

Chapter 418

1971 REPLACEMENT PART

Child Welfare Services

CHILD WELFARE SERVICES GENERALLY

- 418.005 Powers of division in connection with child welfare services
- 418.010 Children not to be taken charge of where parents object
- 418.015 Custody and care of needy children by Children's Services Division
- 418.020 Unexpended balances of budgeted county funds may be expended as aid for children
- 418.025 Prevention, reduction or control of juvenile delinquency by county programs and activities
- 418.030 Services to prevent, control and treat juvenile delinquency

AID TO DEPENDENT CHILDREN

- 418.035 Definitions for ORS 418.035 to 418.175
- 418.040 Eligibility for aid
- 418.045 How amount of aid is determined
- 418.050 Payment of aid to other than relative
- 418.054 Petition for, and appointment of guardian of estate; costs; compensation
- 418.059 Expenditures limited to needs of beneficiary
- 418.070 Special definitions for ORS 418.035 to 418.175
- 418.075 Denial of aid where unemployed parent refuses employment
- 418.085 Cooperation of division with Employment Administrator to find employment for parent
- 418.095 Community work and training programs for parents
- 418.097 Cooperation with other agencies to provide vocational training
- 418.100 Powers and duties of division
- 418.110 Application for aid
- 418.115 Investigation of eligibility of child
- 418.120 Determination of eligibility; commencement of aid
- 418.125 Appeal from failure to act on application or denial thereof or from modification or cancellation of aid
- 418.130 Use and custody of records of aid to dependent children
- 418.135 Public officials to cooperate in locating and furnishing information concerning parents of children receiving public assistance, and in prosecuting nonsupport cases; use of information restricted
- 418.140 Sharing assistance prohibited; exception
- 418.145 Report required where subsistence or lodging provided nonrecipient

WORK INCENTIVE PROGRAM

- 418.150 Policy
- 418.155 Definitions for ORS 418.150 to 418.175
- 418.160 Referrals to program
- 418.165 Effect of participation in program
- 418.170 Payments to Federal Government; supplemental payments to recipient
- 418.175 Effect of recipient's refusal to accept employment

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

- 418.205 Definitions for ORS 418.205 to 418.310
- 418.210 Application of ORS 418.205 to 418.310 to homes maintained by fraternal organizations not receiving state aid
- 418.215 Private child-caring agency to be incorporated and approved
- 418.220 Application for incorporation; organization of agency
- 418.225 Approval of private child-caring agency
- 418.230 Certificate of approval required before incorporation
- 418.235 Fees relating to approval and incorporation of private child-caring agencies
- 418.240 Annual certificate of approval
- 418.245 Regulation of private child-caring agencies organized prior to March 4, 1919
- 418.250 Supervision of child-caring agencies
- 418.255 Inspection of child-caring agencies
- 418.260 Investigation of abuses, derelictions or deficiencies in child-caring agencies
- 418.265 Reports required of child-caring agencies; audit and inspection of books; annual report of division
- 418.270 Surrender of child to private child-caring agency; consent to adoption; time for adoption proceedings; effect of release and surrender
- 418.275 Private child-caring agency as guardian of child; power of agency
- 418.280 Placement of children in foster homes
- 418.285 Authority of division, same as private child-caring agency under ORS 418.270 to 418.280
- 418.290 Child placement by nonresident
- 418.295 Certain attorneys not to represent prospective adoptive parents; members and employees of division not to recommend any attorney to prospective adoptive parents
- 418.300 Child placement by private persons
- 418.305 Authority of division to visit placed-out children; location and relationships confidential
- 418.310 Application of statutes to institutions caring for adults and children
- 418.315 Division may require counties to provide foster care for children surrendered or committed to division

PAYMENTS TO ADOPTIVE PARENTS

- 418.330 Payments to adoptive parents; conditions; limitations
- 418.335 Determination of eligibility for payments; review; hearing
- 418.340 Rule-making authority

INSTITUTIONS CARING FOR VENEREALLY INFECTED CHILDREN

- 418.355 Necessity that state-aided institutions caring for venereally infected children be licensed
- 418.360 Showing necessary for license; approval of State Board of Health
- 418.365 Daily nurse's chart to be kept
- 418.370 Care by family, state or federal agencies not affected

COMMUNITY COORDINATED CHILD CARE

- 418.380 Purpose of ORS 418.380 to 418.390
- 418.385 Procedure for applying for grants
- 418.390 Designations of state agency to receive grant applications

STATE AID AND COMMITMENT TO INSTITUTIONS SUPPORTING HOMELESS, NEGLECTED OR ABUSED CHILDREN

- 418.405 Appropriation for support of homeless, neglected and abused children
- 418.410 Procedure by which private institutions may obtain state aid
- 418.415 Annual report by institutions receiving state aid
- 418.420 Amount of state aid allowed per child
- 418.425 Presentation and approval of claims for state aid
- 418.430 Payment of claims
- 418.435 Institutions not entitled to state aid; effect of specific private donation
- 418.440 Surrender of child by mother to institution receiving state aid
- 418.445 Surrender of children by juvenile court to institution receiving state aid
- 418.455 Institutions may exercise authority of guardian
- 418.460 Certain state-aided institutions must collect funds from parents for support of children
- 418.465 Agencies and institutions to submit estimates of state aid required for biennium
- 418.470 Authority to pay for shelter-care homes

PURCHASE OF CARE

- 418.480 "Purchase of care" defined
- 418.485 Policy
- 418.490 Coordination of state activities
- 418.495 Authority to purchase care; contract content
- 418.500 Out-of-state care for children

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

- 418.505 Procedure to obtain state aid
- 418.510 Annual financial and statistical report to State Board of Health; effect of failure to file
- 418.515 Amount of state aid
- 418.520 Presentation and approval of claims for state aid
- 418.525 Payment of claims
- 418.530 Institutions not entitled to state aid; effect of specific private donation

PROVISIONS APPLICABLE TO ALL STATE-AIDED INSTITUTIONS

- 418.555 Powers of State Board of Health in relation to state-aided institutions
- 418.560 Termination of state aid for unentitled child
- 418.565 Payment of claims

COUNTY AID TO INSTITUTIONS

- 418.610 Presentation and payment of claims for county aid

FOSTER HOMES NOT SUPERVISED BY CHILD-CARING AGENCIES

- 418.625 Definitions for ORS 418.625 to 418.645
- 418.630 Foster home must be certified as approved
- 418.635 Certificate of approval
- 418.640 Supervision of foster homes
- 418.645 Appeal from decision of division

A. R. BURBANK TRUST FUND

- 418.675 Powers and duties of trustees of A. R. Burbank Trust Fund
- 418.680 Annual report of trustees
- 418.685 Certain agencies declared to be orphans' homes

SUMMER CAMP PROGRAM

- 418.705 Summer camp program authorized
- 418.710 Duties of State Board of Forestry in conducting program
- 418.715 Eligibility, selection and compensation of participants in program
- 418.720 Allocation of costs between state and participating counties; county tax levy; Summer Camp Program Account
- 418.725 Cooperation with federal, state and county agencies
- 418.730 State Board of Forestry may pay for forest improvements and rehabilitation

CHILD ABUSE

- 418.740 Definitions for ORS 418.740 to 418.775
- 418.745 Policy
- 418.750 Duty of officials to report child abuse
- 418.755 Report content
- 418.760 Duty of law enforcement agency receiving report; investigation; protective services for child
- 418.765 Central registry of reports
- 418.770 Confidentiality of records; availability to law enforcement agencies and physicians
- 418.775 Certain privileges not grounds for excluding evidence in court proceedings on child abuse

DAY CARE FACILITIES

- 418.805 Definitions for ORS 418.805 to 418.885
- 418.810 Certificate of approval for day care facility
- 418.815 Requirements for certificate
- 418.820 Minimum standards for day care facilities
- 418.825 Investigation; temporary certificate; division as state agency for federal program
- 418.830 Fee; expiration date of certificate; transferability
- 418.835 Renewal of certificate; effect of renewal application
- 418.840 Denial, suspension or revocation of certificate
- 418.845 Notice; hearing; decision; judicial review
- 418.850 Division inspection of premises; right of entry; reports and information
- 418.855 State Board of Health inspection of premises; report to division
- 418.860 Search warrant
- 418.865 Cooperative agreements relating to inspection of facilities
- 418.870 Injunction
- 418.875 Day care advisory committee
- 418.880 Duties of advisory committee; division to consult with committee
- 418.885 Division to assist day care facilities

