Chapter 419

1957 REPLACEMENT PART

Child Welfare

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CHILD WELFARE SERVICES GENERALLY

419.002 Powers of state commission in connection with child welfare services. 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 Public Welfare Commission may:

(1) Make all necessary rules and regulations for administering child welfare services under this section.

(2) Accept and disburse any and all federal funds made available to the State of Oregon for child welfare services.

(3) 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.

(4) 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.

(5) Cooperate with the United States Government or any of its agencies in administering the provisions of this section.

(6) Expend from the Public Assistance Fund the amounts necessary to carry out the purposes and administer the provisions of this section.

419.004 Children not to be taken charge of where parents object. Nothing in ORS 419.002 shall be construed as authorizing any state official, agent or representative, in carrying out any of the provisions of that section, to take charge of any child over the objection of either of the parents of such child or of the person standing in loco parentis to such child.

419.006 Custody and care of needy children by county departments. The county public welfare departments may, in their discretion, accept custody of children and may provide care, support and protective services for children who are handicapped by dependency, neglect, illegitimate birth, mental or physical disability or who for other reasons are in need of public service.

419.008 Unexpended balances of county funds budgeted for other purposes may be expended as aid for children. The county court or board of county commissioners of any county may expend as aid for homeless, neglected or abused children, foundlings or orphans, wayward children or children in need of correctional or institutional care the whole or any part of any unexpended balance of any fund budgeted by the county for any purpose whatsoever.

419.010 to 419.050 [Reserved for expansion]

AID TO DEPENDENT CHILDREN

419.052 "Dependent child" and "aid" defined. (1) "Dependent child" means a needy child under the age of 18 years:

(a) Who has been deprived of parental support or care by reason of the death, continued absence from the home or physical or mental incapacity of a parent;

(b) Whose relatives are not able to provide adequate care and support for such child without public assistance, as defined in ORS 411.010; and

(c) Who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece in a place of residence maintained by one or more of such relatives as his or their own home.

(2) "Aid" means money payments with respect to, or in behalf of, a dependent child or children, and includes:

(a) Payments for medical or other remedial care of such child or children.

(b) Payments for medical or other remedial care or to meet the needs of a person who is of a relationship listed in paragraph (c) of subsection (1) of this section, and who is himself eligible to receive public assistance as a needy person, and in whose home the dependent child lives. [Amended by 1957 c.150 §1]

419.054 Eligibility for aid to a dependent child. Aid shall be granted under ORS 419.052 to 419.068 to any dependent child who is living in a home meeting the standards of care and health fixed by the rules and regulations of the State Public Welfare Commission and who has resided in the state for one year immediately preceding the application for such aid or who was born within one year immediately preceding the

application, if the parent or other relative with whom the child is living has resided in the state for one year immediately preceding the birth of such child.

419.056 How amount of aid is determined. (1) The amount of aid to be granted for any dependent child shall be determined, in accordance with the rules and regulations of the State Public Welfare Commission, by the county public welfare department of the county in which the child resides, taking into account:

(a) The income, resources and maintenance available to the individual from whatever source derived and his necessary expenditures, and the conditions existing in each case; provided, that within such limits as may be permitted by federal laws, the first $10 and one-third of additional moneys thereafter earned per month through gainful incidental employment by the child for whom aid is granted may not be taken into account under this section.

(b) The income and financial condition of the stepparent, if any, of the child for whom aid is sought.

(2) Paragraph (b) of subsection (1) is not intended to relieve any father of any legal obligation in respect of the support of his natural or adopted children. [Amended by 1953 c.269 §2; 1955 c.700 §1; subsection 2 enacted as 1955 c.700 §2]

419.058 Powers and duties of state commission. The State Public Welfare Commission shall:

(1) Supervise the administration of aid to dependent children under ORS 419.052 to 419.068 by the county public welfare departments.

(2) Make such rules and regulations and take such action as may be necessary or desirable for carrying out ORS 419.052 to 419.068.

(3) Prescribe the form of and print and supply to the county departments such forms as it deems necessary and advisable.

(4) Cooperate with the Federal Government in matters of mutual concern pertaining to aid to dependent children, including the adoption of such methods of administration as are found by the Federal Government to be necessary for the efficient operation of the plan for such aid.

(5) Accept and disburse any and all federal funds made available to the State of Oregon for aid to dependent children purposes.

419.060 County commission to make reports. The county public welfare commission shall report to the State Public Welfare Department at such times and in such manner and form as that department directs.

419.062 Application for aid. Application for aid under ORS 419.052 to 419.068 shall be made by the relative with whom the child lives to the county public welfare department of the county in which the dependent child resides. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the State Public Welfare Commission.

419.064 Investigation of dependency of child. Whenever a county public welfare department receives a notification of the dependency of a child or an application for aid, an investigation and record shall promptly be made of the circumstances in order to ascertain the dependency of the child and the facts supporting the application and to obtain such other information as may be required by the rules and regulations of the State Public Welfare Commission.

419.066 Determination of eligibility; commencement of aid. Upon the completion of the investigation, the county public welfare department shall decide whether the child is eligible for aid under ORS 419.052 to 419.068 and determine the date on which the aid granted shall begin.

419.068 Appeal from failure to act on application or denial thereof or from modification or cancelation of aid. If an application is not acted upon by the county public welfare department within a reasonable time after the filing of the application or is denied in whole or in part, or if any grant of aid is modified or canceled, the applicant or recipient may petition the county public welfare commission for review of the decision, and may appeal from the decision of the county public welfare commission on review to the State Public Welfare Commission. The state commission shall give the applicant or recipient an opportunity for a fair hearing and any appeal shall be held in the county where the appealing person elects. The findings and decision of the state commission are binding upon the county public welfare departments.

419.070 Use and custody of records of aid to dependent children. No person shall, except for purposes directly connected with

the administration of aid to dependent children and in accordance with the rules and regulations of the State Public Welfare Commission, 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 State Public Welfare Commission or county public welfare commissions or acquired in the course of the performance of official duties.

419.072 Public officials to cooperate in locating and furnishing information concerning parents of children receiving public assistance; use of information restricted. All state, county and city agencies, officers and employes shall cooperate in the location of parents who have abandoned or deserted, or are failing to support, children receiving public assistance and shall on request supply the county public welfare department or the district attorney of any county in the state with all information on hand relative to the location, income and property of such parents, notwithstanding any provision of law making such information confidential. The county public welfare department shall use such information only for the purposes of administration of public assistance to such children, and the district attorney shall use such information only for the purpose of enforcing the liability of such parents to support such children, and neither shall use the information or disclose it for any other purpose. [1955 c.329 §1]

419.074 to 419.100 [Reserved for expansion]

CHILD-CARING AGENCIES; PLACEMENT IN FOSTER HOMES BY CHILD-CARING AGENCIES

419.102 "Child dependency" defined; persons classed as dependent and neglected children; duty of courts and officers. (1) "Child dependency" is defined as follows:

(a) Persons of either sex under the age of 18 years, who for any reason are destitute, homeless, or abandoned; or are dependent upon the public for support; or have not parental care or guardianship; or who are found begging or gathering alms; or are found living with any vicious or disreputable persons; or whose home by reason of neglect, cruelty, drunkenness, or depravity on the part of parents, guardians, or other persons in whose care they may be is an unfit place for such children; any persons under 14 years of age who are found peddling or selling any article, except as permitted under special child labor regulations; or persons under 14 years of age who are found playing musical instruments upon the streets to induce the giving of gratuities, or who accompany or are used in aid of adult persons in so doing, shall be classed as dependent children.

(b) Persons of either sex under 18 years of age whose parents or guardians neglect or willfully fail to provide for them; or allow them to have vicious associates, or to visit vicious places; or fail to exercise proper parental discipline and control over them are classed as neglected children.

(2) Courts and other public officers shall labor with the parents or guardians of such children, and if possible induce them to perform their neglected duties. Subsequent to suitable efforts to compel the parents or guardians to rectify said neglect, and in event of the failure of such efforts, neglected children shall be classed as dependents.

419.104 Definitions for ORS 419.102 to 419.140. As used in ORS 419.102 to 419.140, unless otherwise required by context:

(1) "Agency" includes agency, society or institution.

(2) "Child delinquency" and "delinquent child" have the meaning given those terms by ORS 419.503.

