similar items, may not be used unless:

[(a)] (A) The transportation is secure transportation to a detention facility, youth correction facility, as defined in ORS 420.005, secure hospital, secure intensive community inpatient facility or other secure facility; or

[(b)] (B) Restraints are necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives that will alleviate the immediate and serious risk of dangerous or disruptive behavior.

[(2)] (b) Prior to the use of restraints during transportation, a transportation safety plan, including documentation of the need for restraints, must be created. The transportation safety plan must address intervention strategies designed to modify behavior without the use of restraints and recommend the least restrictive effective alternative.

[(3)] (c) Only staff who have been adequately trained in restraint device usage may use and apply restraints during transportation.

[(4)] (d) Restraints during transportation may not be used as punishment, for convenience or as a substitute for staff supervision.

[(5)] (2) This section applies to all circumstances of transportation of a ward or child by the Department of Human Services, the Oregon Health Authority or an agent of the department or authority, including but not limited to transportation between placements with child-caring agencies, foster homes, shelter [homes] **care facilities**, treatment and residential facilities or any other type of placement destination for a ward or child in the custody of the Department of Human Services.

[(6) *As used in this section:*]

[(a) *“Detention facility” has the meaning given that term in ORS 419A.004.*]

[(b) *“Youth correction facility” has the meaning given that term in ORS 420.005.*]

SECTION 7. ORS 419B.121 is amended to read:

419B.121. [Notwithstanding ORS 419C.145, the court may order the detention of a child who resides in another state if the court finds probable cause to believe that the child has run away from home or from a placement. If a child is ordered detained under this section, the court shall make such orders as are necessary to cause the child to be immediately returned to the child’s state of residence.]

(1) As used in this section, “home state” and “out-of-state runaway” have the meanings given those terms in ORS 419C.156.

(2) Notwithstanding any provisions in ORS chapter 419A, 419B or 419C prohibiting the detention of children or wards, if the court deter-

mines that a child or ward is an out-of-state runaway, the court may place the out-of-state runaway in a placement that the court determines to be the least restrictive setting, including detention, necessary to ensure that the out-of-state runaway is not a danger to self or others pending the return of the out-of-state runaway to the out-of-state runaway’s home state.

SECTION 8. ORS 419B.150 is amended to read:

419B.150. (1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:

(a) When the child’s condition or surroundings reasonably appear to be such as to jeopardize the child’s welfare;

(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or

(c) When it reasonably appears that the child has run away from home.

(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.

(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.

(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.

(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into protective custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child’s parent or guardian or to a shelter **care** facility that has agreed to provide care and services to children who have run away from home and that has been designated

by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter **care** facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter **care** facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.

SECTION 9. ORS 419B.160 is amended to read: 419B.160. (1)(a) **A child or ward taken into protective custody may not be placed in detention except as provided in ORS chapter 419C for a person over whom the juvenile court has jurisdiction under ORS 419C.005.**

(b) **Except as provided in ORS 419C.130,** a child or ward may not be [*detained*] **held** at any time in a police station, jail, prison or other place where adults are [*detained*] **held**, except that a child or ward may be [*detained*] **held** in a police station for up to five hours when necessary to obtain the child or ward's name, age, residence and other identifying information.

(2) All peace officers shall keep a record of children taken into protective custody and shall promptly notify the juvenile court or counselor of all children taken into protective custody.

(3) As soon as practicable after the child is taken into **protective** custody, the person taking the child into **protective** custody shall notify the child's parent, guardian or other person responsible for the child. The notice shall inform the parent, guardian or other person of the action taken and the time and place of the hearing.

(4) **Nothing in this section prohibits the detention of a child or ward under a material witness order, as defined in ORS 136.608.**

SECTION 10. ORS 419B.165 is amended to read: 419B.165. The person taking the child into **protective** custody shall release the child to the **protective** custody of the child's parent or other responsible person in this state, except in the following cases:

(1) Where the court has issued an order directing that the child be taken into protective custody.

(2) Where the person taking the child into **protective** custody has probable cause to believe that

the welfare of the child or others may be immediately endangered by the release of the child.

SECTION 11. ORS 419B.168 is amended to read: 419B.168. (1) If a child taken into protective custody is not released as provided in ORS 419B.165 and the juvenile court for the county has not established the alternative procedure authorized in subsection (4) of this section, the person taking the child into **protective** custody shall, without unnecessary delay, do one of the following:

(a) Take the child before the court or a person appointed by the court to effect disposition under ORS 419B.165.

(b) Take the child to a place of [*detention or*] shelter care or a public or private agency designated by the court and as soon as possible thereafter notify the court that the child has been taken into **protective** custody.