PENALTIES

- 418.990 Penalties

CROSS REFERENCES

- Administrative procedures and rules of state agencies, Ch. 183
 Child guidance services by community mental health clinics, 430.630
 Children's services by Children's Services Division, 184.805
 Definition for statutes relating to public aid, 411.010
 District attorney and deputy, assisting juvenile court, 8.685
 Handicapped children, special educational programs, Ch. 343
 Interstate Compact on Juveniles, Ch. 417
 Jurisdiction of courts with respect to ORS chapter 418, 3.150, 3.160, 3.250 to 3.280, 3.330, 5.020, 46.092
 Mental illness of children, prevention, 430.705
 Public assistance generally, Ch. 411
 Report of death or injury occurring in institution caring for children, Ch. 146
 Special medical services for children, Ch. 444
 Surplus food distribution to welfare recipients, 411.806 to 411.820
 Vital statistics relative to inmates of institutions, 432.165
- 418.015**
- Foster care for children surrendered or committed to division, requiring counties to provide, 418.315
- 418.020**
- General limitation on expenditure under county budgets, 294.435
- 418.025**
- County juvenile advisory committee, 419.587
- 418.035**
- "Juvenile" defined, 417.010
 Medical assistance, Ch. 414
 Services to assist relatives of dependent children to attain self-care or self-support, 411.115, 411.120
- 418.040**
- Criminal nonsupport, child under 18, 163.555
- 418.135**
- Welfare Recovery Division, powers of and cooperation with, 180.310 to 180.370
- 418.160**
- Status of participants, 190.230
- 418.205**
- Jurisdiction of juvenile court, 419.476
 "Juvenile" defined, 417.010
- 418.270**
- Consent to adoption in various cases, 109.312 to 109.330, 109.390
 Placement of child committed to juvenile training school in foster homes, 420.810 to 420.840
- 418.275**
- See Cross References to ORS 418.270
- 418.280**
- See Cross References to ORS 418.270
- 418.285**
- Authority of Children's Services Division in adoption proceedings, 109.390
 Commitment of child to division, 419.507, 419.511
 Order terminating rights of parents of child, 419.527
- 418.420**
- Payments subject to allotment system, 1969 c.485 §2
- 418.445**
- Children within jurisdiction of juvenile court, 419.476
- 418.525**
- Deduction by State Treasurer, 418.405
- 418.625**
- Placement in foster homes of children committed to state training schools, 420.810 to 420.840

CHILD WELFARE SERVICES GENERALLY

418.005 Powers of division 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 Children's Services Division 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) Subject to the allotment system provided for in ORS 291.234 to 291.260, expend the amounts necessary to carry out the purposes and administer the provisions of this section.

[Formerly 419.002; 1971 c.401 §12]

418.010 Children not to be taken charge of where parents object. Nothing in ORS 418.005 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.

[Formerly 419.004]

418.015 Custody and care of needy children by Children's Services Division. (1) The Children's Services Division may, in its 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.

(2) The Children's Services Division shall accept any child placed in its custody by a court under, but not limited to ORS chapter 419, and shall provide such services for the child as the division finds to be necessary.
[Formerly 419.006; 1971 c.401 §13; 1971 c.698 §1]

418.020 Unexpended balances of budgeted county funds may be expended as aid for children. The governing body 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 or committed to a youth care center the whole or any part of any unexpended balance of any fund budgeted by the county for any purpose whatsoever.

[Formerly 419.008; 1965 c.567 §§10, 11; 1967 c.444 §8]

418.025 Prevention, reduction or control of juvenile delinquency by county programs and activities. (1) The governing body of any county, or its representatives designated by it for the purpose, on behalf of the county, may:

(a) Conduct programs and carry on and coordinate activities for the prevention, reduction or control of juvenile delinquency, including but not limited to the establishment and operation of youth care centers to care for children committed to the custody of the centers under ORS 420.865.

(b) Cooperate, coordinate or act jointly with any other county, any city or any appropriate officer or public or private agency in conducting programs and carrying on and coordinating activities for the prevention, reduction or control of juvenile delinquency, including but not limited to the establishment, support and maintenance of joint agencies, institutions or youth care centers to conduct such programs and carry on and coordinate such activities.

(c) Expend county moneys for the purposes referred to in paragraph (a) or (b) of this subsection.

(d) Accept and use or expend property or moneys from any public or private source made available for the purposes referred to in paragraph (a) or (b) of this subsection.

(2) All officers and agencies of a county, upon request, shall cooperate in so far as possible with the governing body of the county, or its designated representatives, in conducting programs and carrying on and coordinating activities under subsection (1) of this section.

[Formerly 419.010; 1965 c.567 §§12, 13; 1967 c.444 §9]

418.030 Services to prevent, control and treat juvenile delinquency. The Children's Services Division may provide consultation services related to the prevention, control and treatment of juvenile delinquency to local and state-wide public and private agencies, groups and individuals or may initiate such consultation services. Consultation services include but are not limited to conducting studies and surveys, sponsoring or participating in education programs, and advising and assisting agencies, groups and individuals.

[1971 c.401 §90]

AID TO DEPENDENT CHILDREN

418.035 Definitions for ORS 418.035 to 418.175. As used in ORS 418.035 to 418.175, unless the context or a specially applicable statutory definition requires otherwise:

(1) "Dependent child" means a needy child:

(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; and

(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, step-sister, 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; and either

(d) Who is under the age of 18 years; or

(e) Who is under the age of 21 years and a student regularly attending a school, college or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment approved by the Public Welfare Division.

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

(a) Money payments to meet the needs of:

(A) The relative with whom such child is living; and

(B) The spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent, or if a dependent child as defined in paragraph (a) of subsection (1) of ORS 418.070 during any period with respect

to which aid may be provided for children by reason of the unemployment of parents.

(b) Payments made to a representative payee or guardian pursuant to ORS 418.050 or 418.054.

(3) "Representative payee" means an individual designated by the Public Welfare Division to receive money payments of aid pursuant to ORS 418.050.

[Formerly 419.052 and then 418.055; amended by 1967 c.155 §1; 1969 c.69 §7]

418.040 Eligibility for aid. Aid shall be granted under ORS 418.035 to 418.125 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 Public Welfare Division and who is a resident of the State of Oregon, if the parent or other relative with whom the child is living is a resident of the State of Oregon.

[Formerly 419.054 and then 418.060; amended by 1969 c.468 §5]

418.045 How amount of aid is determined. (1) The need for and amount of aid to be granted for any dependent child or relative pursuant to ORS 418.035 to 418.175 shall be determined, in accordance with the rules and regulations of the Public Welfare Division, taking into account:

(a) The income, resources and maintenance available to such child and relative from whatever source derived, any expenses reasonably attributable to the earning of any such income, the necessary expenditures of the child or relative and the conditions existing in each case.

(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) of this section is not intended to relieve any father of any legal obligation in respect of the support of his natural or adopted children.

(3) In the determination of eligibility and the amount of need, and in any reconsideration thereof, with respect to an applicant or recipient of aid pursuant to ORS 418.035 to 418.175, such amounts of income and resources may be disregarded as the division may prescribe by rules and regulations promulgated by it. The amounts to be disregarded shall be within the limits required or permitted by federal laws and by federal rules and orders thereto applicable.

[Formerly 419.056 and then 418.065; amended by 1965 c.41 §1]

418.050 Payment of aid to other than relative. Subject to rules and regulations of the Public Welfare Division and to such conditions and limitations as may be prescribed pursuant to Title IV of the federal Social Security Act:

(1) Money payments of aid with respect to a dependent child, including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, may be made to an individual other than such relative or spouse if it is determined by the division that the relative to whom such payments are made has such inability to manage funds that continuation of such payments to him would be contrary to the welfare of such child and that, therefore, it is necessary to provide such aid through payments in the manner authorized by this section. Such determination shall be subject to review and hearing, upon application of such relative, in the manner prescribed pursuant to ORS 418.125. However, the pendency of such application, review or hearing shall not stay the effect of such determination.

(2) The Public Welfare Division may designate any responsible individual, including any public officer or employe, as a representative payee if such individual is willing to act in such capacity. Representative payees shall receive no compensation for their services, but shall be allowed expenses actually and necessarily incurred by them in the performance of their duties under ORS 418.059. Such expenses shall be paid from funds appropriated to the division for administrative expenditures.

(3) During the time payments of aid with respect to a dependent child or relative are made to a representative payee, the division shall:

(a) Undertake and continue special efforts to develop greater ability on the part of such relative to manage funds in such manner as to protect the welfare of himself and his family; and

(b) Periodically review the determination made pursuant to subsection (1) of this section and terminate payments to the representative payee if it is established by such review that the conditions justifying such determination no longer exist.

[1963 c.610 §5]

418.054 Petition for and appointment of guardian of estate; costs; compensation. (1) If, after such period as may be prescribed

by the division, it appears to the division that the need for money payments of aid to a representative payee is continuing or likely to continue in any case, the division may petition for the judicial appointment of a guardian of the estate of the relative referred to in subsection (1) of ORS 418.050. If a guardian of the estate of such relative is appointed and duly qualified, money payments of aid otherwise payable to such relative, or representative payee, shall be paid to such guardian until the division determines that the conditions which would justify money payments of aid to a representative payee under ORS 418.050 no longer exist.

(2) Subject to funds made available to the division for administrative expenditures, the division shall, with respect to any guardianship established pursuant to this section:

(a) Pay all costs and fees reasonably incurred in obtaining the appointment of such guardian, including any necessary bond premiums;

(b) Pay all costs and fees necessarily incurred by the guardian in administering money payments of aid received by him pursuant to this section; and

(c) Compensate the guardian, for his fees in administering such money payments, according to schedules of fees prescribed by rule or regulation of the division.

[1963 c.610 §6]

418.055 [Formerly 419.052; amended by 1963 c.610 §1; renumbered 418.035]

418.059 Expenditures limited to needs of beneficiary. Each money payment of aid made to a representative payee or to a guardian pursuant to ORS 418.050 or 418.054 shall be expended by him solely to purchase the needs of the individuals with respect to whom such payment is made. However, from such money payments such individuals shall be entitled to receive from the representative payee or guardian such sums of money and at such intervals as may be permitted by rule or regulation of the Public Welfare Division.