419.105 Application of ORS 419.102 to 419.140 to homes maintained by fraternal organizations not receiving state aid. ORS 419.102 to 419.140 shall not apply in homes established and maintained by fraternal organizations not receiving state aid, and wherein only members, their wives, widows and children are admitted as residents.

419.106 Private child-caring agency to be incorporated and approved. No children shall be committed to any private child-caring agency unless it is duly incorporated under the laws of the state, as provided by statute, and unless such corporation is certified for that purpose as provided by law.

419.108 Application for incorporation; organization of agency. (1) Agencies under private management, organized for the rescue and temporary care of dependent and delinquent children and the placement of such children in family homes or in special

institutions, or established as orphanages and homes to provide temporary or continued care for such children, shall be incorporated or chartered on application to the Corporation Commissioner, after such application has been approved by the State Public Welfare Commission.

(2) Such private child-caring agencies shall be organized by the association of not less than five responsible citizens of the state as a board of trustees or managers, and the formation of a society, corporation or institution on the lines designated in ORS 419.110 to 419.140 to secure the approval of the State Public Welfare Commission.

419.110 Approval of private child-caring agency by state commission. The approval by the State Public Welfare Commission of a proposed child-caring organization shall be based upon reasonable and satisfactory assurance upon the following points:

(1) The good character and intentions of the applicant.

(2) The present and prospective need of the service intended by the proposed organization.

(3) The employment of capable, trained or experienced workers.

(4) Sufficient financial backing to insure effective work.

(5) The probability of permanence in the proposed organization or institution.

(6) The methods used and the disposition made of the children served will be in their best interests and that of society.

(7) Wise and legally drawn articles of incorporation or institutional charters, and related bylaws.

(8) The establishment of such an organization is desirable and for the public welfare.

419.112 Certificate of approval required before incorporation. (1) No private child-caring agency shall receive a certificate of incorporation or institutional charter from the Corporation Commissioner, nor shall any unincorporated agency engaged in child-helping work receive one, unless it first files with the Corporation Commissioner the certificate of approval of the State Public Welfare Commission.

(2) No person, or agency shall attempt to evade the securing of such certificate.

419.114 Fees relating to approval and incorporation of private child-caring agencies. The State Public Welfare Commission shall charge no fee for the examination of a proposed agency or one unincorporated prior to March 4, 1919, and the fee for the certificate of approval shall not exceed $1. The fee to the Corporation Commissioner for the approval of the articles of incorporation or charter shall not exceed $5.

419.116 Annual certificate of approval. (1) All private agencies engaged in child-caring work, including the taking of children into guardianship, the placing out of children in family homes and the temporary or long continued institutional care of children, shall obtain annually from the State Public Welfare Commission a certificate of approval authorizing their work. The commission shall use the criteria mentioned in ORS 419.110 as the basis of judgment in granting or withholding such certificates.

(2) The fee to be paid to the commission for such certificates shall not exceed $1.

(3) No organization engaging in child-caring work shall place a child out or make a child an inmate of an institution during the time it operates without such certificate of approval. The fine which may be imposed for violation of this provision, as provided in ORS 419.990, may be assessed by any court of competent jurisdiction upon presentation of evidence of such action.

419.118 Regulation of private child-caring agencies organized prior to March 4, 1919. All child-caring agencies legally incorporated or chartered in this state prior to March 4, 1919, are subject to all the requirements of ORS 109.316, 419.102 to 419.140, 419.526 and 419.532 except such as relate to forms of organization and the obtaining of articles of incorporation or charters. All amendments to previously approved articles of incorporation or previously granted charters shall take the same course and meet the same requirements as are provided in regard to new and original articles of incorporation or institutional charters. [Amended by 1957 c.710 §13]

419.120 Supervision of child-caring agencies. (1) In order to enable it to supervise all child-caring agencies and institutions in this state, public and private, and also all homeless or neglected children in this state, whether kept in such agencies or institutions or not, the State Public Welfare Commission may require such agencies or institutions, and also any court functioning as a juvenile court, to furnish at any time, on

blanks prepared or recommended by the commission, such information as the commission in its judgment may require in regard to each child in any such agency or institution or any record of each child that has been placed out under order of any such court. The agency, institution or court shall furnish such information to the commission upon request. All such information so requested and received by the commission shall be considered and treated at all times as confidential and not as a public record.

(2) No member or employe of the State Public Welfare Commission shall disclose any such information contrary to the provisions of subsection (1) of this section.

419.122 Inspection of child-caring agencies. (1) The State Public Welfare Commission shall inspect and supervise all the child-caring agencies, public or private, whether incorporated or not, within this state. The commission is hereby given right of entrance, privilege of inspection, and access to all accounts and records of work and children, for the purpose of ascertaining the kind and quality of work done and to obtain a proper basis for its decisions and recommendations.

(2) Inspection and visitation of child-caring agencies by the commission shall be made at unexpected times, with irregular intervals between visits, and without previous notice to the agency visited. In addition to such official inspection, many other informal visits shall be made. The commission and its agents shall advise agency and institution officers and workers in regard to approved methods of child care, best types of housing and equipment and adequate records of agency or institutional work. The principal purpose of such visitation shall be to offer friendly counsel and assistance on child welfare problems and advice on progressive methods and improvement of the service.

419.124 Investigation of abuses, derelictions or deficiencies in child-caring agencies. If any flagrant abuses, derelictions or deficiencies are made known to the members of the State Public Welfare Commission or its agents during their inspection of any child-caring agency or institution, or at any time are reported to the commission by at least two reputable citizens, the commission shall at once carefully investigate the reports or rumors and take such action as the matters require. If any serious abuses, derelictions or deficiencies are found in any state child-caring institution, they shall be reported at once in writing to the Oregon State Board of Control. If any such abuses, derelictions or deficiencies are found in any other public institution, they shall be reported in like manner to the proper authority or governing board. In either case, if such abuses, derelictions or deficiencies are not corrected in a reasonable time, the same shall be reported in writing to the legislature at its next session. If any such abuses, derelictions or deficiencies are found in any private child-caring agency or institution, they shall be brought at once to the attention of its trustees or managers. If they are not corrected in a reasonable time, the State Public Welfare Commission shall suspend or revoke its approval of such agency or institution.

419.126 Reports required of child-caring agencies; audit and inspection of books; biennial report of commission. Each public or private child-caring agency or institution within this state shall make an annual report of its work to the State Public Welfare Commission in such form and detail as the commission prescribes. These reports shall include detailed statistics of all children served, financial statements of the expense of their care, the number and kind of workers employed, the value and condition of the plant owned or used, the amount of the endowment or invested funds and any other essential matters that may be indicated by the requirements of the commission. The commission shall prepare and supply to the various child-caring agencies and institutions the necessary printed blanks to record the desired information and may from time to time, as it may be necessary within any year, require such further detailed information and audit of the financial affairs of such agency as it deems to be in the public interest and may make such inspection of the books and records of such agency as it deems necessary. Such audit and inspection of books and records of such agencies shall be at the expense of the commission. All such agencies or institutions shall conform their records to the statutory fiscal year of the state and make their annual reports for years ending on June 30 of each year. All annual reports required of agencies and institutions shall be filed with the commission not later than October 15 of each year. The commission shall from the reports of its members, inspectors and

visitors, and from the reports of the various agencies and institutions, prepare a comprehensive biennial report of child welfare work within the state, accompanied by special comments and recommendations; and such report shall be published at state expense for the information of the legislature and for distribution among the people.

419.128 Surrender of child to private child-caring agency; consent to adoption; time for adoption proceedings. (1) Incorporated private child-caring agencies may receive needy or dependent children from their parents or legal guardians for special, temporary or continued care. The parents or guardians may sign releases or surrenders giving to such organizations guardianship and control of the persons of such children during the period of such care, which may be extended until the children arrive at legal age. Such releases do not surrender the rights of such parents or guardians in respect to the adoption of such children and do not entitle such organization to give consent to the adoption of said children unless the release or surrender expressly recites that it is given for the purpose of adoption.

(2) Any entire severance of family ties of such children by adoption or otherwise shall be accomplished only by the order of a court of competent jurisdiction.

(3) It is unlawful to present a child surrendered to an agency by a parent, parents or guardian for a court to pass upon the adoption of said child until at least six months have elapsed after signing the surrender.