(2) Where a child residing in some other county is taken into protective custody the child may be:

(a) Released to the child's parent or other responsible person in this state as provided in ORS 419B.165.

(b) Delivered to a peace officer or juvenile counselor in the county in which the child resides, if such delivery can be made without unnecessary delay. In such event, the person to whom the child is delivered shall assume protective custody of the child and shall proceed as provided in this chapter.

(3) Where a child is released or delivered as provided in subsection (2) of this section, the jurisdiction of the juvenile court of the county in which the child resides shall attach from the time the child is taken into **protective** custody.

(4) The juvenile court may establish, as an alternative to the provisions of subsection (1) of this section, that if a child taken into protective custody is not released as provided in ORS 419B.165, procedures shall be followed that comply with the following:

(a) The person taking the child into **protective** custody may communicate, by telecommunications or otherwise, with the person appointed by the court to effect disposition under ORS 419B.175.

(b) After interviewing the person taking the child into **protective** custody and obtaining such other information as is considered necessary, the person appointed by the court under ORS 419B.175 to effect disposition may exercise the authority granted under that section and shall, in such case, direct that the person taking the child into **protective** custody release the child or deliver the child in accordance with such direction.

(c) The person taking the child into **protective** custody shall comply with the direction of the person appointed by the court to effect disposition.

SECTION 12. ORS 419B.171 is amended to read: 419B.171. Except where the child is taken into **protective** custody pursuant to an order of the court, the person taking the child into **protective** custody shall promptly file with the court or a

counselor a brief written report stating all of the following:

- (1) The child's name, age and address.
- (2) The name and address of the person having legal or physical custody of the child.
- (3) Efforts to notify the person having legal or physical custody of the child and the results of those efforts.
- (4) Reasons for and circumstances under which the child was taken into protective custody.
- (5) If the child is not taken to court, the placement of the child.
- (6) If the child was not released, the reason why the child was not released.
- (7) If the child is not taken to court, why the type of placement was chosen.
- (8) Efforts to determine whether the child or the parents have any Indian heritage and the results of those efforts. If the child is an Indian child, the placement of the child shall be according to the preferences and criteria set out in the Indian Child Welfare Act.

SECTION 13. ORS 419B.175 is amended to read:

419B.175. (1) This subsection establishes the authority and procedures that apply to a person designated by a court to effect disposition of a child taken into protective custody or brought before the court under ORS 419B.160, 419B.165, 419B.168 or 419B.171. The person shall, when the person has taken **protective** custody of a child or has authority to effect disposition of a child taken into **protective** custody:

- (a) Release the child to the custody of a parent, guardian or other responsible person;
- (b) Release the child on the child's own recognition when appropriate;
- (c) Subject to ORS 419B.121 or 419B.180, place the child in shelter care or detention. The child shall be placed in shelter care rather than detention, unless the person has probable cause to believe that the court will be able to detain the child under ORS 419B.121; or
- (d) Pursuant to order of the court made after the filing of a petition, hold, retain or place the child in shelter care subject to further order.

(2) If the child is released under subsection (1)(a) of this section, the person releasing the child shall inform the juvenile court.

SECTION 14. ORS 419B.180 is amended to read:

419B.180. The juvenile court of each county shall designate the place or places in which children are to be placed in [*detention or*] shelter care when taken into protective custody. [*If the county is adjacent to another state, the court may designate a place or places in the adjoining state where children, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention when taken into custody. A county juvenile department shall not enter into an agreement with an out-of-state place for detention of juveniles, as provided in this section, unless the place or places conform to standards of this state for such*

a place and unless the agreement includes a provision that the place be subject to inspection by officers of this state under ORS 419A.061.]

SECTION 15. ORS 419B.183 is amended to read:

419B.183. A child or ward may not be held in [*detention or*] shelter care more than 24 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing.

SECTION 16. ORS 419B.185 is amended to read:

419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in [*detention or*] shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or ward can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication. At the hearing:

(a) The court shall make written findings as to whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home. When the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of the preventive and reunification efforts made by the department.

(b) In determining whether a child or ward shall be removed or continued out of home, the court shall consider whether the provision of reasonable services can prevent or eliminate the need to separate the family.

(c) In determining whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home, the court shall consider the child or ward's health and safety the paramount concerns.

(d) The court shall make a written finding in every order of removal that describes why it is in the best interests of the child or ward that the child or ward be removed from the home or continued in care.

(e) When the court determines that a child or ward shall be removed from the home or continued in care, the court shall make written findings whether the department made diligent efforts pursu-

ant to ORS 419B.192. The court shall include in its written findings a brief description of the efforts made by the department.