[1963 c.610 §7]

418.060 [Formerly 419.054; renumbered 418.040]

418.065 [Formerly 419.056; amended by 1963 c.610 §2; renumbered 418.045]

418.070 Special definitions for ORS 418.035 to 418.175. For the purposes of ORS 418.035 to 418.175, with respect to any period for which federal funds are made available to

this state in aid of a state-administered program of aid to any child defined in and meeting the requirements of this section:

(1) "Dependent child" includes:

(a) A needy child meeting the requirements of paragraph (d) or (e) of subsection (1) of ORS 418.035 who has been deprived of parental support or care by reason of the unemployment of a parent and who is living with any of the relatives specified in subsection (1) of ORS 418.035 in a place of residence maintained by one or more of such relatives as his or their own home. However, no aid shall be granted with respect to any dependent child as defined in this paragraph during any period for which the Public Welfare Division elects, by resolution, to provide aid only with respect to a dependent child defined in and meeting the requirements of subsection (1) of ORS 418.035 or of paragraph (b) of this subsection.

(b) A child:

(A) Who would meet the requirements of subsection (1) of ORS 418.035 or of paragraph (a) of this subsection except for his removal after April 30, 1961, from the home of a relative specified in subsection (1) of ORS 418.035 as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

(B) For whose placement and care the division is responsible,

(C) Who has been placed in a foster home or licensed nonprofit private child-caring agency as a result of such determination, and

(D) Who received aid in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified in subsection (1) of ORS 418.035 within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with and removed from the home of such a relative and application had been made therefor.

(2) "Foster home" means a foster home which is certified by this state or has been approved, by the agency of this state responsible for the certification of foster homes, as meeting the standards established for such certification.

(3) "Aid" includes foster care in behalf

of a child described in paragraph (b) of subsection (1) of this section in the foster home of any individual or in a licensed nonprofit private child-caring agency.

[1961 c.712 §2; 1963 c.610 §3; 1967 c.155 §2; 1969 c.65 §1]

418.075 Denial of aid where unemployed parent refuses employment. Aid, as defined in subsection (2) of ORS 418.035, shall not be granted with respect to, or on behalf of, a dependent child as defined in paragraph (a) of subsection (1) of ORS 418.070 if, and for as long as, the unemployed parent of such child refuses without good cause to accept employment in which he is able to engage, and which is offered through any employment office defined in subsection (7) of ORS 657.010 or which is otherwise offered by any employer if such offer is determined by the Public Welfare Division after notification by such employer to be a bona fide offer of such employment.

[1961 c.712 §3; 1971 c.779 §54]

418.080 [1961 c.712 §5; repealed by 1965 c.538 §1]

418.085 Cooperation of division with Employment Administrator to find employment for parent. During any period in which aid may be granted with respect to, or on behalf of, a dependent child as defined in paragraph (a) of subsection (1) of ORS 418.070, the Public Welfare Division and the Administrator of the Employment Division shall enter into cooperative arrangements looking toward employment of the unemployed parent of any such child, shall provide for the registration and periodic reregistration of such parent at employment offices established pursuant to ORS 657.705 to 657.725 and shall, with respect to such parent, effect maximum utilization of the job placement services and other services and facilities of such offices.

[1961 c.712 §4]

418.090 [1961 c.712 §6; repealed by 1971 c.779 §78]

418.095 Community work and training programs for parents. (1) Community work and training programs, as defined in ORS 411.855, may be made available to persons whose needs are included in a grant of public assistance pursuant to ORS 418.035 to 418.175.

(2) Subject to rules and regulations of the Public Welfare Division, the employable applicant or recipient of aid who is a parent of a dependent child defined in ORS 418.035 or

418.070 may be required to participate without compensation in a community work and training program as a condition to a grant of aid or other public assistance for the benefit of himself or those to whom he owes a legal duty of support, and for periods of time limited by the amount of such aid or other assistance, in cash or in kind, provided through such grant. However, if any of the provisions of this subsection are found to be not in conformity with the federal Social Security Act, or with any of the rules, regulations or requirements promulgated thereunder, such provisions are inoperative to the extent that they are not so in conformity.

[1961 c.712 §7; 1965 c.291 §3; 1967 c.130 §6]

418.097 Cooperation with other agencies to provide vocational training. The Public Welfare Division and any other state agency, which administers, supervises or participates in the administration of programs of public vocational or adult education services available in this state, may enter into and execute cooperative arrangements looking toward maximum utilization of such services to encourage the training or retraining of individuals participating in a community work and training program as defined in ORS 411.855, and otherwise to assist such individuals in preparing for regular employment.

[1963 c.610 §8; 1967 c.130 §7]

418.100 Powers and duties of division. The Public Welfare Division shall:

(1) Supervise the administration of aid to dependent children under ORS 418.035 to 418.125.

(2) Make such rules and regulations and take such action as may be necessary or desirable for carrying out ORS 418.035 to 418.125.

(3) Prescribe the form of and print and supply 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.

[Formerly 419.058; 1971 c.779 §56]

418.105 [Formerly 419.060; repealed by 1971 c.779 §78]

418.110 Application for aid. Application for aid under ORS 418.035 to 418.125 shall be made to the division by the relative with whom the child lives. The application shall be in the manner and upon the form prescribed by the Public Welfare Division.

[Formerly 419.062; 1969 c.68 §9; 1971 c.779 §57]

418.115 Investigation of eligibility of child. Whenever the division receives a notification of the dependency of a child or an application for aid, a record shall promptly be made of the circumstances, relating the facts supporting the application and such other information as may be required by the rules and regulations of the Public Welfare Division.

[Formerly 419.064; 1969 c.68 §10; 1971 c.779 §58]

418.120 Determination of eligibility; commencement of aid. The division shall decide whether the child is eligible for aid under ORS 418.035 to 418.125 and determine the date on which the aid granted shall begin.

[Formerly 419.066; 1969 c.68 §11; 1971 c.779 §59]

418.125 Appeal from failure to act on application or denial thereof or from modification or cancellation of aid. If an application is not acted upon 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 Public Welfare Division for review. The division 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.

[Formerly 419.068; 1971 c.779 §60]

418.130 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 Public Welfare Division, 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 Public Welfare Division or acquired in the course of the performance of official duties.

[Formerly 419.070]

418.135 Public officials to cooperate in locating and furnishing information concerning parents of children receiving public assistance, and in prosecuting nonsupport cases; use of information restricted. (1)

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 Public Welfare Division, the Welfare Recovery Division of the Department of Justice 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 granting of aid to the applicant shall not be delayed or contingent upon receipt of the answer to such requests by the Public Welfare Division, the Welfare Recovery Division or the district attorney. The Public Welfare Division shall use such information only for the purposes of administration of public assistance to such children, and the district attorney and the Welfare Recovery Division 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.

(2) The Public Welfare Division shall cooperate with the Welfare Recovery Division or the district attorney prosecuting or considering the prosecution of such parent for nonsupport and shall report to the Welfare Recovery Division or the district attorney all information contained in the case record which concerns the question of nonsupport and the suitability of prosecution as a method of obtaining support for the child in each case.

[Formerly 419.072; 1971 c.779 §61]

418.140 Sharing assistance prohibited; exception. (1) No person over the age of 18 years, other than a stepchild, shall habitually accept subsistence or lodging in the dwelling place of any householder, who is a recipient of aid, to whom the person is neither married nor related within the fourth degree of consanguinity computed according to the rules of the civil law.

(2) It shall be a defense to a charge of violation of subsection (1) of this section that the person accused has fully paid to the householder, in cash or in kind, the actual costs of any such subsistence and the value

of any such lodging so accepted. However, such payment shall constitute a defense to a charge of violation of subsection (1) of this section only if:

(a) The payment was made before the commencement of the criminal action based upon such violation;

(b) The payment was made pursuant to an express agreement entered into between the householder and the person accused, before acceptance of the subsistence or lodging; and

(c) The person accused or the householder has, within three days after entering into such agreement, furnished the Public Welfare Division with a true and complete statement of the terms and conditions of such agreement.

[1961 c.341 §2; 1963 c.332 §1; 1969 c.246 §1]

418.145 Report required where subsistence or lodging provided nonrecipient.

(1) Subject to rules and regulations of the Public Welfare Division, each person 18 years of age or over to whom or for whose benefit a grant of aid is made, and who provides subsistence or lodging to any individual whose needs are not provided for in such grant, shall, within three days after first providing such subsistence or lodging, and at such other times as may be required, promptly furnish the division with a true and complete statement of the circumstances, terms and conditions under which he provides subsistence or lodging to such individual.

(2) The division may modify, cancel or suspend a grant of aid for the benefit of any person who fails to comply with subsection (1) of this section for such a period of time and under such terms and conditions as may be prescribed by rules or regulations of the division.

(3) Nothing set forth in subsections (1) and (2) of this section or no regulation of the Public Welfare Division shall be construed to prevent two or more members of the same sex who are recipients of aid to dependent children grants from entering into a communal lodging arrangement nor shall any recipient of such a grant have his grant reduced solely by reason of such communal lodging arrangement. Any lodging accepted by recipients for the purpose of establishing a communal lodging arrangement as specified in this section shall be subject to the approval of the Public Welfare Division which shall determine adequacy of such lodging.

[1963 c.332 §3; 1967 c.446 §1; 1971 c.779 §62]

WORK INCENTIVE PROGRAM

418.150 Policy. (1) The Legislative Assembly declares that it is in the public interest of the State of Oregon to assist appropriate individuals who are current, former or potential recipients of, or who are included in assistance households receiving, aid to dependent children to attain self-care or self-support.

(2) The Legislative Assembly declares that it is in the public interest of the State of Oregon that all available manpower services, including those authorized under other provisions of law, be utilized to provide incentives, opportunities and necessary services to appropriate individuals in order that they may be employed in the regular economy, may be trained for regular employment and may participate in special work projects.

[1969 c.281 §2]

418.155 Definitions for ORS 418.150 to 418.175. As used in ORS 418.150 to 418.175, unless the context or a specially applicable statutory definition requires otherwise:

(1) "Work incentive programs" means programs established by the Employment Division, in cooperation with the Secretary of Labor, pursuant to Part C of Title IV of the Social Security Act, as amended by Public Law 90-248.