(4) Parents or legal guardians of children whom they have by release or surrender agreement given into the guardianship of incorporated child-caring organizations may subsequently waive their right to personal appearance in court in matters of adoption of such children, and file their appearance and consent by a duly signed and attested certificate, which the court shall recognize as a valid basis for judicial consent in such cases, in which event, the child-caring organization may use the release or surrender as provided in subsection (1) of this section without the necessity of the six-month period having expired.

419.130 Private child-caring agencies as guardians of committed children; consent to adoption. Incorporated duly approved private child-caring agencies shall be the guardians of the persons of all dependent or delinquent children committed to them through permanent orders by courts of competent jurisdiction. They may retain such children in institutional care, or may place them in private family homes temporarily or as members of families. Where they deem such action proper and desirable, they may consent in loco parentis to the legal adoption of such wards.

419.132 Placement of children in foster homes. Child-caring agencies, in placing out wards or other dependent or delinquent children in private families, shall safeguard their welfare by the thorough investigation of each applicant and his home and its environment; shall carefully select the child to suit the new relationship and location; shall personally and adequately supervise each home and child until the latter returns to the direct care of the organization or, if permanently placed, receives legal adoption or attains legal age; and shall, so far as practicable, place such children in families of the same religious faith as that held by the children or their parents.

419.134 Child placement by nonresident. No person, agent, agency or institution of another state shall place a child in a family home in this state without first having furnished the State Public Welfare Commission such guarantee as the commission may require against disease, deformity, feeblemindedness and delinquency and against the child becoming a public charge within five years from the date of such placement.

419.136 Child placement by private persons. No private individual, including midwives, physicians, nurses, hospital officials and all officers of unauthorized institutions, shall engage in child-placing work, except that relatives of the first and second degrees may thus provide for children of their own blood.

419.138 Authority of commission to visit placed-out children; location and relationships confidential. The State Public Welfare Commission may require any child-caring agency to divulge the location and relationship of any of its placed-out children; and these may be visited by the commission's members or agents to ascertain the condition of such children or the quality of the child-placing work done. The location

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

419.140 Application of statutes to institutions caring for adults and children. ORS 419.102 to 419.140, 419.503, 419.520, 419.526 and subsection (1) of ORS 419.532 apply to private institutions for the combined care of adults and children where the work for children includes continued care and the character of the institution is charitable and altruistic and not for financial gain or profit.

419.142 to 419.150 [Reserved for expansion]

INSTITUTIONS CARING FOR VENEREALLY INFECTED CHILDREN

419.152 Necessity that state-aided institutions caring for venereally infected children be licensed. In order to qualify for state aid, a home or institution caring for venereally infected children of school age and under the age of 21 years must first obtain a license from the State Public Welfare Commission.

419.154 Showing necessary for license; approval of State Board of Health. (1) No home or institution of the type mentioned in ORS 419.152 shall receive a license from the State Public Welfare Commission unless it can show that it employs a qualified scientific staff, including one or more graduate nurses; possesses sanitary installations, including private baths and toilets for inmates and private baths and toilets for the staff; and possesses treatment tables for daily douches.

(2) The issuance of any such license shall be subject to the approval of the State Board of Health which shall not be given except upon a showing having been made to it that the home or institution has ample sanitary and scientific facilities for the care of such venereally infected children.

419.156 Daily nurse's chart to be kept. In addition to the conditions provided in ORS 419.154 for licensing such homes or institutions, the State Public Welfare Commission shall require that each home or institution caring for venereally infected children under 21 years of age shall keep a daily nurse's chart showing health, temperature, weight, food, baths and general progress of each patient.

419.158 Care by family, state or federal agencies not affected. ORS 419.152 to 419.156 shall not be construed to prevent the care of venereally infected children by parents or relatives in their own homes or to prevent their care and attention by the State Board of Health or by any state or federal relief agency.

419.160 to 419.200 [Reserved for expansion]

STATE AID AND COMMITMENT TO INSTITUTIONS SUPPORTING HOMELESS, NEGLECTED OR ABUSED CHILDREN; FOUNDLINGS AND INDIGENT ORPHANS

419.202 Appropriation for support of homeless, neglected and abused children; foundlings and indigent orphans. (1) Money may be appropriated out of any funds in the hands of the State Treasurer not otherwise appropriated, for the support of homeless, neglected and abused children; foundlings and indigent orphans under the age of 17 years being cared for by benevolent or charitable institutions in this state shall be cared for and supported as hereafter provided.

(2) Any sum or amount of money paid for any of the objects specified in subsection (1) of this section and in section 66, chapter 66, Oregon Laws 1919, from any continuing appropriation or in any manner from the State Treasury, or expenses accruing during the period stated in those sections, shall be deducted from the amount hereby appropriated therefor, and no more than the respective sums herein specified shall be paid for the several objects mentioned from the State Treasury by reason of any appropriation for such objects.

419.204 Procedure by which private institutions may obtain state aid. Any benevolent or charitable institution in this state wishing to secure state aid pursuant to ORS 419.202 to 419.222 shall make application therefor to the State Board of Health. In the application the institution shall show how many children of the different classes mentioned in ORS 419.202 it cared for during each month of the preceding calendar year, state how long it has been engaged in this state in caring for children of such classes and declare its willingness to submit to any

reasonable health and sanitary rules and regulations prescribed by the State Board of Health. Upon receiving such application, the board shall investigate the affairs and methods of the institution, and the conditions surrounding it, and shall, if it finds such institution is properly conducted and worthy of state aid, give it a certificate to that effect. If such institution has the approval of the State Public Welfare Commission, the State Board of Health shall join with the State Public Welfare Commission in issuing a certificate granting state aid. The State Board of Health shall then file and send a duplicate of such certificate to the Secretary of State.

419.206 Annual report by institutions receiving state aid. All institutions which receive state aid pursuant to ORS 419.202 to 419.222 shall on or before January 15 of each year file with the secretary of the State Board of Health a financial and statistical report and statement of the preceding calendar year in such form as may be prescribed by the board. If any such institution fails to comply with this section, either the State Board of Health or the State Public Welfare Commission shall notify the Secretary of State of such failure and such institution shall not thereafter be entitled to any benefits or payments pursuant to ORS 419.202 to 419.222 until such failure has ceased.

419.208 Amount of state aid allowed per child. Each institution or agency which has received from the State Board of Health the certificate provided for in ORS 419.204 is entitled to receive, out of appropriations made pursuant to ORS 419.202, state aid at the rate of $1.75 per day for each child of any of the classes mentioned in ORS 419.202 over five years of age and at the rate of $2 per day for each such child not over five years of age; provided, however, that whenever, in the opinion of the executive officers of any one of such institutions or agencies, the welfare of any child of any of the above classes demands special care outside of the institution or agency, the institution or agency may place such child in any home or hospital outside the institution or agency which is approved by the State Public Welfare Commission, and state aid for such child shall be allowed to the institution or agency the same as though the child were kept and maintained in the institution or agency. [Amended by 1955 c.301 §1]

419.210 Presentation and approval of claims for state aid. The institution or agency shall present to the State Public Welfare Commission an itemized statement showing the names and ages of the different children kept and maintained by it during the month, the length of time each child was so kept and maintained, the amount to which it is entitled for each such child and the gross amount it is entitled to for the month. The State Public Welfare Commission shall investigate each claim made by an institution or agency and approve only that portion of such claim found eligible, in accordance with law.

419.212 Audit and payment of claims. Upon receipt of the statement approved by the State Public Welfare Commission, the Secretary of State shall audit it and issue a warrant upon the State Treasurer in favor of the institution or agency for the amount to which it is entitled for the month covered by the statement. All sums to which any such institution or agency becomes entitled pursuant to ORS 419.202 to 419.222 shall be paid monthly.

419.214 Institutions not entitled to state aid; effect of specific private donation. (1) No institution or agency is entitled to any state aid pursuant to ORS 419.202 to 419.222 until it has had actual bona fide existence for at least six months. No institution or agency which has less than 10 bona fide inmates of either or all of the classes mentioned in ORS 419.202 is entitled to any state aid pursuant to ORS 419.202 to 419.222.

(2) In case any institution or agency receives any sum from any person for the specific support of any homeless, neglected or abused child, foundling or orphan, 50 percent of such sum shall be deducted from the amount paid by the state to such institution or agency for the support of such child until the state has been repaid the amount it has paid for the support of such child; after that the institution or agency shall retain all sums paid for the support of such child.

(3) No claim for state aid shall be made if the sum received for the specific support of a child exceeds the per capita amount allowed by statute for the support of a similar child.

