

Enrolled House Bill 2108

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Human Services)

CHAPTER

AN ACT

Relating to independent residence facilities; amending ORS 418.200, 418.205, 418.330 and 418.475.

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

SECTION 1. ORS 418.475 is amended to read:

418.475. (1) Within the limit of moneys appropriated therefor, the Department of Human Services may establish [*or certify*], **license, certify or authorize** independent residence facilities for unmarried persons who:

- (a) Are at least 16 years of age and not older than 20 years of age;
- (b) Have been placed in at least one substitute care resource;
- (c) Have been determined by the department to possess the skills and level of responsibility required for the transition to adulthood;
- (d) Have received permission from the appropriate juvenile court, if they are wards of the court; and

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

(2) Independent residence facilities shall provide independent housing arrangements with counseling services and minimal supervision available from at least one counselor. [*All independent residence facilities having six or more residents shall be licensed by the department under ORS 443.400 to 443.455.*]

(3) Each resident shall be required to maintain a department approved independent living plan consisting of education, employment or volunteer activities, or a combination thereof, and shall be required to pay a portion or all of the resident's housing expenses and other support costs. The department may approve an exception to the requirements of this subsection for reasons of temporary loss of employment or of other financial support.

(4) The department may make payment grants directly to persons enrolled in an independent living program who, at a minimum, meet the requirements described in subsection (1)(a) to (c) of this section for food, shelter, clothing, transportation and incidental expenses. The payment grants shall be subject to an agreement between the person and the department that establishes a budget of expenses.

(5) The department may establish cooperative financial management agreements with a person enrolled in an independent living program and for that purpose may enter into joint bank accounts requiring two signatures for withdrawals. The management agreements or joint accounts may not subject the department or any counselor involved to any liability for debts or other responsibilities of the minor.

(6) The department shall make periodic reports to the juvenile court as required by the court regarding any ward of the court who is enrolled in an independent living program.

(7) The enrollment of a person in an independent living program in accordance with the provisions of subsection (1) of this section or making payment grants under subsection (4) of this section does not remove or limit in any way the obligation of the parent of the person to pay support as ordered by a court under the provisions of ORS 419B.400 or 419C.590.

SECTION 2. ORS 418.200 is amended to read:

418.200. As used in ORS 418.200 to 418.202, “foster child” means a child who is in the legal custody of the Department of Human Services pursuant to the provisions of ORS chapter 418, 419B or 419C and who is or was placed in substitute care with a foster parent, a child-caring agency as defined in ORS 418.205 or an independent residence facility established [*or certified*], **licensed, certified or authorized by the department** under ORS 418.475.

SECTION 3. ORS 418.205, as amended by sections 15a and 15b, chapter 19, Oregon Laws 2020 (first special session), is amended to read:

418.205. As used in ORS 418.205 to 418.327, **418.330**, 418.470, 418.475, 418.950 to 418.970 and 418.992 to 418.998, unless the context requires otherwise:

(1) “Child” means an unmarried person under 21 years of age who resides in or receives care or services from a child-caring agency.

(2)(a) “Child-caring agency”:

(A) Means any private school, private agency, private organization or county program providing:

(i) Day treatment for children with emotional disturbances;

(ii) Adoption placement services;

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

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

(v) Outdoor youth programs; or

(vi) Other similar care or services for children.

(B) Includes the following:

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

(ii) An independent residence facility as described in ORS 418.475 **that meets the standards established by the Department of Human Services by rule to be considered a child-caring agency**;

(iii) A private residential boarding school; and

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

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

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

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subparagraph, “respite services” means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent’s child;

(C) A youth job development organization as defined in ORS 344.415;

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

(E) A foster home subject to ORS 418.625 to 418.645;

(F) A facility that exclusively serves individuals 18 years of age and older; or

(G) A facility that primarily serves both adults and children but requires that any child must be accompanied at all times by at least one custodial parent or guardian.

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

(4)(a) “County program” means any county operated program that provides care or services to children in the custody of the Department of Human Services or the Oregon Youth Authority.