(f) The court shall determine whether the child or ward is an Indian child as defined in ORS 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

(g) The court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determinations and findings required under this section. As used in this paragraph, "relevant evidence" has the meaning given that term in ORS 40.150.

(2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of this section, the department shall present written documentation to the court outlining:

(a) The efforts made to prevent taking the child or ward into protective custody and to provide services to make it possible for the child or ward to safely return home;

(b) The efforts the department made pursuant to ORS 419B.192; and

(c) Why protective custody is in the best interests of the child or ward.

SECTION 17. ORS 419C.156 is amended to read: 419C.156. *[Notwithstanding ORS 419C.145 (1) and (2), the court may order the detention of a youth who resides in another state if the court makes written findings that there is probable cause to believe that the youth has run away from home or from a placement and that describe why it is in the best interests of the youth to be placed in detention. If a youth is ordered detained under this section, the court shall make such orders as are necessary to cause the youth to be immediately returned to the youth's state of residence.]*

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

(a) **"Home state" means any other state, territory or outlying possession of the United States where an out-of-state runaway's parent, legal guardian or custodial agency is located.**

(b) **"Out-of-state runaway" means a person who is younger than the juvenile jurisdictional age limit established by the person's home state, who has voluntarily left the home state without the permission of the person's parent, legal guardian or custodial agency and who may or may not have been adjudicated in the home state.**

(2) **Notwithstanding any provisions in ORS chapter 419A, 419B or 419C prohibiting the detention of youths, if the court determines that a youth is an out-of-state runaway, the court may place the out-of-state runaway in a placement that the court determines to be the least restrictive setting, including detention, necessary to ensure that the out-of-state runaway is not a danger to self or others pending the return of the out-of-state runaway to the out-of-state runaway's home state.**

(3) Nothing in ORS chapter 419A, 419B or 419C limits or affects the ability of a court to place an out-of-state runaway in detention in accordance with the Interstate Compact for Juveniles as set forth in ORS 417.030.

SECTION 18. ORS 420.915 is amended to read: 420.915. (1) Upon issuance of an order or warrant of arrest under ORS 420.910, a peace officer may apprehend and deliver to a juvenile detention facility as described in ORS 419A.050 and 419A.052 the escapee, absentee or parole violator who is under 18 years of age. If the escapee, absentee or parole violator is 18 years of age or older, a peace officer may deliver the person to an adult detention facility.

(2) Upon issuance of an order for arrest under ORS 420.910 (1)(b), a juvenile community supervision officer may apprehend and deliver to a juvenile detention facility as described in ORS 419A.050 and 419A.052 the parole violator who is under 18 years of age. If the parole violator is 18 years of age or older, a juvenile community supervision officer may deliver the person to an adult detention facility.

(3) A youth correction facility escapee or absentee described in ORS 420.910 may be held in a juvenile detention facility as described in ORS 419A.050 and 419A.052 or an adult detention facility as provided in subsection (1) of this section for up to 36 hours.

(4) The parole violator described in ORS 420.910 may be held in a juvenile detention facility as described in ORS 419A.050 and 419A.052 or an adult detention facility as provided in subsection (1) or (2) of this section no more than 72 hours, excluding Saturdays, Sundays and judicial holidays, except pursuant to such provisions as the Oregon Youth Authority may adopt by rule to govern the use of detention for parolees and review of revocation of parole.

(5) The director or authorized representative of the juvenile department in whose juvenile detention facility the escapee or absentee from a youth correction facility is held, or the administrator of the adult detention facility in which the escapee or absentee is held, shall immediately inform the institution to which such escapee or absentee was committed and shall surrender the escapee or absentee to any person authorized by the superintendent or authorized representative of such institution to receive the escapee or absentee.

(6) The director or authorized representative of the juvenile department in whose juvenile detention facility the parole violator is held, or the administrator of the adult detention facility in which the violator is held, shall immediately inform the paroling authority.

(7) Except as provided in subsection (4) of this section, the provisions of ORS [419B.175, 419B.183, 419B.185,] 419C.109, 419C.136, 419C.139, 419C.145, 419C.150, 419C.153, 419C.170 and 419C.173 do not apply to the detention of an escapee, absentee or parole violator under this section.

SECTION 19. ORS 169.070 is amended to read:

169.070. (1) The Department of Corrections shall provide and coordinate state services to local governments with respect to local correctional facilities and juvenile detention facilities. The Director of the Department of Corrections shall designate staff to provide technical assistance to local governmental agencies in the planning and operation of local correctional facilities, lockups, temporary holds and juvenile detention facilities, and advice on provisions of state law applicable to these facilities. The department shall inspect local correctional facilities, lockups, temporary holds and juvenile detention facilities, to ensure compliance with the standards established in ORS 169.076 to 169.078, 169.740[,] and 419A.059 [and 419B.180].