(4) No institution which receives from the State of Oregon any direct and specific appropriation of money shall be entitled to receive any state aid pursuant to ORS 419.202 to 419.222 for any period covered by such appropriation.

419.216 Surrender of child by mother to institution receiving state aid. In case of the death or legal incapacity of a father, or in case of his deserting or abandoning or neglecting to provide for any of his children under 15 years of age, the mother shall be considered their legal guardian, and, if unable to provide for them, may surrender them to the charge of any institution entitled to receive state aid pursuant to ORS 419.202 to 419.222.

419.218 Surrender of children by county judge to institution receiving state aid. In all cases where the parents or guardian of any such child as mentioned in ORS 419.216 are not known or cannot be found, the county judge of the county in which the child is found may make surrender of such child to any institution entitled to receive state aid pursuant to ORS 419.202 to 419.222.

419.220 Surrender of children by judge of court of record to institution receiving state aid. (1) In case it is shown to any judge of a court of record that the father of any child under 15 years of age is dead, or has abandoned his family, or is an habitual drunkard or is imprisoned for crime, and the mother of such child is an habitual drunkard, or imprisoned for crime, or is an inmate of a house of ill fame, or a person of a notoriously bad character, or is dead or has abandoned her family, or that the parents or guardian of any such child have grossly abused, abandoned or neglected to provide for it, or have grossly abused their parental authority over such child, then such judge may, if he thinks the welfare of the child requires it, surrender the child to any institution entitled to receive state aid pursuant to ORS 419.202 to 419.222.

(2) Whenever complaint is made to the judge of any court of record that any child under the age of 15 years is abandoned by or is sustaining relations to its parents or guardians mentioned or contemplated in subsection (1) of this section, the judge shall issue a warrant for the arrest of such child and take testimony in relation to the alleged grounds of complaint.

419.222 Institutions may exercise authority of guardian. Any institution entitled to receive state aid pursuant to ORS 419.202 to 419.222 is entitled to the custody and guardianship of such children as are surrendered into its keeping as provided in those sections, and may exercise all the rights and authority of guardians under the laws of this state and may exercise all the rights and authority of the parents of such child in any proceeding for the adoption of such child.

419.224 to 419.250 [Reserved for expansion]

STATE AID TO INSTITUTIONS SUPPORTING WAYWARD GIRLS AND MATERNITY AND VENEREAL CASES

419.252 Procedure by which private institutions may obtain state aid. Any charitable or corrective institution in this state wishing to secure state aid pursuant to ORS 419.252 to 419.262 shall make application therefor to the State Board of Health. In the application the institution shall show how many wayward girls between the ages of 12 and 18 years and maternity and venereal cases of female persons under the age of 21 years it cared for during each month of the preceding calendar year, shall state how long it has been engaged in this state in caring for such wayward girls and female persons and shall declare its willingness to submit to any reasonable health and sanitary rules and regulations prescribed by the State Board of Health. Upon receiving such application, the board shall investigate the affairs and methods of the institution and the conditions surrounding it. If the board finds such institution is properly conducted and worthy of state aid, the board shall give it a certificate to that effect and file and send a duplicate of such certificate to the Secretary of State.

419.254 Annual financial and statistical report to State Board of Health by institutions receiving state aid. All institutions which receive state aid pursuant to ORS 419.252 to 419.262 shall on or before January 15 of each year file with the secretary of the State Board of Health a financial and statistical report and statement for the preceding calendar year in such form as may be prescribed by the board. If any such institution fails to comply with this section,

the board shall notify the Secretary of State of such failure and such institution shall not thereafter be entitled to any benefits or payments pursuant to ORS 419.252 to 419.262 until such failure has ceased.

419.256 Amount of state aid allowed per capita. Each institution or agency which has received from the State Board of Health a certificate provided for in ORS 419.252 is entitled to receive state aid:

(1) At the rate of $1.75 per day for each wayward girl or girl in need of correctional institutional care between the ages of 12 and 18 years; provided, that the State Public Welfare Commission may, in its discretion, approve payment of state aid for any such girl between the ages of 18 and 21 years.

(2) At the rate of $2 per day for each maternity or venereal case, regardless of age. [Amended by 1955 c.301 §2]

419.258 Presentation and approval of claims for state aid. The institution or agency shall present to the State Public Welfare Commission an itemized statement showing the names and ages of the different persons kept and maintained by it during the month, the length of time each person was so kept and maintained, the amount to which it is entitled for each such person and the gross amount to which it is entitled for the month. The State Public Welfare Commission shall investigate each claim made by an institution or agency and approve only that portion of such claim found eligible, in accordance with law.

419.260 Audit and payment of claims. Upon receipt of the statement approved by the State Public Welfare Commission, the Secretary of State shall audit it and issue a warrant upon the State Treasurer in favor of the institution or agency for the amount to which it is entitled for the month covered by the statement. All sums to which any such institution or agency becomes entitled pursuant to ORS 419.252 to 419.262 shall be paid monthly.

419.262 Institutions not entitled to state aid; effect of specific private donation. (1) No institution or agency is entitled to any state aid pursuant to ORS 419.252 to 419.262 until it has had an actual bona fide existence of at least six months.

(2) No institution or agency which receives from the state any direct and specific appropriation of money is entitled to receive any state aid pursuant to ORS 419.252 to 419.262 for any period covered by such appropriation.

(3) No home or institution caring for venereally infected children of school age and under the age of 21 years shall receive any state aid until it has obtained the license mentioned in ORS 419.152.

(4) In case any institution or agency received any sum from any person for the specific support of any wayward girl or girl in need of correctional institutional care, either committed by court as such or admitted on a voluntary basis, between the ages of 12 and 21 years, and maternity and venereal cases regardless of age, 50 percent of such sum shall be deducted from the amount being paid by the State of Oregon to such institution or agency for the support of such person until the state has been repaid the amount it has paid for the support of such person; and thereafter the institution or agency shall retain all such sums paid for the support of such person.

(5) No claim for state aid shall be made if the sum received for the specific support of the person exceeds the per capita amount allowed by statute for the support of a similar person.

419.264 to 419.300 [Reserved for expansion]

PROVISIONS APPLICABLE TO ALL STATE-AIDED INSTITUTIONS

419.302 Powers of State Board of Health in relation to state-aided institutions. The State Board of Health hereby is given visitorial powers over all child-caring institutions which receive state aid. Each such institution shall submit to and abide by any reasonable health and sanitary rules and regulations prescribed by the board of health. If any such institution fails to comply with any provision of this section, the board shall notify the Secretary of State of such failure and such institution shall not thereafter be entitled to any state aid until such failure has ceased.

419.304 Termination of state aid for unentitled child. Whenever the State Public Welfare Department considers any child in a state-aided child-caring institution not entitled to receive state aid, it shall notify the institution of its decision and thereafter the institution shall not receive state aid for the

support of the child. The institution may, when denied state aid, appeal to the State Public Welfare Commission, which, after a fair and impartial hearing, shall render its final decision on the issue presented.

419.306 Audit and investigation of claims; issuance of warrants. The Secretary of State shall audit all duly approved claims incurred in pursuance of law governing child-caring institutions receiving state aid and draw his warrants on the State Treasurer in payment thereof out of the respective appropriations from which the same may be determined to be payable. Before the Secretary of State audits any claim for state aid by any child-caring institution or agency or issues any such warrant, the State Public Welfare Commission shall investigate the claimant institution and records for the period covered for the purpose of determining whether or not it is in fact entitled to state aid as authorized by law for any or all of the persons included in the institution's statement and claim. If as a result of said investigation it is determined that the institution is not entitled to state aid for any of the persons named in or included in the statement of claim, the amount claimed therein and the warrant to be issued thereon shall be reduced accordingly. The State Public Welfare Commission, through its administrator, shall issue an appropriate certificate showing the result of its findings upon the claim of each institution investigated and shall file it with the Secretary of State. The requirement of this section is in addition to the examinations and certifications now required by law of any child-caring institution which receives state aid under any provision of law.

419.308 to 419.350 [Reserved for expansion]

COUNTY AID TO INSTITUTIONS SUPPORTING DEPENDENT AND DELINQUENT CHILDREN

419.352 Dependent children. Each benevolent or charitable institution or agency in this state into whose care dependent children, as defined by ORS 419.102, are committed by the juvenile court of any county and which has received from the State Board of Health the certificate provided for in ORS 419.204 is entitled to receive from the county from which such child is committed county aid at the rate of $5 per month for each child so committed and for whom state aid is approved by the State Public Welfare Commission.