(b) “County program” does not include any local juvenile detention facility that receives state services provided and coordinated by the Department of Corrections under ORS 169.070.

(5) “Governmental agency” means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of this state or of a county, municipality or other political subdivision of this state.

(6) “Independent residence facility” means a facility [*established or certified under*] **as described in ORS 418.475.**

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

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

(A) Operated by a governmental entity;

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

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

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

(8) “Private” means not owned, operated or administered by any governmental agency or unit.

(9) “Private residential boarding school” means either of the following as the context requires:

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

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

(10) “Proctor foster home” means a foster home certified by a child-caring agency under ORS 418.248 that is not subject to ORS 418.625 to 418.645.

(11) “Provider of care or services for children” means a person, entity or organization that provides care or services to children, regardless of whether the child is in the custody of the Department of Human Services, and that does not otherwise meet the definition of, or requirements for, a child-caring agency. “Provider of care or services for children” includes a proctor foster home certified by a child-caring agency under ORS 418.248.

(12) “Qualified residential treatment program” means a program described in section 12b, chapter 19, Oregon Laws 2020 (first special session).

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

SECTION 4. ORS 418.330 is amended to read:

418.330. (1) As used in this section:

(a) “Child” means:

(A) A person under 18 years of age;

(B) A person under 21 years of age if the Department of Human Services determines that the person has a mental or physical disability that warrants the continuation of assistance; or

(C) A person who has attained 18 years of age and:

(i) On whose behalf payments under this section were received prior to the person attaining 18 years of age, provided the person was at least 16 years of age at the time the payments commenced;

(ii) Has not attained 21 years of age; and

(iii)(I) Is completing secondary education or a program leading to an equivalent credential;

(II) Is enrolled in an institution or program that provides post-secondary or vocational education;

(III) Is participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) Is employed for at least 80 hours per month; or

(V) Is incapable of doing any of the activities described in sub-sub-subparagraphs (I) to (IV) of this sub-subparagraph due to a medical condition, which incapability is supported by regularly updated documentation.

[(b) "Child-caring agency" means:]

[(A) A child-caring agency as defined in ORS 418.205; and]

[(B) For a child who has attained 18 years of age, an independent residence facility established or certified under ORS 418.475 in which the child resides as an enrollee in an independent living program.]

[(c) (b) "Nonrecurring adoption or guardianship expenses" means reasonable and necessary adoption or guardianship fees, court costs, attorney fees and other expenses that are directly related to the adoption of, or establishment of a guardianship for, a child with special needs and that are not incurred in violation of state or federal law.

(2) The department may make payments to adoptive parents or guardians on behalf of a child placed for adoption or establishment of a guardianship by the department, or placed for adoption by an approved child-caring agency, when the department determines:

(a) The child has special needs because of an impediment to adoptive placement or establishment of a guardianship by reason of the child's physical or mental condition, race, age, or membership in a sibling group; or

(b) The adoptive family or guardian is capable of providing the permanent family relationships needed by the child in all respects other than financial, and the needs of the child are beyond the economic ability and resources of the family.

(3) Payments to subsidize adoptions or guardianships made under subsection (2) of this section:

(a) Shall include payment of nonrecurring adoption or guardianship expenses incurred by or on behalf of adoptive parents or guardians in connection with the adoption of, or establishment of a guardianship for, a child with special needs;

(b) May include, but are not limited to, the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child;

(c) May not exceed the cost of providing comparable assistance in foster care; and

(d) May not be made:

(A) For a child who has not attained 18 years of age, when the adoptive parents or guardians are no longer legally responsible for the support of the child; or

(B) When the child is no longer receiving any support from the adoptive parents or guardians.

(4) Adoptive parents or guardians receiving payments under subsection (2) of this section shall inform the department of circumstances that would make the adoptive parents or guardians:

(a) Ineligible to receive the payments; or

(b) Eligible to receive the payments in a different amount.

Passed by House April 5, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate May 12, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State