(2) In carrying out its duties under subsection (1) of this section, the department may enter into agreements with public or private entities to conduct inspections of local correctional facilities, lockups, temporary holds and juvenile detention facilities.

(3) When a county that operates a local correctional facility has conducted, or caused a public or private entity to conduct, an inspection of the local correctional facility within 24 months before an inspection would be conducted under subsection (1) of this section, the department is not required to conduct the next inspection required under subsection (1) of this section if:

(a) The standards meet or exceed the standards established in ORS 169.076;

(b) The inspection is conducted in a manner that allows the county to satisfy the requirement of paragraph (c) of this subsection; and

(c) Within 45 days after the inspection is completed, the county provides to the department:

(A) A statement or copy of the standards used to conduct the inspection and the date the standards were adopted; and

(B) A portion of the findings and recommendations of the inspection that is the equivalent of the information that would have been obtained in an inspection conducted under subsection (1) of this section.

(4) The information provided to the department under subsection (3) of this section is a public record for the purposes of ORS 192.311 to 192.478 and is subject to the same disclosure requirements and retention schedule that applies to an inspection conducted under subsection (1) of this section.

SECTION 20. ORS 169.080 is amended to read:

169.080. (1) If the condition or treatment of prisoners in a local correctional facility, lockup or temporary hold or juvenile detention facility is not in accordance with the standards established in ORS 169.076 to 169.078, 169.740[,] and 419A.059 [or 419B.180], the staff of the Department of Corrections may notify in writing the appropriate local governmental agency of the standards which are not being met and specific recommendations for the agency to

comply with the standards. Corrective measures shall be taken by the local governmental agency to insure compliance with all standards within a reasonable length of time jointly agreed upon by the agency and the Department of Corrections.

(2) The provisions of ORS 169.076 to 169.078, 169.740, 419A.059, 419B.160[, 419B.180] and 419C.130 shall be enforceable by the Attorney General of the State of Oregon. The Attorney General, at the request of the Department of Corrections, may bring suit or action and may seek declaratory judgment as provided in ORS chapter 28 as well as pursue any other form of suit or action provided under Oregon law. Nothing in this section shall preclude a private right of suit or action.

SECTION 21. ORS 169.085 is amended to read:

169.085. All plans of new construction or major renovation of local correctional facilities, lockups and juvenile detention facilities shall be submitted to the Department of Corrections for review and advisory recommendations to assist local governmental agencies to provide a safe and secure facility. The recommendations of the Department of Corrections shall be advisory and not binding upon the local governmental agency with the exception of those standards established in ORS 169.076 to 169.078, 169.740[,] and 419A.059 [and 419B.180]. The Department of Corrections must notify the respective local governmental agency 45 days after submission of the plans of its recommendations on the proposed construction or major renovation of the local correctional facility.

SECTION 22. ORS 417.020 is amended to read:

417.020. (1) It hereby is found and declared that:

(a) Juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others; and

(b) The cooperation of this state with other states is necessary to provide for the welfare and protection of juveniles and of the people of this state.

(2) It is therefore the policy of this state, in adopting the Interstate Compact [on] **for** Juveniles, to cooperate fully with other states in returning juveniles to such other states whenever their return is sought, to accept the return of juveniles whenever a juvenile residing in this state is found or apprehended in another state and to take all measures to initiate proceedings for the return of such juveniles.

SECTION 23. ORS 419C.010 is amended to read:

419C.010. (1) The provisions of this chapter shall not apply to a youth who, while under the age of 18 years, commits an act which is a violation, or which if done by an adult would constitute a violation, of a law or ordinance of this state or any of its political subdivisions, punishable by imprisonment, and thereafter flees from this state.

(2) The youth described in subsection (1) of this section may be proceeded against in the manner provided in ORS 133.743 to 133.857.

(3) Upon the return of the youth described in subsection (1) of this section to this state by extradition or otherwise, any proceedings against the youth shall be commenced in the same manner as provided in this chapter.

(4) If a youth described in subsection (1) of this section has fled to a state which has adopted the Rendition Amendment to the Interstate Compact [on] **for** Juveniles, the return of the youth shall be sought in accordance with the provisions of that compact.

SECTION 24. The amendments to statutes by sections 1 to 23 of this 2019 Act apply to children, wards, youths and youth offenders within the jurisdiction of the juvenile court on or after the effective date of this 2019 Act.

SECTION 25. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Approved by the Governor June 13, 2019
Filed in the office of Secretary of State June 13, 2019
Effective date June 13, 2019