419.354 Delinquent children. Each charitable or corrective institution or agency in this state into whose care delinquent children, as defined in subsection (1) of ORS 419.503, are committed by the juvenile court of any county and which has received from the State Board of Health the certificate provided for in ORS 419.252 is entitled to receive from the county from which such child is committed county aid at the rate of $5 per month for each child so committed and for whom state aid is approved by the State Public Welfare Commission.

419.356 Presentation and payment of claims for county aid. (1) Each institution or agency shall present to the county court or board of county commissioners of each county from which it is entitled to receive aid pursuant to ORS 419.352 or 419.354 an itemized statement showing the names and ages of the children from such county kept and maintained by it during the month, the length of time each child was so kept and maintained, the amount to which it is entitled for such child and the gross amount to which it is entitled for the month. The court or board shall audit the statement and, if found correct, shall issue a county warrant for payment thereof.

(2) Any payment made pursuant to ORS 419.352 to 419.356 by any county for the support of any child shall not be deducted from any amount paid by this state to any institution for and on behalf of such child.

(3) All sums to which any institution or agency becomes entitled pursuant to ORS 419.352 to 419.356 shall be paid monthly.

419.358 to 419.400 [Reserved for expansion]

FOSTER HOMES NOT SUPERVISED BY CHILD-CARING AGENCIES

419.402 Definitions for ORS 419.402 to 419.410. As used in ORS 419.402 to 419.410:

(1) "Commission" means the State Public Welfare Commission.

(2) "Foster home" means any home maintained by a person who has under his care in such home any child under the age of 18 years not related to him 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 which is essentially and primarily engaged in educational work;

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

(c) Any foster home under the direct supervision of a private child-caring agency or institution certified by the commission.

419.404 Foster home must be certified as approved. No person shall operate a foster home without a certificate of approval issued by the commission.

419.406 Certificate of approval. Application for a certificate to operate a foster home shall be made to the commission upon a form to be furnished by the commission. Upon receipt of such application, the commission shall cause an investigation of the foster home to be made and shall issue a certificate to any person maintaining a foster home which complies with ORS 419.402 to 419.410 and with the rules and regulations of the commission. Such certificate shall be in effect for a period of one year from date of issue unless sooner revoked. Such certificate may be revoked by the commission because of violation of any of the provisions of ORS 419.402 to 419.410 or of the rules and regulations provided for in ORS 419.408. Such certificate shall be in the form prescribed by the commission and shall state the name of the foster parent, the address of the premises to which the certificate applies and the maximum number of children to be maintained or boarded in such foster home at any one time. Such certificate shall apply only to the premises designated on the certificate at the time of issue and a change of residence shall automatically terminate the certificate.

419.408 Supervision of foster homes. (1) The commission shall make such rules and regulations, not inconsistent with ORS 419.402 to 419.410 as it deems necessary or advisable to protect the best interests of children in foster homes and to carry out the intent and purpose of ORS 419.402 to 419.410.

(2) The commission or duly authorized representative shall visit every certified foster home from time to time and as often as appears necessary to determine that such foster home consistently maintains the standards fixed by the commission and that proper care is being given to the children therein.

419.410 Appeal from decision of commission. Any person affected by any decision or order of the commission made pursuant to ORS 419.402 to 419.410 may appeal therefrom to the circuit court of the county wherein the foster home regarding which such decision or order so made is located by serving a notice of such appeal on the administrator of the commission and filing the same with the clerk of such circuit court within 15 days after the date of the decision or order appealed from. The filing of such notice shall not stay the proceedings of the commission or affect such order or decision unless otherwise ordered by the circuit court. Such notice shall contain a concise statement of the facts upon which the appeal is based. The trial on appeal shall be a trial de novo in law, as provided by the statutes of the state for the trial of actions at law. The parties may, with the consent of the court and upon stipulation, present the cause to the court on appeal without the intervention of a jury.

419.412 to 419.450 [Reserved for expansion]

A. R. BURBANK TRUST FUND

419.452 Powers and duties of trustees of A. R. Burbank Trust Fund. The Governor, Secretary of State and State Treasurer constitute the Board of Trustees of the A. R. Burbank Trust Fund and may receive or reject on behalf of the state all moneys and property, real and personal, given, devised or bequeathed to the State of Oregon in trust for the use and benefit of an orphans' home located at Salem or Portland; make, on behalf of the state, all deeds of conveyance conveying real property owned by the state as trustee; receive and satisfy mortgages in that behalf and execute all other contracts or instruments necessary to be executed on behalf of the state for the above-named purposes. Such board of trustees shall have full control and management of said trust funds and may loan and invest the same on good securities, in the same manner that funds of the Common School Fund are loaned. The same laws governing the school fund shall apply to loans made from this fund as far as practicable. All lawful expenses necessarily incurred in loaning said money or in the manage-

ment of said fund may be paid out of the interest. No part of the principal shall ever be used toward the support of such home.

419.454 Annual report of trustees. On October 1 of each year the Board of Trustees of the A. R. Burbank Trust Fund shall make and file with the Secretary of State a full report of the condition of the trust fund, showing the amount thereof, moneys outstanding and any other data necessary to a full understanding of its condition, which reports the Secretary of State shall include in his biennial report to the legislature.

419.456 Certain agencies declared to be orphans' homes. For the purposes of ORS 419.452, the Boys' and Girls' Aid Society and the Baby Home at Portland hereby are declared to be orphans' homes.

419.458 to 419.500 [Reserved for expansion]

JUVENILE COURT PROCEEDINGS

419.502 Definitions. (1) "Delinquent child" includes any child under the age of 18 years who violates any law of this state or any city or village ordinance, or who is incorrigible, or who is a persistent truant from school, or who associates with criminals or reputed criminals, or vicious or immoral persons, or who is growing up in idleness or crime, or who frequents, visits, or is found in any disorderly house, bawdy house or house of ill fame, or any house or place where fornication is enacted, or in any saloon, barroom or drinking shop or place, or any place where spirituous liquors, or wine, or intoxicating or malt liquors are sold at retail, exchanged or given away, or who patronizes, frequents, visits or is found in any gaming house, or in any place where any gaming device is or shall be operated.

(2) "Child dependency," "dependent children" and "neglected children," unless otherwise required by context, have the meaning given those terms by ORS 419.102.

419.503 "Child delinquency" defined for ORS 419.520, 419.526 and 419.532. As used in ORS 419.520, 419.526 and subsection (1) of ORS 419.532, "child delinquency" is defined as follows: Persons of either sex under the age of 18 years who violate any law of the state, or any city or village ordinance; or persistently refuse to obey family discipline; or are persistently truant from school; or associate with criminals or reputed criminals; or are growing up in idleness and crime; or are found in any disorderly house, bawdy house, or house of ill fame; or are guilty of immoral conduct; or visit, patronize, or are found in any gaming house or in any place where any gaming device is or shall be operated, hereby are classed as delinquent children.

419.504 Petition to investigate dependency or delinquency of child. Any reputable person having knowledge of a child who appears to be either dependent or delinquent may file with the clerk of a court having jurisdiction in the matter a petition in writing, setting forth the facts verified by affidavit. It is sufficient that the affidavit is upon information and belief. [Amended by 1955 c.3 §1]

419.506 Notice to appear at hearing with child. (1) Upon the filing of the petition, a citation or notice shall issue requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the citation or notice, which time shall not be less than 24 hours after service.

(2) No person summoned as provided in this section shall without reasonable cause fail to appear and abide the order of the court or to bring the child.

419.508 Warrant for persons required to appear. In case the citation cannot be served or the party served fails to obey it, and in any case when it is made to appear to the court that the citation or notice will be ineffectual, a warrant may issue on the order of the court against the parent or guardian, against the person having custody of the child or with whom the child may be, or against the child itself.

419.510 Notification of proceedings to certain persons. Notification of the proceedings shall be given to the parents of the child, if living and their residence known, or its legal guardian; or if there is neither parent nor guardian or if his residence is not known, then some relative, if there is one and his residence is known.

419.512 Appointment of person to represent child. In any case the judge may appoint some suitable person to act in behalf of the child.