(2) "Employment and training program" means a work incentive program for placing as many individuals as is possible in employment.

(3) "Institutional and work experience program" means a work incentive program for those individuals for whom such training is likely to lead to regular employment.

(4) "Special work projects program" means a work incentive program for those individuals for whom a job in the regular economy cannot be found.

[1969 c.281 §3]

418.160 Referrals to program. (1) The Public Welfare Division shall promptly refer for participation under a work incentive program:

(a) Each appropriate child and relative who has attained 16 years of age and is receiving aid,

(b) Each appropriate individual who is living in the same household with a relative and child receiving aid, who has attained 16 years of age and whose needs are taken into consideration in determining the amount of aid, and

(c) Any other appropriate individual living in a household in which aid is received who requests such referral unless the Public Welfare Division determines that participation in any of such programs would be adverse to the welfare of such person or family.

(2) The Public Welfare Division may refer for participation under a work incentive program any appropriate individual living in the household of a former or potential recipient of aid.

(3) The Public Welfare Division shall not refer an individual under paragraph (a) or (b) of subsection (1) of this section if such individual is:

(a) A person with illness, incapacity, or advanced age,

(b) So remote from any of the projects under the work incentive programs that he cannot effectively participate under any of such programs,

(c) A child attending school full time, or

(d) A person whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household.

[1969 c.281 §4]

418.165 Effect of participation in program. (1) Neither referral for participation under a work incentive program nor participation under an institutional and work experience program or a special work projects program shall be grounds for denying or discontinuing aid to meet the needs of such person.

(2) In the determination of eligibility and the amount of need, and in any reconsideration thereof, the Public Welfare Division shall:

(a) Take into account all additional expenses attributable to participation under an institutional and work experience program or a special work projects program,

(b) Disregard training incentives authorized for participation under an institutional and work experience program and

(c) Disregard income derived from participation under a special work projects program.

[1969 c.281 §5]

418.170 Payments to Federal Government; supplemental payments to recipient. Notwithstanding other provisions of law, with respect to an individual referred pursuant to subsection (1) of ORS 418.160 and participating in a special work projects program, the

Public Welfare Division, after proper notification by the Secretary of Labor, shall pay to such Secretary (at such times and in such manner as the Secretary of Health, Education and Welfare prescribes) the money payments of aid otherwise payable to or on behalf of the individual (including money payments with respect to the individual's family), or 80 percent of the individual's earnings under the program, whichever is lesser. In addition, the division shall supplement any earnings received by the individual by payments of aid to the individual to the extent that the payments when added to the individual's earnings from his participation in the special work project will be equal to the amount of the aid that would have been payable by the division with respect to the individual's family had he not participated in the project, plus 20 percent of the individual's earnings from the project.

[1969 c.281 §6]

418.175 Effect of recipient's refusal to accept employment. (1) If the Public Welfare Division is notified by the Secretary of Labor that an individual referred under the provisions of ORS 418.160 has refused without good cause to accept employment or to participate in a work incentive program, that individual shall be ineligible to receive aid and the needs of that individual shall not be taken into consideration in any determination of the amount of aid to be provided, except as authorized by subsection (2) of this section. Notwithstanding the provisions of ORS 418.075, if the individual so certified is the relative receiving payments, aid for any dependent child in the family shall be made as foster home payments if eligible therefor under the provisions of paragraph (b) of subsection (1) of ORS 418.070, or as protective payments pursuant to ORS 418.050 without regard to the provisions of subsection (3) thereof and without regard to any determination of inability to manage funds as prescribed by subsection (1) thereof.

(2) Notwithstanding the provisions of ORS 418.075 and subsection (1) of this section, the needs of any individual certified as refusing without good cause to participate in a work incentive program or to accept employment shall be taken into consideration in the determination of eligibility and the amount of need for a period of the first 60 days, if during such period the individual accepts counseling or other services provided by the Public Welfare Division aimed at persuad-

ing him to follow the prescribed program. In such case payments of aid during the period shall be made as protective payments pursuant to ORS 418.050 without regard to the provisions of subsection (3) thereof and without regard to any determination of inability to manage funds.

[1969 c.281 §§7, 8]

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

418.205 Definitions for ORS 418.205 to 418.310. As used in ORS 418.205 to 418.310, unless the context requires otherwise:

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

(2) "Child delinquency," "delinquent child," "child dependency" and "dependent child" mean a person under 18 years of age whose conduct or condition is such as to fall within the provisions of paragraphs (a) to (e) of subsection (1) of ORS 419.476. [Formerly 419.101]

418.210 Application of ORS 418.205 to 418.310 to homes maintained by fraternal organizations not receiving state aid. ORS 418.205 to 418.310 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.

[Formerly 419.105]

418.215 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. [Formerly 419.106]

418.220 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 Children's Services Division.

(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 418.225 to 418.310 to secure the approval of the Children's Services Division.
[Formerly 419.108; 1971 c.401 §14]

418.225 Approval of private child-caring agency. The approval by the Children's Services Division 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.

[Formerly 419.110; 1971 c.401 §15]

418.230 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 Children's Services Division.

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

[Formerly 419.112]

418.235 Fees relating to approval and incorporation of private child-caring agencies. The Children's Services Division 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.

[Formerly 419.114; 1971 c.401 §16]

418.240 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 Children's Services Division a certificate of approval authorizing their work. The division shall use the criteria mentioned in ORS 418.225 as the basis of judgment in granting or withholding such certificates.

(2) The fee to be paid to the division 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 418.990, may be assessed by any court of competent jurisdiction upon presentation of evidence of such action.

[Formerly 419.116; 1971 c.401 §17]

418.245 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 and 418.205 to 418.310, 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.

[Formerly 419.118]

418.250 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 Children's Services Division 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 division, such information as the division 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 division upon request. All such information so requested and received by the division shall be considered and treated at all times as confidential and not as a public record.

(2) No employe of the Children's Services Division shall disclose any such information contrary to the provisions of subsection (1) of this section.

[Formerly 419.120; 1971 c.401 §18]

418.255 Inspection of child-caring agencies. (1) The Children's Services Division shall inspect and supervise all the child-caring agencies, public or private, whether incorporated or not, within this state. The division 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 division 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 division 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.

[Formerly 419.122; 1971 c.401 §19]

418.260 Investigation of abuses, derelictions or deficiencies in child-caring agencies. If any flagrant abuses, derelictions or deficiencies are made known to the Children's Services Division or its agents during their inspection of any child-caring agency or institution, or at any time are reported to the division by at least two reputable citizens, the division 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 responsible state agency. If any such abuses, derelictions or deficiencies are found in any other public institution, they shall be reported in like manner to the proper authority or governing board. In either case, if such abuses, derelictions or deficiencies are not corrected in a reasonable time, the same shall be reported in writing to the legislature 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 Children's Services Division shall suspend or revoke its approval of such agency or institution.

[Formerly 419.124; 1971 c.401 §20]

418.265 Reports required of child-caring agencies; audit and inspection of books; annual report of division. Each public or private child-caring agency or institution within this state shall make an annual report of its work to the Children's Services Division in such form and detail as the division 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 division. The division 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 division. 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 division not later than September 1 of each year. The division shall from the reports of its members, inspectors and visitors, and from the reports of the various

agencies and institutions, prepare a comprehensive annual report of child welfare work within the state, accompanied by special comments and recommendations which shall be included in the annual report to the Governor.

[Formerly 419.126; 1971 c.401 §21]

418.270 Surrender of child to private child-caring agency; consent to adoption; time for adoption proceedings; effect of release and surrender. (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) In the absence of the certificate provided for in subsection (4) of this section, 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 for the purpose of adoption may, concurrently or subsequently and without any adoption proceeding having been initiated, agree that the release or surrender shall become irrevocable as soon as the child is placed by the agency in the physical custody of a person or persons for the purpose of adoption by them, and waive their right to personal appearance in court in matters of adoption of such children, by a duly signed and attested certificate. From and after such physical placement for adoption such certificate of irrevocability and waiver and the release or surrender may not be revoked by the par-

ent or guardian unless fraud or duress is affirmatively proved.

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

[Formerly 419.128; 1971 c.26 §1]

418.275 Private child-caring agency as guardian of child; power of agency. (1) An incorporated duly approved private child-caring agency shall be the guardian of the person of each child released or surrendered to it in the manner provided in ORS 418.270 and of each dependent or delinquent child committed to it through a permanent order of a court of competent jurisdiction.

(2) The agency may retain children released, surrendered or committed to it in institutional care, or may place them in private family homes temporarily or as members of families. Where the agency deems such action proper and desirable, it may consent in loco parentis to the legal adoption of such children.

[Formerly 419.130; 1967 c.375 §1]

418.280 Placement of children in foster homes. Child-caring agencies, in placing outwards 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.

[Formerly 419.132]

418.285 Authority of division same as private child-caring agency under ORS 418.270 to 418.280. In addition to its other powers and responsibilities, the Children's Services Division has the same authority as a private child-caring agency under ORS 418.270 to 418.280; and in exercising this authority the division shall comply with the provisions of those sections the same as a private child-caring agency.

[Formerly 419.133; 1971 c.401 §22]

418.290 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 Children's Services Division such guarantee as the division may require against disease, deformity, feeble-mindedness and delinquency and against the child becoming a public charge within five years from the date of such placement.

[Formerly 419.134; 1971 c.401 §23]

418.295 Certain attorneys not to represent prospective adoptive parents; members and employes of division not to recommend any attorney to prospective adoptive parents.

(1) No attorney employed by the State of Oregon shall represent prospective adoptive parents in their attempt to adopt a child being cared for under the provisions of ORS 418.005 to 418.025, 418.035 to 418.315, 418.355 to 418.370, 418.405 to 418.470, 418.505 to 418.565, 418.610 to 418.730 and 418.805 to 418.885.

(2) No employe of the Public Welfare Division or the Children's Services Division shall recommend any attorney to serve as counsel for prospective adoptive parents.

[Formerly 419.135; 1969 c.597 §254; 1971 c.401 §24]

418.300 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.

[Formerly 419.136]

418.305 Authority of division to visit placed-out children; location and relationships confidential. The Children's Services Division 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 division or its 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 division and its agents and revealed only when the welfare of the child requires such action on order of a court of competent jurisdiction.

[Formerly 419.138; 1971 c.401 §25]

418.310 Application of statutes to institutions caring for adults and children. ORS 418.205 to 418.310 apply to private institu-

tions 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. [Formerly 419.140]

418.315 Division may require counties to provide foster care for children surrendered or committed to division. The Children's Services Division may, in its discretion, provide foster care and other services for any child who has been surrendered under ORS 418.270, as authorized by ORS 418.285, to the Children's Services Division for adoption or has been permanently committed to the division by order of court.

[Formerly 419.142; 1969 c.45 §9; 1971 c.401 §26; 1971 c.779 §63]

418.320 [Formerly 419.144; repealed by 1971 c.401 §120]

PAYMENTS TO ADOPTIVE PARENTS

418.330 Payments to adoptive parents; conditions; limitations. (1) The Children's Services Division may make payments to adoptive parents on behalf of a child placed for adoption by the division or by an approved child-caring agency when the division determines:

(a) The child has special needs because of a handicap to adoptive placement by reason of his physical or mental condition, race, age, or membership in a sibling group; or

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

(2) Payments in subsidization of adoption may include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child. Such payments may not exceed the cost of providing comparable assistance in foster care and shall not be made after the adoptive child becomes 18 years of age.

[1971 c.129 §§1, 2]

418.335 Determination of eligibility for payments; review; hearing. (1) Qualification for payments in subsidization of adoption shall be determined and approved by the Children's Services Division prior to the completion of the adoption proceeding, and shall be redetermined annually thereafter.

The division may increase, decrease, suspend or terminate payments at any time in its discretion.

(2) If a payment in subsidization of adoption is suspended or terminated prior to the 18th birthday of the child, the parents of the child may petition the Children's Services Division for a review of the case. The division shall afford the petitioner an opportunity for a hearing which shall be held in the county the petitioner elects.

[1971 c.129 §§3, 4]

418.340 Rule-making authority. The division shall make all necessary rules and regulations for administering the program for payments in subsidization of adoptions.

[1971 c.129 §5]

INSTITUTIONS CARING FOR VENEREALLY INFECTED CHILDREN

418.355 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 Children's Services Division.

[Formerly 419.152; 1971 c.401 §28]

418.360 Showing necessary for license; approval of State Board of Health. (1) No home or institution of the type mentioned in ORS 418.355 shall receive a license from the Children's Services Division 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.

[Formerly 419.154; 1971 c.401 §29]

418.365 Daily nurse's chart to be kept. In addition to the conditions provided in ORS 418.360 for licensing such homes or institutions, the Children's Services Division 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.

[Formerly 419.156; 1971 c.401 §30]

418.370 Care by family, state or federal agencies not affected. ORS 418.355 to 418.365 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.

[Formerly 419.158]

COMMUNITY COORDINATED CHILD CARE

418.380 Purpose of ORS 418.380 to 418.390. It is the purpose of ORS 418.380 to 418.390 to provide grants to local community coordinated child care organizations to expand and implement effective programs for day and night care services for children.

[1971 c.533 §1]

418.385 Procedure for applying for grants. (1) In order to obtain a grant under ORS 418.380 to 418.390, local community coordinated child care organizations shall submit applications to the state community coordinated child care organization designated by the Governor. The application must contain the local plan, its budget, evidence of local support, name and background of the agency that will operate the program, evidence that the children to be served are from families of present, former or potential recipients of public assistance, evidence of compliance with state licensing requirements and federal requirements on day care and a plan for annual evaluation.

(2) If the state agency is satisfied by the evidence submitted that the local organization can operate an effective day care program, it shall recommend the approval of the application and recommend a grant for all or so much of the funds requested as the state agency may believe necessary.

[1971 c.533 §2]

418.390 Designations of state agency to receive grant applications. In designating an agency to serve as the state agency for reviewing grant applications, the Governor shall consider geographic representation and training in areas such as day care, child development, social work, public health, family life education, community organizations and administration.

[1971 c.533 §3]

**STATE AID AND COMMITMENT
TO INSTITUTIONS SUPPORTING
HOMELESS, NEGLECTED OR ABUSED
CHILDREN**

418.405 Appropriation for support of homeless, neglected and abused children. (1) Money may be appropriated to the Children's Services Division out of any funds in the hands of the State Treasurer not otherwise appropriated, for the support of homeless, neglected and abused children. Such children under 18 years of age or if regularly enrolled in high school, until graduation or until they become 19 years of age, whichever first occurs, being cared for by approved child-caring agencies shall be cared for and supported as provided in subsection (2) of this section.

(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.

[Formerly 419.202; 1963 c.451 §1; 1971 c.401 §31]

418.410 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 418.405 to 418.455 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 418.405 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, and if it does not receive within the time specified a notification of non-compliance issued by the State Fire Marshal, his deputy, or approved authority, pursuant

to ORS 479.220, give the institution a certificate to that effect. If such institution has the approval of the Public Welfare Division, the State Board of Health shall join with the Public Welfare Division 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.
[Formerly 419.204; 1967 c.89 §1]

418.415 Annual report by institutions receiving state aid. All institutions which receive state aid pursuant to ORS 418.405 to 418.455 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 Children's Services Division 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 418.405 to 418.455 until such failure has ceased.

[Formerly 419.206; 1971 c.401 §32]

418.420 Amount of state aid allowed per child. (1) Each institution or agency which has received from the State Board of Health the certificate provided for in ORS 418.410 is entitled to receive, out of appropriations made pursuant to ORS 418.405, state aid at the rate of \$2.50 per day for each child of any of the classes mentioned in ORS 418.405 over five years of age and at the rate of \$2.90 per day for each such child not over five years of age.

(2) When, in the opinion of the executive officers of the institution or agency caring for the child, the welfare of any child of any of the classes mentioned in ORS 418.405 demands special care outside of the institution or agency, the institution or agency may place such child in any outside home or hospital which is approved by the Children's Services Division, 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.

[Formerly 419.208; 1969 c.440 §1; 1971 c.401 §33]

418.425 Presentation and approval of claims for state aid. The institution or agency shall present to the Children's Services Division 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 division shall investigate each claim made by an institution or agency and approve only that portion of such claim found eligible, in accordance with law.

[Formerly 419.210; 1971 c.401 §34]

418.430 Payment of claims. Upon approval of a claim by the Children's Services Division as provided in ORS 418.425, a warrant shall be drawn 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 418.405 to 418.455 shall be paid monthly.

[Formerly 419.212; 1967 c.454 §50; 1971 c.401 §35]

418.435 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 418.405 to 418.455 until it has had actual bona fide existence for at least six months.

(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 418.405 to 418.455 for any period covered by such appropriation.

[Formerly 419.214; 1963 c.450 §1]

418.440 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 418.405 to 418.455.

[Formerly 419.216]

418.445 Surrender of children by juvenile court to institution receiving state aid. In all cases where the parents or guardian of any such child as mentioned in ORS 418.440 are not known or cannot be found, the judge of the juvenile court 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 418.405 to 418.455.

[Formerly 419.218; 1967 c.534 §18]

418.450 [Formerly 419.220; repealed by 1967 c.534 §34]

418.455 Institutions may exercise authority of guardian. Any institution entitled to receive state aid pursuant to ORS 418.405 to 418.455 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.

[Formerly 419.222]

418.460 Certain state-aided institutions must collect funds from parents for support of children. Every benevolent and charitable institution which receives state aid for the care and support of children committed to it by the juvenile court shall collect, so far as practicable, the funds for the support of such children which have been adjudged by the courts committing them to the institution. Such institutions may apply to the court for execution or other action, as provided in ORS 419.515, 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.

[Formerly 419.566 and then 419.224]

418.465 Agencies and institutions to submit estimates of state aid required for biennium. The agencies and institutions certified pursuant to ORS 418.005 to 418.025,

418.035 to 418.315, 418.355 to 418.370, 418.405 to 418.470, 418.505 to 418.565, 418.610 to 418.730 and 418.805 to 418.885 and otherwise qualified to receive state aid thereunder shall, through an organization representing such agencies and institutions, submit to the Executive Department, as though such organization were a state agency subject to ORS 291.208, an estimate of the amount of such state aid to which they may become entitled during the biennium commencing on July 1 of the following year. The organization representing the agencies and institutions shall consult with appropriate state agencies prior to submitting their estimate and shall supply such other information in support of such estimate as may be required from time to time by the Executive Department.

[1963 c.150 §2]

418.470 Authority to pay for shelter-care homes. (1) The Children's Services Division may engage and make reasonable payment for services of persons to make available, maintain and operate shelter-care homes for the safekeeping of children taken into temporary custody pending investigation and disposition.

(2) The services, pursuant to specific prior authorization of the division, shall be deemed actually rendered if the shelter-care home is made available, maintained and operated to receive such children.

[1969 c.184 §1; 1971 c.401 §36]

Note: ORS 418.470 was not added to and made a part of ORS chapter 418 by legislative action.

PURCHASE OF CARE

418.480 "Purchase of care" defined. As used in ORS 418.480 to 418.500, "purchase of care" includes the purchase of institutional and foster family care and services, adoptive services, services to the unwed mother and her child and such other care and services as the Children's Services Division, in consultation with the Director of the Department of Human Resources, shall determine to be necessary to carry out the policy stated in ORS 418.485.

[1971 c.457 §1]

418.485 Policy. It is the policy of the State of Oregon to strengthen family life and to insure the protection of all children either in their own homes or in other appropriate care outside their homes. In affording such protection, the Director of the Depart-

ment of Human Resources shall in cooperation with public and private child-caring agencies develop a set of short-range and long-range priorities for the development of needed child care and services, such priorities to be periodically reviewed and revised as necessary. The State of Oregon hereby commits itself to the purchase of care and services for children who need care and to encourage private child-caring agencies to develop programs required to meet the needs of the children of this state and money may be appropriated therefor.

[1971 c.457 §2]

418.490 Coordination of state activities. In carrying out the policies of this state as stated in ORS 418.485, it shall be the responsibility of the Director of the Department of Human Resources to coordinate the activities of all state agencies that have responsibilities for care of children to insure the best care possible and to avoid duplication of effort or conflict in policy.

[1971 c.457 §3]

418.495 Authority to purchase care; contract content. Within the limits of funds available therefor, the Children's Services Division may enter into agreements with licensed child-caring agencies and other appropriate facilities, including youth care centers, for the purchase of care for children who require and are eligible for such care, regardless of whether the children are wards of the state or whether the division is their guardian or has their custody or whether the children are surrendered to a child-caring agency or committed thereto by order of a court under ORS chapter 419. The agreement shall prescribe the procedures for payment, the rate of payment and may contain such other conditions as the division and the agency or facility may agree.

[1971 c.457 §4]

418.500 Out-of-state care for children. If the Children's Services Division determines that need exists for care and treatment of a child who is eligible for such care and treatment that is not available through any public or private agency or facility in this state, it may enter into an agreement with a public or private agency outside this state for the purchase of care for the child. Such agreements shall contain the matter described in ORS 418.495 and shall apply to children described therein.

[1971 c.457 §5]

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

418.505 Procedure to obtain state aid.

(1) Any charitable or corrective agency in this state wishing to secure state aid pursuant to ORS 418.505 to 418.530 shall make application therefor to the State Board of Health. In the application the agency shall:

(a) 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;

(b) State how long it has been engaged in this state in caring for such wayward girls and female persons; and

(c) Declare its willingness to submit to any reasonable health and sanitary rules and regulations prescribed by the State Board of Health.

(2) Upon receiving such application, the board shall investigate the affairs and methods of the agency and the conditions surrounding it. If the board finds such agency is properly conducted and worthy of state aid, and if it does not receive within the time specified a certificate of noncompliance issued by the State Fire Marshal, his deputy, or approved authority pursuant to ORS 479.220, the board shall give the agency a certificate to that effect and file and send a duplicate of such certificate to the Public Welfare Division.

[Formerly 419.252; 1963 c.451 §2; 1967 c.89 §2; 1967 c.454 §51]

418.510 Annual financial and statistical report to State Board of Health; effect of failure to file. All institutions which receive state aid pursuant to ORS 418.505 to 418.530 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 Children's Services Division of such failure and such institution shall not thereafter be entitled to any benefits or payments pursuant to ORS 418.505 to 418.530 until such failure has ceased.

[Formerly 419.254; 1967 c.454 §52; 1971 c.401 §37]

418.515 Amount of state aid. Each agency which has received from the State Board of Health a certificate provided for in ORS 418.505 is entitled to receive state aid:

(1) At the rate of \$2.50 per day for each wayward girl between the ages of 12 and 18 years. However, the Children's Services Division 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 \$2.90 per day for each maternity or venereal case, regardless of age.

(3) Whenever the welfare of any person subject to the provisions of ORS 418.405, 418.505 and this section demands special care outside of the agency, the agency may place such person in a home or hospital outside the agency. State aid shall be allowed the same as though such person were kept and maintained within the agency.

[Formerly 419.256; 1963 c.451 §3; 1969 c.440 §2; 1971 c.401 §38]

418.520 Presentation and approval of claims for state aid. The institution or agency shall present to the Children's Services Division 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 division shall investigate each claim made by an institution or agency and approve only that portion of such claim found eligible, in accordance with law.

[Formerly 419.258; 1971 c.401 §39]

418.525 Payment of claims. Upon approval of a claim by the Children's Services Division as provided in ORS 418.520, a warrant shall be drawn 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 418.505 to 418.530 shall be paid monthly.

[Formerly 419.260; 1967 c.454 §53; 1971 c.401 §40]

418.530 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 418.505 to 418.530 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 418.505 to

418.530 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 418.355.

(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.

[Formerly 419.262]

PROVISIONS APPLICABLE TO ALL STATE-AIDED INSTITUTIONS

418.555 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.

[Formerly 419.302]

418.560 Termination of state aid for unentitled child. Whenever the Children's Services Division 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 division,

which, after a fair and impartial hearing, shall render its final decision on the issue presented.

[Formerly 419.304; 1971 c.401 §41]

418.565 Payment of claims. In payment of all duly approved claims incurred in pursuance of law governing child-caring institutions receiving state aid, warrants shall be drawn on the State Treasurer out of the respective appropriations from which the claims are determined to be payable. Before a warrant is drawn in payment of any claim for state aid by any child-caring institution or agency, the Children's Services Division 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 the 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 Administrator of the Children's Services Division shall prepare an appropriate certificate showing the result of findings upon the claim of each institution investigated. 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.

[Formerly 419.306; 1967 c.454 §54; 1969 c.597 §255; 1971 c.401 §42]

418.570 [Formerly 419.530 and then 419.308; repealed by 1963 c.451 §4]

COUNTY AID TO INSTITUTIONS

418.605 [Formerly 419.352; repealed by 1971 c.401 §120]

418.610 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 418.605 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 418.605 and this section 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 418.605 and this section shall be paid monthly. [Formerly 419.356]

FOSTER HOMES NOT SUPERVISED BY CHILD-CARING AGENCIES

418.625 Definitions for ORS 418.625 to 418.645. As used in ORS 418.625 to 418.645:

(1) "Division" means the Children's Services Division.

(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 division. [Formerly 419.402; 1971 c.401 §44]

418.630 Foster home must be certified as approved. No person shall operate a foster home without a certificate of approval issued by the Children's Services Division. [Formerly 419.404; 1971 c.401 §45]

418.635 Certificate of approval. Application for a certificate to operate a foster home shall be made to the division upon a form to be furnished by the division. Upon receipt of such application, the division 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 418.625 to 418.645 and with the rules and regulations of the division. 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 division because of violation of any of the provisions of ORS 418.625 to 418.645 or of the rules and regulations provided for in ORS 418.640. Such certificate shall be in the form prescribed by the division 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. [Formerly 419.406]

418.640 Supervision of foster homes. (1) The Children's Services Division shall make such rules and regulations, not inconsistent with ORS 418.625 to 418.645 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 418.625 to 418.645.

(2) The division 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 division and that proper care is being given to the children therein. [Formerly 419.408; 1971 c.401 §46]

418.645 Appeal from decision of division. Any person affected by any decision or order of the division made pursuant to ORS 418.625 to 418.645 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 Children's Services Division 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 division 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. [Formerly 419.410; 1969 c.597 §256; 1971 c.401 §47]

A. R. BURBANK TRUST FUND

418.675 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 orphan's 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 management 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.

[Formerly 419.452]

418.680 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.

[Formerly 419.454]

418.685 Certain agencies declared to be orphans' homes. For the purposes of ORS 418.675, the Boys' and Girls' Aid Society and the Baby Home at Portland hereby are declared to be orphans' homes.

[Formerly 419.456]

SUMMER CAMP PROGRAM

418.705 Summer camp program authorized. The State Board of Forestry shall establish a summer camp program for boys selected in accordance with the provisions of ORS 418.705 to 418.730. The summer camp

program shall be designed to make available to the boys participating in the program not only wholesome and healthful outdoor recreational activities but also suitable work projects of a forest conservation nature involving:

(1) Improvements of a forest rehabilitation or improvement nature to state and county forest lands and Oregon O and C lands, including but not limited to:

- (a) Pruning young stands of timber.
- (b) Thinning practices.
- (c) Forest sanitation practices, including insect and disease control.
- (d) Releasing timberlands for growth of desirable timber species by killing or removing undesirable growth.
- (e) Stream clearance.
- (f) Building and maintaining fire trails.

(2) Improvements of the type described in subsection (1) of this section on national forest lands pursuant to agreements made pursuant to ORS 418.725 with the appropriate federal agency.

(3) Being available to the State Forestry Department for emergency fire control work.

(4) Improvement of recreational facilities in national, county and state forests and Oregon O and C lands.

[1961 c.621 §1]

418.710 Duties of State Board of Forestry in conducting program. (1) In carrying out the provisions of ORS 418.705 to 418.730, the State Board of Forestry may establish one or more camps.

(2) The State Board of Forestry may provide the camps with the necessary facilities, including:

(a) Housing, kitchen, toilet and bathing facilities.

(b) Recreational facilities and equipment for outdoor recreational activities.

(c) Transportation commensurate with the needs of the camp.

(3) The State Board of Forestry shall provide the boys at each camp with adequate emergency medical and dental care.

(4) The State Board of Forestry shall be responsible for the supervision of all boys participating in the summer camp program while the boys are in the custody and control of the board. The authorized representative of the State Board of Forestry in charge of

the summer camp program may dismiss from the program any boy whose conduct at any time or place is, in the opinion of the representative, detrimental to the summer camp program.

(5) The State Forester shall hire a competent camp director to supervise each boys' camp established under the summer camp program.

[1961 c.621 §4]

418.715 Eligibility, selection and compensation of participants in program. (1) In accordance with subsection (2) of this section, a boy who is 15 years of age or older and under 19 years of age may be selected to attend the summer camp program.

(2) In each county participating in the program, the county school superintendent, with the advice and approval of the county court or board of county commissioners, shall select the boys from that county who are to participate in the program. The county school superintendent, with the advice of the State Forester and with the advice and approval of the county court or board of county commissioners, is authorized to adopt such procedures and requirements as he considers necessary governing the selection of boys to participate in the program.

(3) The boys participating in the summer camp program may be paid compensation for work done in such amounts as are established by agreement between the State Board of Forestry and the county court or board of county commissioners.

[1961 c.621 §§2, 5]

418.720 Allocation of costs between state and participating counties; county tax levy; Summer Camp Program Account. (1) The county court or board of county commissioners of any county may enter into an agreement with the State Board of Forestry for participation of the county in the summer camp program. The agreement shall include provisions for the sharing of the costs of operation of the summer camp program. The agreement shall be in accord with the policy set forth in subsection (2) of this section.

(2) The state shall bear the cost of providing supervision of the summer camp program and the cost of providing the facilities referred to in subsection (2) of ORS 418.710. The counties participating in the program shall bear the cost of the general care and maintenance of the boys while at the camp

and of any compensation paid to the boys attending the camp. Counties are authorized to budget for and levy taxes in accordance with the procedures provided by law for the purpose of obtaining funds in order to participate in the summer camp program.

(3) The counties participating in the summer camp program shall make payments directly to the State Board of Forestry in accordance with the agreement. All moneys received by the State Board of Forestry pursuant to the agreement shall be deposited with the State Treasurer and credited to an account in the General Fund to be known as the Summer Camp Program Account. The moneys in such account hereby are appropriated continuously for the purpose of carrying out the provisions of ORS 418.705 to 418.730.

[1961 c.621 §3]

418.725 Cooperation with federal, state and county agencies. In the establishment and operation of the summer camp program the State Board of Forestry may cooperate with and enter into agreements with the Forest Service or Bureau of Land Management of the United States, with counties and with any other federal or state agency.

[1961 c.621 §6]

418.730 State Board of Forestry may pay for forest improvements and rehabilitation. To the extent that the improvements to a state forest are of a forest rehabilitation or improvement nature, the State Board of Forestry may pay an amount of the expenses of operation of the summer camp program not exceeding the value of the improvements from moneys authorized by law to be expended in the rehabilitation or improvement of the state forest.

[1961 c.621 §7]

CHILD ABUSE

418.740 Definitions for ORS 418.740 to 418.775. As used in ORS 146.710 to 146.780, 146.990, 418.740 to 418.775, and 419.476, unless the context requires otherwise:

(1) "Abuse" means:

(a) Any physical injury to a child caused by blows, beating, physical violence or by use of a knife, gun, pistol or other deadly weapon where there is some cause to suspect that the injury was intentionally or wantonly inflicted.

(b) Neglect, including malnutrition, which leads to physical harm. A child who

in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered a neglected child within the meaning of ORS 146.710 to 146.780, 146.990, 418.740 to 418.775, and 419.476.

(c) Any physical injury or disease caused by an apparent violation of ORS 163.220 as revealed by a physical examination.

(2) "Child" means an unmarried person who is under 15 years of age.

(3) "Public or private official" means:

(a) Physician, including an intern.

(b) Dentist.

(c) School teacher, school nurse or school principal.

(d) Public health nurse employed by a local health department.

(e) Social worker employed by the Children's Services Division, the Public Welfare Division, a county juvenile department, or a licensed child-caring agency.

(f) Peace officer.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

[1971 c.451 §2]

418.745 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse and to safeguard and enhance the welfare of abused children, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children.

[1971 c.451 §1]

418.750 Duty of officials to report child abuse. Any public or private official having reasonable cause to believe that any child with whom he comes in contact in his official capacity has suffered abuse shall report or cause a report to be made in the manner required in ORS 418.755. He shall also make a report to his immediate supervisor, if any.

[1971 c.451 §3]

418.755 Report content. An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing to a law en-

forcement agency within the county where the public or private official is at the time of his contact. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), the explanation given for the injuries and any other information which the reporter believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

[1971 c.451 §4]

418.760 Duty of law enforcement agency receiving report; investigation; protective services for child. (1) Upon receipt of oral report required under ORS 418.750, the law enforcement agency shall immediately notify the appropriate medical investigator and the Public Welfare Division. The law enforcement agency and the medical investigator shall cause an investigation to be made to determine the nature and cause of the injuries to the child.

(2) If the law enforcement agency conducting the investigation or the medical investigator finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify the district attorney, the Public Welfare Division and the juvenile department of the county in which it is located within 24 hours of the receipt of the oral report. The Children's Services Division shall offer protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard his welfare.

[1971 c.451 §5]

418.765 Central registry of reports. Central registries shall be established and maintained by the Children's Services Division. Every law enforcement agency shall forward copies of all reports received to the state registry after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown. Each registry shall contain information from reports catalogued both as to the name of the child and the name of the family.

[1971 c.451 §6]

Note: Section 18, chapter 451, Oregon Laws 1971, provides: The Children's Services Division shall prepare and present to the Fifty-seventh Legislative Assembly a report detailing the activities in relation to section 6 of this Act and shall make such recommendations for further legislation as it deems appropriate.

418.770 Confidentiality of records; availability to law enforcement agencies and physicians. Notwithstanding the provisions of ORS chapter 192 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 418.750 to 418.765 are confidential and are not accessible for public inspection. However, the Children's Services Division shall make records available to any law enforcement agency of this state or any other state for purposes of subsequent investigation of child abuse, and to any physician, at his request, regarding any child brought to him or coming before him for examination, cure or treatment.

[1971 c.451 §7]

418.775 Certain privileges not grounds for excluding evidence in court proceedings on child abuse. (1) In the case of abuse of a child, as defined in ORS 418.740, neither the physician-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's abuse, as defined in ORS 418.740, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 418.750.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 418.750, either spouse shall be a competent and compellable witness against the other.

[Formerly 146.770]

DAY CARE FACILITIES

418.805 Definitions for ORS 418.805 to 418.885. As used in ORS 418.805 to 418.885, unless the context requires otherwise:

(1) "Child" means a child under 15 years of age.

(2) "Day care" means care provided to a child during a part of the 24 hours of the day, with or without compensation. "Day care" does not include care provided:

(a) In the home of the child;

(b) By the child's parent, guardian, or person acting in loco parentis;

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(d) On an occasional basis by a person not ordinarily engaged in providing day care; or

(e) By providers of medical services.

(3) "Day care facility" means any facility that provides day care to three or more chil-

dren, including a day nursery, nursery school group, family day care home or similar unit operating under any name, but not including any:

(a) Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.

(b) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion.

(c) Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by a school district, political subdivision of this state or a governmental agency.

(e) Group care home licensed under ORS 443.210 to 443.330.

[1969 c.641 §1]

Note: ORS 418.805 to 418.885 were not added to and made a part of ORS chapter 418 by legislative action.

418.810 Certificate of approval for day care facility. (1) No person shall operate a day care facility caring for five or more children without a certificate of approval for such facility from the Children's Services Division.

(2) Any person operating a day care facility for fewer than five children may apply for a certificate of approval for such facility from the Children's Services Division.

[1969 c.641 §2; 1971 c.401 §48]

418.815 Requirements for certificate. A person applying for a certificate of approval for a day care facility shall demonstrate to the satisfaction of the Children's Services Division that:

(1) His moral character and habits will not endanger the well-being of children for whom he is to provide care.

(2) His attitude toward children and his understanding of their needs qualify him to care for children.

(3) He is physically and mentally capable of caring for children.

(4) The facility and its operation are adequate to protect the health, the safety and the physical, moral and mental well-being of the children to be cared for in the facility, including but not limited to:

(a) Adequate staffing by suitable persons qualified by education or experience to meet

their respective responsibilities in the care of children.

(b) Adequate physical facilities for the care of children, such as building construction, sanitation, plumbing, heating, lighting, ventilation, maintenance, indoor and outdoor activity areas and fire protection.

(c) A program of activities conforming to recognized practices in the areas of child welfare, education and physical and mental health to provide opportunity for development and recreation.

(d) Exclusion from the facility of individuals whose presence may be detrimental to the welfare of children.

[1969 c.641 §3; 1971 c.401 §49]

418.820 Minimum standards for day care facilities. After consultation with appropriate agencies and interested persons, the Public Welfare Division shall establish minimum standards for day care facilities and the operation thereof and for the administration of ORS 418.805 to 418.885. In establishing minimum standards of health and safety, the division shall consult with the State Board of Health and the State Fire Marshal and shall give consideration to their recommendations and to all basic requirements for the protection of the children to receive day care, including the criteria prescribed in ORS 418.815, and may adopt rules applicable to different categories of day care facilities, considering:

(1) The numbers and ages of the children to receive care in the day care facility.

(2) The number, experience and training of the staff of the day care facility.

(3) The types and qualities of equipment and other factors in the physical plant of the day care facility.

(4) Any other factor affecting the care provided in the day care facility.

[1969 c.641 §4]

418.825 Investigation; temporary certificate; division as state agency for federal program. (1) Upon receipt of an application for a certificate of approval, accompanied by the required fee, the Children's Services Division may cause an investigation to be made and, subject to reasonable terms and conditions, shall issue a certificate of approval if it finds that the day care facility and its operations are in compliance with the requirements of ORS 418.805 to 418.885 and the rules promulgated pursuant thereto.

(2) The Children's Services Division may issue a temporary certificate of approval, subject to reasonable terms and conditions, for a period not longer than 180 days to a day care facility which does not comply with the requirements and rules if the division finds that the health and safety of any child will not be endangered thereby. Not more than one temporary certificate of approval shall be issued for the same day care facility in any 12-month period.

(3) The Children's Services Division shall serve as the state agency authorized, upon request, to certify compliance with applicable federal day care standards or requirements by any facility providing day care in the state. [1969 c.641 §5; 1971 c.401 §50]

418.830 Fee; expiration date of certificate; transferability. (1) Application for a certificate of approval or for the annual renewal thereof shall be made to the Children's Services Division on forms provided by the division and accompanied by a nonrefundable fee of:

(a) Except as provided in paragraph (b) of this subsection, \$25 for a day care facility for five or more children.

(b) The fee from any applicant who qualifies for an annual certificate prior to or immediately upon the expiration of a temporary certificate shall be computed as follows:

$$\text{Fee} = \$25 \times \frac{\text{Operating period under temporary certificate (months)}}{12}$$

(2) All fees received under subsection (1) of this section shall be deposited in the account established under ORS 411.240 and may be used for the administration of ORS 418.805 to 418.885.

(3) Any certificate of approval issued pursuant to ORS 418.805 to 418.885 authorizes operation of the facility only on the premises described in the certificate and only by the person named in the certificate.

(4) Unless sooner revoked, a temporary certificate of approval expires on the date specified therein. Unless sooner revoked and except as provided in subsection (2) of ORS 418.835, an annual certificate of approval expires one year from the date of issuance.

[1969 c.641 §6; 1971 c.401 §51]

418.835 Renewal of certificate; effect of renewal application. (1) A certificate of approval authorized by ORS 418.805 to 418.885

may be renewed upon submission of application and payment of required fee not later than 30 days prior to the expiration date of the current certificate of approval, if the Children's Services Division finds that the day care facility for which renewal of certificate is sought is in compliance with the requirements of ORS 418.805 to 418.885 and the rules promulgated pursuant thereto.

(2) Upon submission of application for renewal in proper time, manner and form, and payment of required fee, the current certificate of approval, unless officially revoked shall remain in force until the Children's Services Division has acted on the application for renewal and has given notice of the action taken.

[1969 c.641 §7; 1971 c.401 §52]

418.840 Denial, suspension or revocation of certificate. An application for certificate of approval or renewal may be denied or a temporary or annual certificate of approval may be revoked or suspended if the Public Welfare Division finds:

(1) That the facility or its operation does not comply with ORS 418.805 to 418.885 or with applicable rules or with any term or condition imposed under the certificate of approval; or

(2) That visitation or inspection of a facility or its records authorized by ORS 418.850 or 418.855 has not been permitted.

[1969 c.641 §8]

418.845 Notice; hearing; decision; judicial review. (1) The Children's Services Division shall give notice by certified mail of its intention to deny an application, or to revoke, suspend, or not renew a temporary or annual certificate of approval. The notice shall state the reasons for the proposed action and shall be mailed to the address of the day care facility as shown on the records of the division not less than 30 days prior to the effective date of the proposed action.

(2) Within 30 days from the mailing of the notice, written request for hearing in behalf of the day care facility may be served by certified mail upon the Children's Services Division. If no request for hearing is made within the time specified, the certificate of approval shall be deemed denied, suspended, revoked or not renewed.

(3) Upon receipt of request for hearing, the Children's Services Division shall appoint an examiner or referee to hold and conduct

the hearing. The examiner or referee shall set the time and place for the hearing and shall give the day care facility at least 15 days of notice thereof.

(4) A full record of the hearing shall be made and a summary thereof, together with findings and recommendations, shall be transmitted to the Children's Services Division.

(5) The Children's Services Division shall make the final decision and notice thereof shall be sent by certified mail to the address of the day care facility as shown on the records of the division. The decision of the division is reviewable only upon a writ of review pursuant to ORS 34.010 to 34.100.

[1969 c.641 §9; 1971 c.401 §53]

418.850 Division inspection of premises; right of entry; reports and information. (1)

Whenever an authorized representative of the Children's Services Division is advised or has reason to believe that a day care facility is providing day care to five or more children without a certificate of approval, he may visit and inspect the premises of the facility at any reasonable time to determine whether the facility is subject to the requirements of ORS 418.805 to 418.885.

(2) An authorized representative of the Children's Services Division may inspect the premises of any day care facility to which a certificate of approval has been issued at any reasonable time to determine whether it is in conformity with ORS 418.805 to 418.885 and the rules promulgated pursuant thereto.

(3) The director and operator of a day care facility shall permit an authorized representative of the division to inspect records of the facility and shall furnish promptly reports and information required by the division.

[1969 c.641 §11; 1971 c.401 §54]

418.855 State Board of Health inspection of premises; report to division. (1) An

authorized representative of the State Board of Health may inspect the premises of a day care facility caring for seven or more children to determine whether the facility is in conformity with applicable laws and regulations relating to health and sanitation.

(2) An authorized representative of the State Board of Health shall inspect any day care facility when requested to do so by the Children's Services Division in accordance with arrangements under ORS 418.865 and shall submit written finding to the division.

The division shall not issue or renew any certificate of approval for any day care facility for which an inspection by the State Board of Health has been requested unless an authorized representative of the State Board of Health submits a written finding that the facility is in compliance with applicable laws and regulations relating to health and sanitation.

[1969 c.641 §12; 1971 c.401 §55]

418.860 Search warrant. (1) In the event that any authorized representative of the Children's Services Division, State Board of Health or other agency is denied access to any premises for the purpose of making an inspection in the administration of ORS 418.805 to 418.885, the representative shall not inspect the premises without a search warrant.

(2) Application for a search warrant to inspect the premises shall be made to any magistrate authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with the magistrate showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, the statutes and rules which provide the basis for inspection, whether it is a routine or periodic inspection or an inspection instituted by complaint and other specific or general information concerning the premises.

(3) If the magistrate is satisfied that there is probable cause to believe that the grounds of the application exist, he shall issue the search warrant specifying the purpose and extent of the inspection of the premises covered by the warrant.

[1969 c.641 §13; 1971 c.401 §56]

418.865 Cooperative agreements relating to inspection of facilities. The Children's Services Division may enter into cooperative arrangements with the State Board of Health, the State Fire Marshal and other public agencies for the provision of services in the inspection of day care facilities in the administration of ORS 418.805 to 418.885. The arrangements shall designate which services shall be reimbursed and the rate and manner of reimbursement.

[1969 c.641 §15; 1971 c.401 §57]

418.870 Injunction. Without the necessity of prior administrative proceedings or hearing and entry of an order or at any time during such proceedings if they have been commenced, the Children's Services Division

may institute proceedings to enjoin the operation of any day care facility operating in violation of ORS 418.805 to 418.885 or the rules promulgated pursuant thereto.

[1969 c.641 §14; 1971 c.401 §58]

418.875 Day care advisory committee.

(1) A day care advisory committee is established, consisting of 15 members to be appointed by the Administrator of the Children's Services Division from among persons professionally trained in the education or care of children, persons operating day care facilities and persons using day care facilities for the care of their children.

(2) Members shall serve at the pleasure of the Administrator of the Children's Services Division.

(3) Members of the day care advisory committee shall receive no compensation for their services, but, subject to any applicable state law, shall be allowed from the Public Welfare Account their actual and necessary travel expenses incurred in the performance of their official duties.

[1969 c.641 §4a; 1971 c.401 §59]

418.880 Duties of advisory committee; division to consult with committee. (1) The day care advisory committee shall advise the Children's Services Division on:

(a) Minimum standards for day care facilities and the operation thereof.

(b) Matters pertaining to the provision of day care services.

(c) Matters pertaining to the administration of ORS 418.805 to 418.885.

(d) Matters referred to it for study by the division.

(2) The division shall consult with the day care advisory committee concerning the determinations required under ORS 418.815 and 418.820.

[1969 c.641 §§4b, 4c; 1971 c.401 §60]

418.885 Division to assist day care facilities. The Children's Services Division may consult with, advise or train the staffs of day care facilities or other interested persons concerning day care programs.

[1969 c.641 §10; 1971 c.401 §61]

PENALTIES

418.990 Penalties. (1) Violation of ORS 418.130 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 subsection (1) of ORS 418.140 is a misdemeanor.

(3) Violation of ORS 418.290, 418.300, subsection (2) of ORS 418.230, subsection (3) of ORS 418.240, ORS 418.250 or 418.255 is punishable upon conviction by a fine not exceeding \$100.

(4) Violation of ORS 418.630 is punishable upon conviction by a fine not exceeding

\$500 or by imprisonment in the county jail for not exceeding six months, or both.

(5) Violation of subsection (1) of ORS 418.810 is a misdemeanor. Each day of violation is a separate offense.

(6) Violation of ORS 418.750 is a misdemeanor.

[Formerly part of 419.990; subsection (2) enacted as 1961 c.341 §3; subsection (5) enacted as 1969 c.641 §20; subsection (6) enacted as 1971 c.451 §8]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 1, 1971.

Robert W. Lundy
Legislative Counsel