419.514 Obtaining jurisdiction of nonresident or unknown parents in dependency proceedings. Jurisdiction of nonresident or unknown parents and of parents who are not found in the state may be obtained for the purpose of dependency proceedings under the laws of this state by publication or personal service outside the state of a notice or citation in the manner provided by ORS 116.745 and 116.750, which notice or citation shall require the person so served to show cause why the child named should not be decreed to be dependent and committed temporarily or permanently, with authority to consent to adoption, to the care of some authorized child-caring agency. In case a parent so served fails to answer such citation and the child is adjudged dependent and a temporary commitment is made, such commitment may be modified or made permanent without further notice to the parent so served and failing to answer.

419.516 Summary disposition of case on return of process. On return of the citation, notice or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner.

419.518 Disposition of child during proceedings. Pending final disposition of any case, the child may be retained in possession of the person having charge of him, kept in some suitable place provided by the city or county authorities or held otherwise, as the court directs.

419.520 Delinquent children subject to juvenile court law; limitation on classifying as delinquent. Delinquent children are subject to the legal relations and provisions of the juvenile court law and other laws for the care and control of delinquents. However, so far as possible, any child under 14 years of age accused of any of the delinquencies mentioned in ORS 419.503, until a court hearing takes place, shall be regarded as a neglected or dependent child and shall not be arrested, although on petition he may be detained for his own and the community's welfare; and none shall be classed as delinquent until his case has been passed upon and an appropriate order entered therefor by a court of competent jurisdiction.

419.522 Disposition of dependent or neglected children. When any child is found to be dependent or neglected, within the meaning of ORS 419.102, the court may make an order committing the child to the care of some suitable state institution, to the care of some reputable citizen of good moral character, to the care of some institution as may be provided by law or to the care of some suitable association willing to receive it and embracing in its objects the purpose of caring or of obtaining homes for dependent or neglected children. The court may thereafter set aside, change or modify such order. When the health or condition of the child requires special treatment or care, the court may cause the child to be placed for such treatment or care in a public hospital or institution or in a private hospital or institution which will receive it.

419.524 Disposition of delinquent children. (1) In case of a delinquent child the court may continue the hearing from time to time and may:

(a) Commit the child to the care and custody of a probation officer;

(b) Allow the child to remain in its own home, subject to the visitation of a probation officer, such child to report to the probation officer as often as may be required, and subject to being returned to the court for further and other proceedings whenever such action may appear to be necessary;

(c) Cause the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer and the further order of the court;

(d) Authorize the child to be boarded out in some suitable family home if provision is made by voluntary contribution, or otherwise, for the payment of the board of such child, until suitable provision is made for the child in a home without such payment;

(e) Commit the child to any institution incorporated under the laws of this state that may care for delinquent children or is provided by a city or county, suitable for the care of such children; or

(f) Commit the child to any other state institution which is established for the care of delinquent children.

(2) The court may thereafter set aside, change or modify such order.

419.526 Temporary and permanent commitments. (1) Courts of competent jurisdiction upon proceedings as provided by law shall commit dependent or delinquent children to appropriate state or county institutions or to suitable private child-caring agencies, societies or institutions that are

properly certified, as provided by law. Such commitments of the courts shall be of two kinds, temporary or permanent. Each order shall definitely specify to which kind the commitment belongs.

(2) Temporary commitment shall be made when the court for good and sufficient reasons decides that final adjudication of the case must be delayed or that the child involved can reasonably be expected to soon return to ordinary home conditions in his own family. In a temporary order of commitment, guardianship of the person of the child remains with the court and a child under such an order may be recalled by the court for further action at any time.

(3) A permanent commitment of a dependent or delinquent child bears with it guardianship of the person of such child.

419.528 Maximum age of delinquent child committed by juvenile court. In no case shall a child be committed beyond the age of 21 years.

419.530 Refusal of institution to receive delinquent child committed to it. No institution that receives state aid for its maintenance shall refuse to accept any child committed to it, unless in the judgment of its governing board the child would materially interfere with or hamper the general work and purpose of the institution. When proper showing is made to the Secretary of State that such an institution refuses to receive the child, he shall withhold state funds appropriated for its maintenance until such time as the institution complies with the order of the court.

419.532 Control of committed children. (1) The state or county officials or other persons charged with the control and management of the public institutions to which the commitments pursuant to ORS 419.526 are made, or the responsible trustees, managers or officers of the private agencies, societies or institutions to which the children are thus committed are accountable for the personal welfare, guidance and supervision of such wards during their minority or until they are otherwise disposed of by subsequent orders of courts of competent jurisdiction.

(2) A delinquent child committed to an institution pursuant to ORS 419.524 is subject to the control of the board of managers thereof.

419.534 Revocation or modification of commitment of delinquent child. The court may:

(1) On recommendation of the board of managers of the institution, discharge a committed delinquent child from custody whenever, in the judgment of the court, its reformation is complete; provided, however that when any delinquent child is committed by any court to an institution pursuant to ORS 419.524 the order of commitment shall not be modified or revoked except upon the order of the committing court, which order shall be taken in open court after notice to the institution having custody of such delinquent child; or

(2) Commit the child to the care and custody of some suitable association that will receive it and which embraces in its objects the care of neglected or dependent children.

419.536 Delinquent children as wards of juvenile court. Whenever a child is adjudged a delinquent child under ORS 419.502 to 419.574 such child shall be deemed a ward of the juvenile court; and the court may, in its discretion, retain jurisdiction and control of the child in accordance with ORS 419.502 to 419.574 until it has arrived at the age of 21 years.

419.538 Guardianship of children awarded to agency. In any case where the court awards a child to the care of any association or individual in accordance with ORS 419.502 to 419.574, the child shall, unless otherwise ordered, become a ward of and be subject to the guardianship of the association or individual to whose care it is committed. Such association or individual may place such child in a family home, with or without indenture, may be made party to any proceeding for the legal adoption of the child, and may appear in any court where such proceedings are pending and assent to such adoption. Such assent is sufficient to authorize the court to enter the proper order or decree of adoption. Such guardianship does not include the guardianship of any estate of the child.

419.540 Remanding delinquent children for criminal proceedings. Any child who has committed a misdemeanor or felony, who has been found by the court to be a delinquent child within the meaning of ORS 419.502, who has been committed pursuant to ORS 419.524 and who thereafter is found

by the court to be incorrigible and incapable of reformation or dangerous to the welfare of the community; or who at any time, either before or after commitment by the juvenile court, is found to have committed a felony of such nature as to show great depravity of mind, or who is found to be an habitual criminal; or who, for any reason, is found by the court to be incapable of reformation or dangerous to the welfare of the community, may, in the discretion of the court, be remanded to the proper court of the county in which such crime was committed and be proceeded against and tried for such crime and if found guilty of its commission, be subject to judgment therefor in the same manner as if he had been over the age of 18 years when such crime was committed.

419.542 Appeals from order of juvenile court. (1) Any person who filed the petition mentioned in ORS 419.504 or who is required to be served with the citation or notice as provided in ORS 419.506 or any other party to the proceedings may take an appeal from any permanent or temporary order of the juvenile court to the circuit court of the county in which the proceedings of the juvenile court are had by filing an informal notice of appeal with the clerk of the juvenile court. The notice shall be filed within 15 days of the date of the order. The notice shall stay all proceedings of the juvenile court in the matter until the same is heard and determined on the appeal.

(2) The trial, on appeal, shall be a trial de novo in equity as provided by statute for the trial of suits in equity and the circuit court shall take cognizance of the record of the cause on file in the office of the county clerk.

(3) Upon such appeal, if the parents or other persons having charge of the dependent or delinquent child, served with the citation or notice, are without sufficient financial means to employ an attorney, the court shall employ an attorney to represent any such child. The district attorney of the county wherein the trial is had shall represent the juvenile court.

(4) Appeals may be taken from the judgment of the circuit court as in other cases.

(5) The provisions of subsections (1), (2) and (3) of this section shall not be effective in those counties in which juvenile court jurisdiction is vested in the circuit court. [Amended by 1957 c.414 §1]

419.544 Arrested child under 18 shall be taken or transferred to juvenile court. When a child under the age of 18 years is arrested, instead of being taken before a justice of the peace or police magistrate, such child may be taken directly before the juvenile court. If such a child is taken before a justice of the peace or police magistrate, such justice or magistrate shall transfer the case to the juvenile court and the officer having the child in charge shall take the child before that court. The juvenile court may then proceed to hear and dispose of the case in the same manner as if the child had been brought before it upon petition under ORS 419.504. In any case the court shall require notice to be given and investigation to be made as in other cases commenced by such petition and may adjourn the hearing from time to time.

419.546 Children under 14 shall not be committed to jail or be confined with adult convicts. No court or magistrate shall commit a child under 14 years of age to jail or police station. If such child is unable to give bail, the child may be committed to the care of the sheriff, police officer or probation officer, who shall keep the child in some suitable place provided by the city or county, outside the inclosure of any jail or police station, or the child may be held otherwise, as the court may direct. When any such child is sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same building with such adult convicts, to confine such child in the same yard or inclosure with such adult convicts or to bring such child into any yard or building in which adult convicts may be present.

419.548 Certification of conviction of child under 18 to juvenile court; effect of remanding child to court where convicted. Whenever a child under the age of 18 years is convicted of any crime, the court in which such conviction is had may either impose the sentence provided by law or certify the conviction of the child to the juvenile court, which shall proceed against the child in the manner provided by ORS 419.524 to 419.540 as if the child had been adjudged a delinquent by the juvenile court. The remanding of such child to the juvenile court shall operate only to suspend sentence. In case the conviction is certified to the juvenile court and such child is at any time again remanded to the court in which the conviction

was had, such court may, during any term, impose upon such child the sentence provided by law.

419.550 [Repealed by 1957 c.413 §2]

419.551 Hearing of juvenile cases by court. All cases coming under ORS 419.502 to 419.574 shall be heard at a special session of the court designated to hear the same, which for convenience may be called the juvenile court. Except as provided in this section, no matter other than such cases shall be on the calendar or be heard at such session, nor shall there be permitted to be present at such special session any person on trial or awaiting trial whose case is not such a case. Such cases may, at the discretion of the court, be consolidated for trial with other pending cases not coming under ORS 419.502 to 419.574, provided such other cases directly affect the same parties and involve the same general subject matter and would normally be heard by the same judge hearing cases coming under ORS 419.502 to 419.574. [1957 c.413 §1]

419.552 Records of juvenile court. The finding of the juvenile court shall be entered on a book kept for that purpose and shall be known as the juvenile record; provided, however:

(1) That the court may in proper cases and in its discretion, where a juvenile is adjudged a dependent or delinquent child, have a temporary order made, which shall be filed with the clerk of the court, declaring said child to be dependent or delinquent; and it is discretionary with the court as to whether or not said order shall be a permanent order.

(2) That the court may, in its discretion, have its findings entered upon a card kept for that purpose, which card shall be filed among the juvenile records. The court may cause said card, together with all records pertaining to the child, to be destroyed or withdrawn from the record whenever the dependent or delinquent child has, in the opinion of the court, ceased to be such a child; and when any record is made upon such card and thereafter the court is of the opinion that such record should be entered upon the book kept for that purpose, the court shall make such an order and thereafter it shall be part of the permanent record of the court.

419.554 [Repealed by 1955 c.491 §9]

419.556 [Repealed by 1955 c.491 §9]

419.558 Ex officio and volunteer probation officers in counties of more than 200,000 inhabitants. In counties having more than 200,000 inhabitants, the following persons, in the discretion of the judge thereof, may be named probation officers ex officio of the department of domestic relations of the circuit court, who shall serve without compensation: Superintendent and assistants of the women's protective division of the department of public safety, and the attendance officers and assistants of the public schools. The judge of the department of domestic relations may also in his discretion appoint volunteer probation officers who shall serve without pay.

419.560 [Repealed by 1955 c.491 §9]

419.562 Requiring reports from child-caring institutions; commitment to unsatisfactory institution not required. The court may at any time require from any association receiving or desiring to receive children under ORS 419.502 to 419.574, such reports, information and statements as the judge thereof deems proper or necessary for his action. The court shall in no case be required to commit a child to any association whose standing, conduct or care of children, or ability to care for the same, is not satisfactory to the court.

419.564 Requiring parents to support child; enforcement. (1) In any case in which the court finds that a child is neglected, dependent or delinquent, it shall, in the same or subsequent proceeding, upon the parents of said child, or either of them, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such parents to support the child or contribute to its support. If the court finds the parent or parents able to support the child, or to contribute thereto, it shall enter such order or decree as is equitable in the premises, and shall enforce the same by execution or in any way in which a court of equity may enforce its orders or decrees.

(2) No property of such parents, or either of them, is exempt from levy and sale under such execution.

419.565 Collecting support from parents for child committed to state institution. (1) In any case in which the court finds a child to be delinquent and commits the child to a state institution, the court shall, upon determining the ability of the parent or parents

to support the child as required by ORS 419.564, notify the Secretary of the Oregon State Board of Control, referred to in this section as "secretary," of the order entered.

(2) The court shall, upon petition of the Oregon State Board of Control, referred to in this section as the "board," or any person against whom such order has been entered, or it may upon its own initiative at any time by citation, summon the parent or parents and any interested persons in order to redetermine the facts and the amount of support to be paid. The secretary shall receive notice from the court of each proposed rehearing and also of the decision based on each such rehearing.

(3) The parent or parents of a delinquent child committed to a state institution shall not be required under ORS 419.564 to pay more each month for support of the delinquent child than the monthly cost per inmate to be determined as provided in this subsection. The board shall, as of June 30 each year, add all the costs chargeable to the maintenance and operation of state institutions to which delinquent children are committed, for the fiscal year ending on that day. In computing such total cost there shall be included all expenses of providing for inmates in these institutions, and the expenses of upkeep, but not replacement cost, of the buildings and grounds used in connection with these institutions. The total cost shall be divided by the number 12, and the result, expressed in dollars and cents, shall be established as the cost per month of operating these institutions. This cost shall be divided by the ascertained average number of inmates per month in these institutions, and the number of dollars of the quotient so determined, without regard to any odd cents, shall be the monthly cost per inmate chargeable for a period of 12 months commencing on September 1 of each year, for the support of a delinquent child committed to these institutions.

(4) Remittance of amounts due for support of delinquent children committed to state institutions shall be made to the secretary in advance on the first day of each calendar month during the time the child remains committed.

(5) The board shall authorize the refund of any unearned advance payments for support of delinquent children in state institutions in those cases where payments have been made in advance and the child has died or is discharged or paroled before the end of the month for which such payment has been made. The Secretary of State shall audit all claims for refunds when duly approved by the board, and draw his warrant on the State Treasurer in payment thereof in favor of the person entitled thereto, payable from the General Fund of the State Treasury, and such amounts as are determined to be necessary for the payment of such refunds hereby are appropriated from the money collected under the provisions of this section.

(6) In all cases where an order is entered for support of a delinquent child and delinquency in the payment of any amounts due the State of Oregon under such order continues for a period of more than 30 days, upon notification of any such delinquency by the secretary, the court wherein the order is entered shall proceed to collect the amounts due by appropriate proceedings. The funds so collected by the court shall be forwarded at once to the secretary, together with a statement showing by whom paid and for what child.

(7) All money received by the secretary under the provisions of this section shall be deposited daily with the State Treasurer for credit to the General Fund. [1957 c.276 §1]

419.566 Certain state-aided institutions must collect funds from parents for support of inmates. Every benevolent and charitable institution which receives state aid for the care and support of neglected, dependent and delinquent children and wayward girls shall collect, so far as practicable, the funds for the support of such charges which have been adjudged by the courts committing such children and wayward girls to the institution. Such institutions may apply to the court for execution or other action, as provided in ORS 419.564, for the purpose of making such collections. In case of voluntary commitments or persons voluntarily becoming inmates of such institutions, each such institution shall ascertain, so far as possible, whether or not the voluntary inmate or his parents are able to support such inmate and shall exert its best efforts to collect such funds for such support.

419.568 Detention rooms and hospital wards for juvenile cases. The board of county commissioners or county court of counties having more than 200,000 inhabitants shall provide proper accommodations for detention rooms and hospital wards, as may be

necessary for the care, custody and discipline of minor children. The expense of the same shall be audited and paid in the same manner as other bills in such county are audited and paid.

419.570 County board of visitation. The county judge of each county may appoint a board of six reputable inhabitants, who will serve without compensation, to constitute a board of visitation, whose duty it shall be to visit, as often as once a year, all institutions, societies and associations receiving children pursuant to ORS 419.502 to 419.574. Such visits shall be made by not less than two of the members of the board, who shall go together or make a joint report. The board shall report to the court from time to time the condition of children received by or in the charge of such institutions, societies and associations and shall make an annual report to the court in such form as the court may prescribe. The county court or board of county commissioners, at its discretion, may make appropriations for the payment of the actual and necessary expenses incurred by the visitors in the discharge of their official duties.

419.572 Juvenile court proceedings as evidence in other proceedings. The disposition of a minor by any juvenile court of this state, including any order, judgment or decree pertaining thereto, or any testimony or evidence given in any juvenile court hearing in this state, is incompetent evidence against such child in any other proceeding or cause, whether civil, criminal or otherwise, in any court of this state. No such evidence or testimony shall be given by the juvenile court to anyone for use against such child.

419.574 Construction and purposes of ORS 419.502 to 419.574. (1) ORS 419.502 to 419.574 shall be liberally construed to the end that its purpose may be carried out, to wit: That the care, custody and discipline of minor children and their welfare shall be its first consideration, and in all cases of necessity the child may be placed in an approved family home and become a member of said family by legal adoption or otherwise.

(2) Nothing in ORS 419.502 to 419.574 shall be construed to repeal any criminal law of this state or any law concerning or affecting minors, except such portions thereof as are in conflict with the provisions of ORS 419.502 to 419.574 concerning the jurisdiction of the courts of this state over the children coming within the meaning of ORS 419.502 to 419.574. All such portions thereof hereby are repealed.

419.576 to 419.600 [Reserved for expansion]

COUNTY JUVENILE DEPARTMENT

419.602 Definitions for ORS 419.602 to 419.616. As used in ORS 419.602 to 419.616:

(1) "Counselor" means any probation counselor or officer appointed under ORS 419.602 to 419.616.

(2) "Detention facilities" means any facilities established under ORS 419.602 to 419.616 for the detention of dependent or delinquent children pursuant to a judicial commitment or order.

(3) "Director" means the director of a juvenile department established under ORS 419.602 to 419.616.

(4) "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state. [1955 c.491 §1]

419.604 Juvenile court to appoint director or counselor for county juvenile department. (1) Subject to subsection (2) of this section, the judge or judges of the juvenile court in any county having a population less than 300,000 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 appointing judge and approved by the budget-making body of the county.

(2) The judges of the juvenile courts of two or more contiguous counties, each with a population less than 300,000, may, pursuant to an agreement between the counties concerned, 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 the appointing judges and at a salary designated by the appointing judges, and approved by the budget-making bodies of the counties concerned.

(3) When more than one person is appointed under this section, 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.

(4) In counties with a population of 300,000 or more, counselors of the juvenile department of the county shall be appointed in accordance with ORS chapter 241. [1955 c.491 §2]

419.606 Director to be administrator of county juvenile department. 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. [1955 c.491 §3]

419.608 Duties of director or counselor in juvenile court proceedings. The director of a juvenile department or one of the counselors shall:

(1) Make or cause to be made an investigation of every child brought before the court and report fully thereon to the court.

(2) Be present in court to represent the interests of the child when the case is heard.

(3) Furnish such information and assistance as the court requires.

(4) Take charge of any child before and after the hearing as may be directed by the court. [1955 c.491 §4]

419.610 Director or counselor has power of peace officer and may bring child in his custody before court at any time. Any director or counselor shall have power of a peace officer as to any child committed to his care. Any director or counselor may, in his discretion and at any time, bring a child committed to his custody and care by the juvenile court before such court for any further action the court considers advisable. [1955 c.491 §5]

419.612 Detention facilities for dependent and delinquent children. (1) Any county may acquire in any lawful manner, equip and maintain within the county suitable detention facilities for the detention of dependent and delinquent children confined pursuant to a judicial commitment or order pending final adjudication of the case by the juvenile court. The personnel of any detention facilities are subject to the control and direction of the judge of the juvenile court.

(2) Where two or more counties have entered into an agreement pursuant to subsection (2) of ORS 419.604, the counties jointly may acquire in any lawful manner, equip and maintain, at a suitable site or sites in the counties determined by the judges of the juvenile courts of the counties, detention facilities suitable for the detention of dependent and delinquent children confined pursuant to judicial commitment or order pending final adjudication of the case by juvenile court. The personnel of any detention facilities are subject to the joint control of the judges of the juvenile courts of such counties. [1955 c.491 §7]

419.614 Payment of expenses of maintaining detention facilities. All expenses incurred in the maintenance of the facilities for detention and the personnel required therefor shall be paid upon order of the board of county commissioners or county court from county funds duly levied and collected in any manner provided by law. When joint detention facilities are maintained as provided in subsection (2) of ORS 419.612, each county shall pay its share of the costs and expenses of acquiring, equipping and maintaining the joint detention facilities, to be determined pursuant to an agreement between the counties. Counties may accept gifts or donations of property, including money, for the use of detention facilities to be expended and used as directed by the judge of the juvenile court. [1955 c.491 §8]

419.616 Payment of expenses of maintaining juvenile departments.

(1) The cost of maintaining a juvenile department and all expenditures incidental thereto, including traveling expenses, and necessarily incurred in supplying the immediate necessities of dependent or delinquent children while committed to the charge of a director or counselor, and all salaries for the personnel of a juvenile department and of any detention facilities maintained in the county, shall be payable upon the order of the board of county commissioners or county court of the county from county funds budgeted and levied for that purpose in any manner provided by law.

(2) When two or more counties have counselors appointed to serve the counties jointly, each county shall provide funds to pay its share of the costs and expenses of the employment of counselors and maintaining juvenile departments. The method of determining the portion of such costs and ex-

penses each county is to bear shall be provided in the agreement made between the counties pursuant to subsection (2) of ORS 419.604. [1955 c.491 §6]

419.618 to 419.708 [Reserved for expansion]

CURFEW HOURS FOR MINORS

419.710 Prohibition of unaccompanied minors from being in public places during certain hours. No minor under the age of 18 years shall be in or upon any street, highway, park, alley or other public place between the hours of 12 p.m. and 4 a.m. of the following morning, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have care and custody of the minor, or unless such minor is then engaged in a lawful pursuit or activity which requires his presence in such public places during the hours specified in this section. [1953 c.576 §1]

419.720 Prohibition of parents, guardians or custodians from allowing minors to be in public places during curfew hours. No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in ORS 419.710, except as otherwise provided in that section. [1953 c.576 §2]

419.730 Arrest and disposition of minor violating curfew hours; penalties. (1) Peace officers and other law enforcement officers may arrest any minor for a violation of ORS 419.710.

(2) On any first violation of ORS 419.710, the arresting officer may either:

(a) Take or send the minor to its residence and notify the parents, guardian or person having care and custody of the minor concerning the violation; or

(b) If the officer has reasonable grounds to believe that the parents of the minor are failing to exercise proper control, care or custody of the minor, take the minor directly before the court having juvenile jurisdiction in the county where the arrest was made.

(3) On any second or subsequent violations of ORS 419.710, the minor shall be taken directly before the court having juvenile jurisdiction in the county where the arrest was made for disposition in accordance with the juvenile court laws of this state and may be punished, upon conviction, by a fine of not more than $50 or by confinement in any detention facilities for juveniles, or both. [1953 c.576 §3]

419.740 Regulations by political subdivisions concerning conduct of minors in public places. ORS 419.710 to 419.730 do not affect the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law; provided, that the local ordinance or law restricts curfew hours at least to the extent required by ORS 419.710 to 419.730. [1953 c.576 §4]

419.750 to 419.980 [Reserved for expansion]

PENALTIES

419.990 Penalties. (1) Violation of ORS 419.070 is punishable upon conviction by a fine not exceeding $500 or by imprisonment in the county jail not exceeding one year, or both.

(2) Violation of ORS 419.134, 419.136, subsection (2) of ORS 419.112, subsection (3) of ORS 419.116, ORS 419.120, or ORS 419.122 is punishable upon conviction by a fine not exceeding $100.

(3) Violation of ORS 419.404 is punishable upon conviction by a fine not exceeding $500 or by imprisonment in the county jail for not exceeding six months, or both.

(4) Violation of subsection (2) of ORS 419.506 may be proceeded against as in the case of contempt of court.

(5) Violation of ORS 419.720 is a misdemeanor. [Subsection (5) enacted as 1953 c.576 §2(2)]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel