

Chapter 418

1987 REPLACEMENT PART

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CHILD WELFARE SERVICES GENERALLY

418.001 Definition for ORS 418.003 to 418.030. As used in ORS 418 003 to 418 030, "child" or "juvenile" means an individual under 21 years of age [1973 c 827 §34]

418.003 Personnel Relations Law applicable to division personnel; division as appointing authority; personnel; reimbursement of expenses. (1) All Children's Services Division personnel engaged in the administration of services to families or children in compliance with the federal social security laws shall be subject to the merit system prescribed in the State Personnel Relations Law For purposes of the State Personnel Relations Law, the Children's Services Division is the appointing authority of all employes in the division

(2) The assistant director, in conformity with the State Personnel Relations Law, may appoint and employ such personnel as may be necessary for the division, and may appoint and fix the compensation of all assistants and employes of the division

(3) The assistant director may authorize reimbursement of such expenses as are approved by the division and incurred by assistants and employes of the division, and by volunteers or other persons not employed by the division, in carrying out duties assigned or authorized by the division [1973 c 463 §§2, 3]

418.005 Powers of division in connection with child welfare services; advisory committee. (1) In order to establish, extend and strengthen welfare services for the protection and care of homeless, dependent or neglected children or children in danger of becoming delinquent, the Children's Services Division may

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

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

(c) Make such reports in such form and containing such information as may from time to time be required by the Federal Government and comply with such provisions as may from time to time be found necessary to insure correctness and verification of such reports

(d) Cooperate with medical, health, nursing and welfare groups and organizations and with any agencies in the state providing for protection

and care of homeless, dependent or neglected children or children in danger of becoming delinquent

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

(2) In addition to the advisory committees established under ORS 418 373 to 418 399 and 418 900 to 418 920 and 423 320, there is created an advisory committee which shall consist of 21 members to advise the Children's Services Division on the development and administration of the policies, programs and practices of the division Members shall be appointed by and serve at the pleasure of the assistant director of the division

(a) Advisory committee membership shall include representatives of other state agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested in service programs, and recipients of assistance or service or their representatives

(b) Members of the advisory committee shall receive no compensation for their services Members of the advisory committee other than members employed in full-time public service shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties by the Children's Services Division Such reimbursements shall be subject to the provisions of ORS 292 210 to 292 288 Members of the advisory committee who are employed in full-time public service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties by their employing agency

(c) The advisory committee shall meet at least once every three months

(3) Subject to the allotment system provided for in ORS 291 234 to 291 260, the division may expend the amounts necessary to carry out the purposes and administer the provisions of this section [Formerly 419 002, 1971 c 401 §12, 1975 c 352 §1]

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;

placement. (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 dependent, neglected, mentally or physically disabled 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

(3) All children in the legal custody of the Children's Services Division who, in the judgment of the Assistant Director for Children's Services or the authorized representative for the assistant director are in need of care or treatment services, may be placed with any person or family of good standing or any child caring agency for such services under an agreement pursuant to ORS 418.027 [Formerly 419.006 1971 c 401 §13, 1971 c 698 §1 1977 c 117 §1, 1987 c 157 §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]

418.027 Agreements for custody, care or treatment. (1) The Assistant Director for Children's Services or the authorized representative of the assistant director may enter into agreements with persons, families or child caring agencies found suitable for the placement of children in the legal custody of the Children's Services Division. If, in the judgment of the assistant director or the authorized representative of the assistant director, a child needs placement services after reaching 18 years of age, such services must be approved by the assistant director or authorized representative

(2) The agreement shall provide for such services as the child might require, such as the custody, care or treatment of the child for a time fixed in the agreement but not to exceed the time when the child reaches 21 years of age

(3) The agreement shall be signed by the person or authorized representative of the agency providing the care or treatment and by the assistant director or the authorized representative of the assistant director

(4) If the agreement provides for payments to the agency providing such services as the child may require, the Children's Services Division shall make these payments

(5) The Children's Services Division shall adopt rules specifying criteria upon which the assistant director shall base the judgment that a child needs placement services after reaching 18 years of age [1987 c 157 §3]

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. The Children's Services

Division is to report to the Fifty-ninth Legislative Assembly the results of their studies and surveys on the prevention, control and treatment of juvenile delinquency [1971 c 401 §90, 1975 c 795 §1]

418.032 Division subrogated to right of support for certain children in division custody. Whenever the Children's Services Division has accepted custody of a child under the provisions of ORS 418 015 and is required to provide financial assistance for the care and support of the child, it shall, by operation of law, be assignee of and subrogated to any right to support from any other person including any sums which may have accrued, up to the amount of assistance provided by the division. If the right to support is contained in a decree or order which requires a single gross monthly payment for the support of two or more children, the assignment and right of subrogation shall be of such child's proportionate share of the gross amount [1979 c 343 §4]

418.033 Release of records to citizen review board; when findings of board public. The division may release pertinent portions of client or provider records to citizen review boards established by the division to hear client or provider grievances pursuant to rules of the division. The citizen review boards may make such information available to participants in the review of client or provider grievances. The findings of the citizen review board in client or provider grievances may be disclosed to the public, at the discretion of the division, if the aggrieved client or provider has disclosed information concerning the grievance to the public either directly or through another person or persons acting on behalf of the aggrieved client or provider [1985 c 601 §3]

418.034 Division responsible for costs, of medical care of certain children in detention or lockup facilities; recovery of costs, obtaining additional funds. (1) Notwithstanding ORS 169 140 or any other provision of law, within the availability of funds therefor, the Children's Services Division shall be responsible for the costs and expenses associated with the provision of medical care for any child in the care and custody of the Children's Services Division who is held in a juvenile detention facility or in a local correctional facility or lockup as defined in ORS 169 005

(2) Nothing in subsection (1) of this section prevents the Children's Services Division from obtaining reimbursement for such costs and expenses as provided in ORS 419 513

(3) If funds are not available to pay for medical costs as required by subsection (1) of this

section, the Children's Services Division shall apply to the Emergency Board or to the Legislative Assembly for additional necessary funds

(4) As used in this section, "medical care" means emergency medical care or medical care for a medical condition that existed prior to the child's being held in a juvenile detention facility or in a local correctional facility or lockup [1979 c 97 §1]

AID TO DEPENDENT CHILDREN

418.035 Definitions for ORS 418.035 to 418:172. As used in ORS 418 035 to 418 172, 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 the child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece in a place of residence maintained by one or more of such relatives as the child's or their own home, and either

(d) Who is under the age of 18 years,

(e) Subject to the availability of funds for the children described in this paragraph, who is 18 or 19 or 20 years of age and a student regularly attending a school in grade 12 or below or regularly attending a course of vocational or technical training, other than a course provided by or through a college or university, designed to fit the child for gainful employment, or

(f) Students under the age of 21 years and regularly attending a school, college or university or regularly attending a course of vocational or technical training designed to fit the child for gainful employment may be included in the description in paragraph (e) of this subsection at the option of the Adult and Family Services 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 either

(B) The spouse of such relative if living with the relative 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

(C) The spouse of such relative if living with the relative and if such relative is the child's parent and the child is a dependent child as defined in ORS 418 070 (1)(a) and is dependent 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 Adult and Family Services Division to receive money payments of aid pursuant to ORS 418 050 [Formerly 419 052 and then 418 055, 1967 c 155 §1, 1969 c 69 §7, 1981 c 819 §1, 1983 c 414 §2]

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 Adult and Family Services 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, 1969 c 468 §5]

418.042 Assignment of support rights and cooperation with Department of Human Resources; protection of legal rights. (1) Aid, as defined in ORS 418 035 (2), shall not be granted to, or on behalf of, any applicant, or recipient and for as long as the applicant or recipient refuses to assign to the Department of Human Resources any rights to support from any other person such applicant may have personally or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at any time such assignment is executed, or refuses to cooperate with the Department of Human Resources in establishing the paternity of a child born out of wedlock and in obtaining support or other payments or property due the applicant or the child. If aid is paid and received for the support of a child, the rights to child support that any person may have for the child are deemed to have been assigned by operation of law to the Department of Human Resources. Notice of the assignment by operation of law shall be given to the applicant at the time of application for public assistance, and shall be given to any obligee who may hold some interest in such support rights by depositing a notice in the United States mail, postage prepaid, addressed to the last-known address of such person

(2) However, nothing in this section shall be construed to require an applicant or recipient to provide identification information the validity of which is subject to honest doubts or the public disclosure of which might reasonably tend to subject the applicant to a deprivation of constitutional liberty or property rights [1975 c 458 §12, 1983 c 767 §4]

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 418 172 shall be determined, in accordance with the rules and regulations of the Adult and Family Services 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 the natural or adopted children of the father

(3) In the determination of eligibility and the amount of need, and in an reconsideration thereof, with respect to an applicant or recipient of aid pursuant to ORS 418 035 to 418 172, 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, 1965 c 41 §1]

418.050 Payment of aid to other than relative. Subject to rules of the Adult and Family Services 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 the relative would be contrary to the welfare of such child and that, therefore, it is necessary to provide such aid through pay-

ments in the manner authorized by this section. Such determination shall be subject to review and hearing, upon application of such relative, in the manner prescribed pursuant to ORS 418.125. However, the pendency of such application, review or hearing shall not stay the effect of such determination.

(2) The Adult and Family Services Division 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 the relative and the family of the relative, and

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

(4) The services described in paragraph (a) of subsection (3) of this section may be obtained by the Adult and Family Services Division from Children's Services Division, upon mutual agreement between the two divisions. [1963 c 610 §5, 1975 c 243 §1]

418.054 Petition for and appointment of guardian or conservator; 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 or a conservator of the estate of the relative referred to in ORS 418.050 (1). If a guardian or a conservator of the estate of the relative is appointed and duly qualified, money payments of aid otherwise payable to the relative, or representative payee, shall be paid to the guardian or the conservator 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 or conservatorship established under this section

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

(b) Pay all costs and fees necessarily incurred by the guardian or the conservator in administering money payments of aid received by the guardian or conservator under this section, and

(c) Compensate the guardian or the conservator, for the fees in administering the money payments, according to schedules of fees prescribed by rule or regulation of the division. [1963 c 610 §6, 1973 c 823 §132]

418.055 [Formerly 419.052, 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 or a conservator under ORS 418.050 or 418.054 shall be expended by the representative payee, guardian or conservator solely to purchase the needs of the individuals with respect to whom the payment is made. However, from the money payments the individuals may receive from the representative payee, guardian or conservator such sums of money and at such intervals as may be permitted by rule or regulation of the Adult and Family Services Division. [1963 c 610 §7, 1973 c 823 §133]

418.060 [Formerly 419.054, renumbered 418.040]

418.065 [Formerly 419.056, 1963 c 610 §2, renumbered 418.045]

418.070 Special definitions for ORS 418.035 to 418.185. For the purposes of ORS 418.035 to 418.185, with respect to any period for which federal funds are made available to this state in aid of a state-administered program of aid to any child defined in and meeting the requirements of this section

(1) "Dependent child" includes

(a) A needy child meeting the requirements of ORS 418.035 (1)(d) or (e) who has been deprived of parental support or care by reason of the unemployment of a parent or parents and who is living with any of the relatives specified in ORS 418.035 (1) in a place of residence maintained by one or more of such relatives as the relative's or relatives' own home

(b) A child

(A) Who would meet the requirements of ORS 418.035 (1) or of paragraph (a) of this

subsection except for removal after April 30, 1961, from the home of a relative specified in ORS 418 035 (1) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

(B) Who has been accepted for placement and care by either or both the Adult and Family Services Division and the Children's Services Division,

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

(D) Who received aid in or for the month in which court proceedings leading to such determination were initiated, or would have received such aid in or for such month if application had been made therefor, or in the case of a child who had been living with a relative specified in ORS 418 035 (1) within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month the child had been living with and removed from the home of such a relative and application had been made therefor

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

(3) "Aid" includes foster care in behalf of a child described in paragraph (b) of subsection (1) of this section in the foster home of any individual or in a licensed nonprofit private child-caring agency

(4) "Unemployment of parent" shall be defined by the Adult and Family Services Division and such definition may take into account definitions used to establish the availability of federal funds for the program of aid to dependent children of unemployed parents [1961 c 712 §2, 1963 c 610 §3, 1967 c 155 §2, 1969 c 65 §1, 1973 c 464 §2, 1983 c 414 §3, 1985 c 622 §2]

418.075 Denial of aid where unemployed parent refuses employment. Aid, as defined in ORS 418 035 (2), shall not be granted with respect to, or on behalf of, a dependent child as defined in ORS 418 070 (1)(a) if, and for as long as, the unemployed parent of such child refuses without good cause to accept employment in which the unemployed parent is able to engage and which is offered through any employment office defined in ORS 657 010 (7) or which is otherwise offered by any employer if such offer is determined by the Adult and Family Services 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 Assistant Director for Employment 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 ORS 418 070 (1)(a), the Adult and Family Services Division and the Assistant Director for Employment 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 418 172

(2) Subject to rules and regulations of the Adult and Family Services 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 the applicant or recipient or those to whom the applicant or recipient 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 Adult and Family Services 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 Adult and Family Services 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 except that aid to dependent children service funds shall be disbursed by the Children's Services Division [Formerly 419 058 1971 c 779 §56, 1975 c 242 §1]

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 Adult and Family Services 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 Adult and Family Services 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 Adult and Family Services Division for review in the county which the applicant or recipient elects as provided by ORS 183 310 to 183 550 [Formerly 419 068 1971 c 779 §60, 1973 c 612 §16]

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 of the Adult and Family Services Division, or the Children's Services Division, whichever is applicable, solicit, disclose, receive, make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving such aid, directly or indirectly derived from the records, papers, files or communications of the Adult and Family Services Division or the Children's Services Division, whichever is applicable, or acquired in the course of the performance of official duties [Formerly 419 070 1975 c 387 §1]

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 employees 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 Adult and Family Services Division, the Support Enforcement 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. The granting of aid to the applicant shall not be delayed or contingent upon receipt of the answer to such requests by the Adult and Family Services Division, the Support Enforcement Division or the district attorney. The Adult and Family Services Division shall use such information only for the purposes of administration of public assistance to such children, and the district attorney and the Support Enforcement 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. Any person who violates this prohibition against disclosure, upon conviction, is punishable as provided in ORS 314 991 (2)

(2) The Adult and Family Services Division shall cooperate with the Support Enforcement

Division or the district attorney prosecuting or considering the prosecution of such parent for nonsupport and shall report to the Support Enforcement 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, 1979 c 690 §14]

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 Adult and Family Services 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 Adult and Family Services 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 the individual 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 Adult and Family Services 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 the 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 Adult and Family Services Division which shall determine adequacy of such lodging [1963 c 332 §3, 1967 c 446 §1, 1971 c 779 §62]

418.147 Policy on absent parent. (1) The Legislative Assembly declares that the policy of this state is that, to the extent consistent with federal law, the aid to dependent children program policy and practice shall recognize that an absent parent is often an important influence in the life of a child

(2) Program policy and practice

(a) Shall recognize that regular, frequent visits with absent parents are often in the best interests of needy children,

(b) Shall not interfere with the continuing relationship of absent parents with their children, whether the parents are temporarily or permanently out of the homes of their children, and

(c) Shall not restrict parents in adopting plans that they consider to be in the best interests of their children [1987 c 3 §10]

418.149 When child deprived of parental support of absent parent, effect of joint custody decree. (1) For purposes of ORS 418 035, where a parent is living out of the home in which the child resides, it shall be assumed that the child is deprived of parental support or care by reason of the continued absence of the parent unless

(a) The parent visits the child in the child's home more than four times per week or more than a total of 12 hours per week, and

(b) The functioning of the parent as a provider of maintenance, physical care and guidance is not interrupted or terminated as a result of absence of the parent from the home

(2) A determination that a needy child is not deprived of parental support or care by reason of

the continued absence of a parent shall not be based solely on an award by a court of joint legal custody [1987 c 3 §§11, 12]

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 418.172. As used in ORS 418 150 to 418 172, 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, Public Law 92-223 and related federal regulations

(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" and "on the job training" mean work incentive programs for those individuals for whom such training is likely to lead to regular employment

(4) "Public Service Employment" means a work incentive program for those individuals for whom a job in the regular economy cannot be found [1969 c 281 §3, 1973 c 222 §1]

418.160 Duties of Adult and Family Services Division. (1) The Adult and Family Services Division shall have the responsibility and authority to provide such services and engage in such cooperative and coordinated efforts with the Children's Services Division, Employment Division and other appropriate agencies as are necessary to maintain the intent of and compliance with federal requirements for the programs defined in ORS 418 155

(2) The Adult and Family Services Division shall have the responsibility and authority to assign and utilize staff members as a separate administrative unit or in such other arrangements as may be necessary to comply with federal requirements for the programs defined in ORS 418 155 [1969 c 281 §4, 1973 c 222 §2, 1979 c 452 §1]

418 163 Duties of Children's Services Division. The Children's Services Division shall have the responsibility and authority to provide such services and engage in such cooperative and coordinated efforts with the Adult and Family Services Division, Employment Division and other appropriate agencies as are necessary to maintain the intent of and compliance with federal requirements for the programs defined in ORS 418.155 [1973 c 222 §4, 1979 c 452 §2]

418 165 [1969 c 281 §5, repealed by 1973 c 222 §5]

418 170 [1969 c 281 §6, repealed by 1973 c 222 §5]

418.172 Additional monthly payments of property tax refund. The Adult and Family Services Division shall include in the payment made under ORS 418 035 to 418 172 a monthly amount to be designated property tax refund The amount shall be determined by the Adult and Family Services Division, subject to the total amount appropriated for that purpose by the Legislative Assembly [1975 c 734 §3, 1977 c 841 §12]

ALTERNATIVE PROGRAMS

Note: Chapter 751, Oregon Laws 1987, provides

Sec 1 This Act authorizes the Adult and Family Services Division of the Department of Human Resources to operate pilot programs in selected areas for designated periods of time in lieu of programs authorized under ORS 418 150 to 418 172 for the period commencing January 1, 1988, and ending June 30, 1989 This Act is repealed June 30, 1989 [1987 c 751 §1]

Sec 2 The Legislative Assembly finds

(1) Applicants for, and recipients of, aid to dependent children desire to work and will do so if provided with the opportunity and training

(2) It is in the public interest of the State of Oregon to provide applicants for and recipients of aid to dependent children with the opportunity to obtain employment by offering a full range of employment training and supportive services, consistent with the needs of participants, that allow for informed choices in order to meet their employment goals

(3) Public assistance costs will be reduced by increasing earnings from employment and preparing program participants for unsubsidized employment [1987 c 751 §2]

Sec 3 Subject to this Act and the rules of the Adult and Family Services Division, every applicant for, or recipient of, aid to dependent children shall register for and, for those clients classified as mandatory, shall participate in the employment and training program set forth in this Act Any

applicant for, or recipient of, aid to dependent children who is not required to participate under this Act may volunteer to participate in the program. Public assistance benefits for applicants shall not be delayed due to participation in the program [1987 c 751 §3]

Sec 4 (1) The Adult and Family Services Division shall prepare or have prepared labor market needs assessments for each county, cluster of counties, or other designated local areas in this state, to be revised at least annually. All employment and training opportunities afforded participants in the program shall reflect local job market needs.

(2) The division shall prepare a public information and marketing component of the program to promote participant understanding of the program and to encourage them to participate, to inform employers of the business and social advantages of hiring welfare participants, and to inform the public that the division's program is designed to help participants become self-sufficient through employment.

(3) The division shall engage in cooperative and coordinated efforts, including information sharing, with the Employment Division, the community colleges, Job Training Partnership Act agencies and other appropriate agencies as are necessary to achieve the goals of this Act [1987 c 751 §4]

Sec 5 The Adult and Family Services Division shall design and operate a program of job services that are necessary to achieve the goals of this Act. Subject to available resources, federal law and the approval of the Federal Government, the division shall adopt rules which define and make available the following types of job services:

(1) Orientation sessions which explain the program and its services.

(2) An appraisal which identifies the participant's work history, skills, interests, abilities and any barriers to employment. The appraisal may include basic skills testing.

(3) Basic education which may include adult basic education, education necessary for a General Education Development certificate, English as a second language or whatever remedial education is necessary to remove an employment barrier.

(4) Job club, which shall consist of one or both of the following:

(a) Job search workshops where participants are taught job seeking skills, job development skills and job interviewing skills. The purpose of the job search workshop is to enhance the participants' self-esteem, self-image and confidence.

(b) Supervised job search wherein the participant uses skills taught in the job search workshop while under the guidance of a trained employment worker.

(5) Extended assessment, for participants with employment barriers, which may include an in-depth assessment to identify barriers and to ascertain an appropriate career path. Vocational exploration, as defined by the division, may be included in this component on a voluntary basis.

(6) Individual job search wherein the participant seeks work and may be provided with counseling by an employment worker and appropriate job referrals.

(7) Targeted work search wherein participants target a specific type of job, a salary range or a range of occupations for a period of up to three months, based on the local labor market

assessment by the division and the appraisal of the participant.

(8) Supported work wherein hard-to-place participants may be offered an intensive program of assistance, training and supervision to prepare a participant for work.

(9) Job development services, which may include programs to recruit employers with job openings, programs to find jobs for individual participants and programs to develop training placements as described in section 6 of this Act. The division may pay placement fees for employment pursuant to rule [1987 c 751 §5].

Sec 6 The Adult and Family Services Division shall create and, where appropriate, operate a program of training and vocational education services designed to meet the needs of participants and to achieve the goals of this Act. Subject to available resources, federal law and the approval of the Federal Government, the division shall adopt rules which define and make available the following types of training services:

(1) Work site employment training which may include:

(a) On-the-job training where an employment relationship may be established between the employer and the participant with the Adult and Family Services Division reimbursing the employer a portion of the participant's wage for a fixed period of time.

(b) Voluntary work experience where the participant volunteers for a fixed period of time to work with an employer in order to gain experience on a work history. The division shall not require any participant to elect this option. Voluntary work experience participation is limited to private not-for-profit corporations or public agencies, and:

(A) The participant shall not displace regular employees, laid-off employees, or striking or locked-out employees, shall not fill positions which would otherwise be promotional opportunities for current employees and shall not impair existing collective bargaining agreements,

(B) The participant shall not participate for more than 92 days in a year with any single employer and shall not participate for more than 180 days in any one year, and

(C) The Adult and Family Services Division shall not place participants with employers whose actions show lack of good faith in training program participants.

(c) Vocational exploration where the participant spends a short period of time observing at a public or private sector employment site to determine if the participant wishes to pursue such employment. No salary or benefits are paid.

(d) Work supplementation where the participant's aid to dependent children cash grant, or a portion thereof, may be paid to the employer or other provider, or both, as an incentive payment, wage subsidy or provider payment for a fixed period of time. The participant is paid the employer's usual and customary salary for the position, taking into account the participant's previous work experience.

(e) Occupation-specific training where an employer establishes a training facility in the place of business to train future employees for that business or other businesses in the local area.

(2) Vocational training through classroom or other training not to exceed two years if the training is approved by the division, is appropriate for the participant, based on the

appraisal performed pursuant to section 5 of this Act, and is designed to lead to employment at jobs identified in a local labor market needs assessment conducted pursuant to section 4 of this Act. This training may include training programs that are longer than two years but which the participant can complete within two years. Except as provided by rule, costs of vocational training, other than support services, shall not be financed by the division.

(3) Self-employment preparation for participants who are self-employed or who wish to start business ventures. Participants may receive appropriate training and support services as determined by the division, if considered appropriate by the division after appraisal of the participant, review of the local labor market needs assessment and determination by the division that the business venture will be sufficiently profitable to achieve self-sufficiency [1987 c 751 §6]

Sec. 7 In addition to the job services contained in section 5 of this Act and training and vocational education services contained in section 6 of this Act, the Adult and Family Services Division shall adopt rules to define and make available, subject to the available funds, to the participant's need for services and, to federal law and approval of the Federal Government, support services and payments to participants in need of specific services for periods of time to be determined by the division. Support services shall include the following types of services and payments:

- (1) Employment counseling and planning
- (2) Services to assist in removal of employment barriers
- (3) Payments for the following:
 - (a) Child care
 - (b) Transportation
 - (c) Clothing, tools, books, fees and other ancillary items
 - (d) Relocation
 - (e) Phone or message system [1987 c 751 §7]

Sec. 8 Subject to available funds, the needs of the participant, federal law and the approval of the Federal Government, reasonable follow-up services and payments of the types described in subsection (3) of section 5 and section 7 of this Act shall be provided to participants whose grants have closed primarily as a result of income received from employment, for up to four months after grant closure. Coverage under medical assistance programs may be provided consistent with federal requirements [1987 c 751 §8]

Sec. 9. Any participant who is not a volunteer or is not exempt or suspended from the employment and training program and who, without good cause, refuses to participate in the program or accept a job shall be subject to sanctions as defined by the Adult and Family Services Division by rule. The division shall develop rules for applying sanctions and for determining good cause. Pursuant to rule and to the extent permitted by federal law and under agreement with the Federal Government, the division shall remove the sanctions when the participant demonstrates 30 days of cooperation with the program, as determined by the division [1987 c 751 §9]

Sec 10 (1) The Adult and Family Services Division shall define by rule who must participate in the employment and training program, who is exempt and who may volunteer to participate, subject to federal law, regulations and agree-

ments with the Federal Government. Volunteer participants shall be strongly encouraged to participate in the program.

(2) A participant shall be entitled to two weeks of respite from job search after three months of continuous job search or one month after six months of continuous job search [1987 c 751 §10]

Sec 11 In consultation with the participant and other experts and resources as necessary, the Adult and Family Services Division shall establish an employment plan for each participant. In the development of the employment plan, the following factors shall be considered:

(1) The participant's work history, including an inventory of employment skills, knowledge and abilities

(2) The participant's education history and present education competency level, including, if necessary, an assessment of reading, writing, speaking and computation skills

(3) The participant's need for support services in order to obtain the greatest benefit from the employment and training services offered under this Act

(4) The employment goals of the participant and an evaluation of the chances for the achievement of these goals given the current and potential skills of the participant, available training opportunities and labor market conditions

(5) Employment goals that would provide the participant with the opportunity to achieve an adequate standard of living independent of public assistance

(6) The participant's family circumstances, living situation and other conditions affecting ability to participate in training or work

(7) The available resources in the community [1987 c 751 §11]

Sec 11a If the participant and the employment worker described in section 11 of this Act are unable to reach agreement on the employment plan or any amendment to the employment plan, at the participant's election, the participant may appeal the matter through a division grievance procedure, to be established by rule [1987 c 751 §11a]

Sec 12 The Adult and Family Services Division may enter into contracts for expert, technical or other professional services and contracts with outside agencies in order to carry out the goals of this Act [1987 c 751 §12]

Sec 13 (1) The Adult and Family Services Division shall collect data on program cost, caseload changes, sanctions and program outcomes

(2) On or before June 30, 1988, the division shall contract with an independent agency to establish the basis for an independent evaluation of the program. An interim independent evaluation shall be completed on or before January 1, 1991, and a full, independent evaluation shall be completed on or before January 1, 1993

(3) The division shall report annually by January 1 of each year, commencing January 1, 1989, to the Legislative Assembly and the Governor the program provided for in this Act [1987 c 751 §13]

Sec 14 ORS 653 010 to 653 261 do not apply to an individual receiving general or public assistance, as defined in ORS 411 010, who is participating in an Adult and Family Services Division program which is specifically designed by

the division to provide job training or work experience to otherwise unemployed individuals under this Act [1987 c 751 §14]

418.175 [1969 c 281 §§7, 8, repealed by 1973 c 222 §5]

UNEMPLOYED PARENTS PROGRAM

418.180 Policy. The Legislative Assembly finds

(1) That the provision of public assistance to children dependent by reasons of unemployment of parents would help keep families together and reduce hardship in times of high unemployment,

(2) That the lack of public assistance to two-parent unemployed families does not produce significant financial savings for the State of Oregon since family break-up increases the number of single-parent families receiving public assistance,

(3) That children in two-parent unemployed families have needs as urgent as those of children in single-parent unemployed families;

(4) That the provision of public assistance to two-parent unemployed families would provide access to medical care for these families, health being one of the prerequisites to seeking and maintaining employment,

(5) That because federal law now requires recent employment and active work search to be eligible for federal funds for public assistance to two-parent unemployed families, the availability of federal funds helps those families who are trying hardest to help themselves be self-supporting, and

(6) That additional funds need to be made available in the aid to dependent children program to effectuate this policy [1983 c 414 §1, 1985 c 622 §1]

418.185 Unemployed parents program. Within the limits of funds expressly appropriated and specifically available for an aid to dependent children of unemployed parents program, such assistance shall be available for an aid to dependent children of unemployed parents program Subject to approval by the legislative review agency, as defined in ORS 291.371, the division may discontinue the unemployed parents program for portions of a year if appropriated funds are insufficient for a complete year [1983 c 414 §4]

PREVENTION OF CHILD ABUSE AND NEGLECT

418.187 Definitions for ORS 418.187 to 418.199. As used in ORS 418.187 to 418.199 and 432.090

(1) "Child" means an unmarried person who is under 18 years of age

(2) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment [1985 c 549 §1]

418.189 Policy. The Legislative Assembly recognizes that children are society's most valuable resource and that child abuse and neglect is a threat to the physical, mental and emotional health of children The Legislative Assembly further recognizes that assisting community-based private nonprofit and public organizations, agencies or school districts in identifying and establishing needed primary prevention programs will reduce the incidence of child abuse and neglect, and the necessity for costly subsequent intervention in family life by the state Child abuse and neglect prevention programs can be most effectively and economically administered through the use of trained volunteers and the cooperative efforts of the communities, citizens and the state [1985 c 549 §2]

418.191 Duties of assistant director. (1) To carry out the purposes of ORS 418.187 to 418.199 and 432.090, the Assistant Director for Children's Services may

(a) Contract with private nonprofit or public organizations, agencies or school districts for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect Contracts also may be awarded for research programs related to prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks Each contract entered into by the assistant director shall contain a provision for the evaluation of services provided under the contract Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects Continuation of contracts will be determined by the success of the projects and community financial support. Contracts for services to prevent child abuse and child neglect shall be awarded, in part, on the basis of likelihood of success as determined by current research and expert opinion

(b) Facilitate the exchange of information between groups concerned with families and children

(2) The Assistant Director for Children's Services shall consider need and the area of the

state from which an application is submitted to insure that all areas of the state develop programs pursuant to ORS 418 187 to 418 199 and 432 090 [1985 c 549 §§3,7]

418.193 Advisory committee; qualifications; duties; expenses; meetings. (1) An advisory committee is established on prevention of child abuse and neglect and shall consist of 12 members selected from the various geographic areas of the state. Member appointments shall be based on a demonstrated interest in and knowledge of prevention of child abuse and neglect. Members shall be appointed by and serve at the pleasure of the Governor.

(2) The advisory committee shall review all applications for contracts submitted and shall recommend appropriate action on such applications before forwarding them to the Assistant Director for Children's Services for final action. The advisory committee shall advise the assistant director as it finds necessary regarding any application or contract subject to ORS 418 187 to 418 199 and 432 090.

(3) Members of the advisory committee shall receive no compensation for their services. Members of the advisory committee other than members employed in full-time public service shall be reimbursed by the Children's Services Division for their actual and necessary expenses incurred in the performance of their duties. Such reimbursements shall be subject to the provisions of ORS 292 210 to 292 288. Members of the advisory committee who are employed in full-time public service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties by their employing agency.

(4) The advisory committee shall meet at least once every three months and at such other times as may be specified by the chairperson or a majority of the advisory committee [1985 c 549 §4].

418.195 Types of programs to be funded. Programs funded under ORS 418 187 to 418 199 and 432 090 are intended to provide primary child abuse and neglect prevention services. Such programs may include, but are not limited to

(1) Community-based educational programs on parenting, prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, coping with family stress and safety education programs for children.

(2) Community-based programs relating to crisis care, mutual aid programs to parents, counseling and support groups for potentially abusive

parents and their children and early identification of families where the potential for child abuse and neglect exists [1985 c 549 §5].

418.197 Standards for programs. (1) In awarding contracts for educational and service programs under ORS 418 187 to 418 199 and 432 090, consideration shall be given to factors such as

(a) Diversity of need by geographic locations, coordination with or enhancement of existing services,

(b) The use of trained volunteers in the program;

(c) The extent to which contract proposals are based on prior evidence that indicates a likelihood of goal achievement, and

(d) The accessibility and availability of the program to all persons who may need the services and who reside in the area served.

(2) Priority consideration shall be given to existing community programs that demonstrate effectiveness. Contract awards for continued funding shall be based on demonstrated program effectiveness and community financial support [1985 c 549 §6].

418.199 Children's Trust Fund; source; uses. (1) The Children's Trust Fund is established as a separate fund in the State Treasury. The primary purpose of this fund is to support the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect, to support research programs related to the prevention of child abuse and neglect and to develop and strengthen community child abuse and neglect prevention networks. For this purpose, the fund shall be expended only as provided in ORS 418 187 to 418 199 and 432 090.

(2) The Children's Services Division may solicit and accept money in the form of gifts, contributions and grants to be deposited in the trust fund. The acceptance of federal grants for purposes of ORS 418 187 to 418 199 and 432 090 would not commit state funds nor place an obligation upon the Legislative Assembly to continue the purposes for which the federal funds are made available.

(3) Transfers made from the trust fund shall be credited to the Children's Services Other Fund Account to be expended by the Assistant Director for Children's Services as provided in ORS 418 191, 418 195 and 418 197 [1985 c 549 §8, 1987 c 771 §3].

**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 and 418 992 to 418 998, unless the context requires otherwise

(1) "Child" means an unmarried person under 18 years of age

(2) "Child-caring agency" includes any private agency or private organization providing

(a) Day treatment for disturbed children,

(b) Adoption placement services,

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

(d) Other similar services for children

(3) "Private" means not owned, operated or administered by any governmental agency or unit [Formerly 419 101, 1975 c 310 §1, 1983 c 510 §1]

418.210 Application of ORS 418.205 to 418.325 to homes maintained by fraternal organizations. ORS 418 205 to 418 325 shall not apply to

(1) Homes established and maintained by fraternal organizations wherein only members, their wives, widows and children are admitted as residents,

(2) Any family foster home that is subject to ORS 418 625 to 418 645, or

(3) Any day care facility that is subject to ORS 418 805 to 418 885 [Formerly 419 105, 1975 c 310 §2, 1983 c 510 §2]

418.215 Private child-caring agency to be licensed. (1) No private child-caring agency shall provide or engage in any care or service described in ORS 418 205 unless the agency is at the time

(a) Duly incorporated under the corporation laws of any state; and

(b) Licensed to provide or engage in the care or service by the Children's Services Division under the provisions of ORS 418 205 to 418 325

(2) The fine which may be imposed for violation of the provisions of this section, as provided in ORS 418 990, may be assessed by any court of competent jurisdiction upon presentation of evidence of such action [Formerly 419 106, 1975 c 310 §3, 1977 c 717 §16, 1983 c 510 §3, 1987 c 94 §131]

418 220 [Formerly 419 108, 1971 c 401 §14, 1975 c 310 §4, 1983 c 510 §4, repealed by 1987 c 94 §171]

418 225 [Formerly 419 110, 1971 c 401 §15, 1975 c 310 §5, 1975 c 795 §2, 1983 c 510 §5, repealed by 1987 c 94 §171]

418 230 [Formerly 419 112, repealed by 1983 c 510 §21]

418 235 [Formerly 419 114, 1971 c 401 §16, 1973 c 367 §17, 1983 c 510 §6, repealed by 1987 c 94 §171]

418.240 Licensing criteria; duration.

(1) All private child-caring agencies subject to ORS 418 205 to 418 325 shall obtain from the Children's Services Division a license authorizing their work. The division shall use the criteria designated in this subsection, and such rules pursuant thereto as the division may develop subject to ORS 183 310 to 183 550, as the basis of judgment in granting, withholding, suspending or revoking such licenses. The criteria are as follows

(a) The fitness of the applicant

(b) The employment of capable, trained or experienced staff who are not applicants for the approval

(c) Sufficient financial backing to insure effective work

(d) The probability of permanence in the proposed organization

(e) The care and services provided to the children served will be in their best interests and that of society

(f) That the agency is in compliance with the standards of care and treatment established in rules by the Children's Services Division

(2) In addition to the licensing requirements of subsection (1) of this section, a private child-caring agency shall submit written proof of compliance with ORS 339 175 to the division

(3) The division shall charge no fee for its own inspections leading to its decisions regarding such licensing, nor for issuance of such licenses, but may impose fees to cover costs of related inspections done for the division by other governmental agencies

(4) A license issued by the division under this section shall be valid for a period of two years, unless suspended or revoked sooner by the division. However, the division at any time may require amendments to an existing license to accommodate changes in the factors upon which an existing license was based [Formerly 419 116, 1971 c 401 §17, 1983 c 510 §7, 1985 c 264 §2, 1987 c 94 §132]

418 245 [Formerly 419 118, repealed by 1975 c 310 §9]

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. (1) The Children's Services Division shall inspect and supervise all private child-caring agencies, whether incorporated or not, within this state, and may inspect and supervise public child-caring agencies within the 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 advice 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, 1983 c 510 §8]

418.260 Investigation of abuses, derelictions or deficiencies in child-caring agencies. If any 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, the division shall at once carefully investigate the reports or rumors and take such action as the matters require. If any abuses, derelictions or deficiencies

are found in any state child-caring institution or agency, 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 or the appropriate interim committee if the legislature is not in session. If any such abuses, derelictions or deficiencies are found in any private child-caring agency, 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. However, if the abuses, derelictions or deficiencies found in a private child-caring agency are determined by the Children's Services Division to be or threaten a serious danger to any child or to the public, the division may immediately suspend or revoke the agency's license, subject to the provisions of ORS 183 430 [Formerly 419 124, 1971 c 401 §20, 1975 c 310 §6, 1983 c 510 §9]

418.265 Reports; audit. (1) At the request of the Children's Services Division, each public or private child-caring agency or institution within this state shall make a report of its work to the division in such form and detail as the division prescribes.

(2) The reports may 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 conditions 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.

(3) The division shall prepare and supply to the various child-caring agencies and institutions the necessary printed blanks to record the desired information. Within any year, the division may require such further detailed information and audit of the financial affairs of such agency or institution as it deems to be in the public interest and may make such inspection of the books and records of such agency or institution as it deems necessary. Such audit and inspection of books and records of such agencies and institutions shall be at the expense of the division.

(4) All such agencies or institutions shall conform their records to the statutory fiscal year of the state.

(5) All reports required of agencies and institutions shall be filed with the division not

later than 60 days from the date of request [Formerly 419 126, 1971 c 401 §21, 1983 c 478 §1]

418.270 Surrender of child to private child-caring agency; consent to adoption; time for adoption proceedings; effect of release and surrender. (1) If licensed for such purposes by the Children's Services Division, a private child-caring agency may receive 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 agencies 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 the children unless the release or surrender expressly recites that it is given for the purpose of adoption. Private child-caring agencies are authorized to place children for adoption or foster care only if authorized by the Children's Services Division in the license issued by the division.

(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 the 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 agencies 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 parent 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, 1975 c 310 §7, 1983 c 510 §10]

418.275 Private child-caring agency as guardian of child; power of agency. (1) A private child-caring agency shall be the guardian of each child released or surrendered to it under the conditions provided in ORS 418 270 and of each 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. If the agency deems the action proper and desirable, it may consent in loco parentis to the legal adoptions of the children, subject to the conditions provided in ORS 418 270 [Formerly 419 130, 1967 c 375 §1, 1973 c 823 §134, 1983 c 510 §11]

418.280 Placement of children. Private child-caring agencies, in placing children in private families, shall safeguard the welfare of the children by the thorough investigation of each applicant and 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 agency 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, 1983 c 510 §12]

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 the child becoming a public charge within five years from the date of such placement [Formerly 419 134, 1971 c 401 §23, 1975 c 310 §8]

418.295 Certain attorneys not to represent prospective adoptive parents; mem-

bers 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 418 185, 418 205 to 418 315, 418 355 to 418 370, 418 405 to 418 470, 418 505 to 418 565, 418.625 to 418 685 and 418 705 to 418 730

(2) No employe of the Adult and Family Services 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 When child placement by private persons prohibited. No private individual, including midwives, physicians, nurses, hospital officials and all officers and employes or representatives of unauthorized agencies, organizations or 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, 1983 c 510 §13]

418.302 Administrative review required for certain children in voluntary placement. For those children who have remained in voluntary placement for 18 months, an administrative review by the Children's Services Division shall be required. The division shall review the same information required in reports on children placed pursuant to court order [1981 c 777 §3]

Note 418 302 was enacted into law by the Legislative Assembly and was added to and made a part of ORS 418 205 to 418 310 but not to ORS 418 215 to 418 325, 418 225 to 418 310 or 418 225 to 418 325. See Preface to Oregon Revised Statutes for further explanation

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]

418.307 Medical or dental treatment of children without consent; conditions; immunity of treating personnel. (1) A physician licensed by the Board of Medical Examiners,

or a dentist licensed by the Oregon Board of Dentistry, or a hospital licensed by the Health Division is authorized to treat a child who is ward of the court or is a dependent or delinquent child in accord with the physician's best medical judgment and without consent if.

(a) Because of the general state of the child's health or any particular condition, the physician, dentist, or responsible official of the hospital determines that in the medical judgment of the physician, dentist or responsible official prompt action is reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or effective cure, and

(b) It is impossible or highly impractical to obtain consent for treating the child from the child-caring agency, the child's parent or the child's legal guardian

(2) No charge of assault or battery shall be made against a physician, dentist, or hospital official or employe who provides medical treatment pursuant to subsection (1) of this section

(3) A minor child described in subsection (1) of this section who is 15 years of age or older may consent to medical treatment pursuant to ORS 109 640 [1975 c 580 §2]

418.310 Application of statutes to institutions caring for adults and children. ORS 418 205 to 418 310 and 418.992 to 418.998 apply to private agencies and institutions for the combined care of adults and children where the care for children includes day or residential treatment or care [Formerly 419 140, 1983 c 510 §14]

418.312 Division not to require parents to relinquish custody of children placed in certain institutions. (1) Except as otherwise provided in this section, the Children's Services Division of the Department of Human Resources shall not require any parent voluntarily to relinquish legal custody of a child in order to have the child placed under ORS 418 205 to 418 310, 418 480 to 418 500 and 418 992 to 418 998 in an institution named in subsection (2) of this section or to have the cost of care of a child placed therein paid by the division, subject to the ability of the parent to contribute to the cost of care. However, the division may make relinquishment a condition for care and payment therefor if the director of the private group residential care facility and the division agree that such relinquishment is necessary for the effective care and treatment of the child

(2) For the purposes of subsection (1) of this section, the institutions are Cascade Child Study and Treatment Center, Clackamas Adolescent

Day Treatment Center, Edgefield Lodge, Grande Ronde Child Center, Klamath Child Treatment Center, Inc., Lincoln County Child Day Treatment Center, Mid-Columbia Children's Center, Parry Center, Plowshare, Inc., Poyama Land, Polk Adolescent Day Treatment Center, Southern Oregon Child Study and Treatment Center, The Child Center, and the Pacific Child Treatment Center [1979 c 746 §1]

Note 418 312 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 418 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

418.315 Division may 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]

418.319 Goal regarding placed children receiving federal assistance. For each federal fiscal year beginning on and after October 1, 1983, the Children's Services Division establishes as a goal that no more than 33 percent of the children receiving assistance in foster home or substitute care placements under Title 4E of the Social Security Act shall have been in such placement at any time during that fiscal year for a period in excess of 24 months. The division shall report to the regular session of the Legislative Assembly next following October 1 with its plan for achieving its goal and any plans for reducing the number or percentage of children in such placements during the period before the next October 1. [1981 c 251 §1]

Note 418 319 was enacted into law by the Legislative Assembly but was not added to or made a part of any series within ORS chapter 418 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

418 320 [Formerly 419 144 repealed by 1971 c 401 §120]

418.325 Medical examinations required; frequency; child's health record; other health care; explanation to adoptive parents. (1) A child-caring agency shall safeguard the health of each ward or other dependent or delinquent child in its care by providing for medical examinations of each child by a qualified physician at the following intervals: Three examinations during the first year of the child's life, one examination during the second year of the child's life; one examination at the age of four,

one examination at the age of six, one examination at the age of nine, and one examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child's health or by any particular condition.

(4) Within 90 days of obtaining guardianship over a child under six years of age, a child-caring agency shall provide for such child to be

(a) Inoculated as determined appropriate by the county public health department, and

(b) Tested for phenylketonuria pursuant to ORS 433 285, visual and aural acuity consistent with the child's age, sickle-cell anemia, effects of rubella, if any, effects of parental venereal disease, if any, and the hereditary or congenital effects of parental use of drugs or controlled substances.

(5) Within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, the child-caring agency shall provide for such child to have a complete physical examination by a physician, including but not limited to inspection for evidence of child abuse in accordance with rules of the Health Division, and be tested for visual and aural acuity consistent with the child's age.

(6) A child-caring agency shall record the results of tests provided a child pursuant to subsections (1) to (5) of this section in the child's health record. The child's health record shall be kept as a part of the agency's total records of that child. The child's health record shall be made available to both natural parents and to both prospective foster or adoptive parents of that child. A qualified member of a child-caring agency under the supervision of a qualified physician shall explain to adoptive parents the medical factors possible as a result of a child's birth history, hereditary or congenital defects, or disease or disability experience. [1973 c 545 §2, 1979 c 492 §5, 1979 c 744 §20]

418.327 Licensing of certain schools and organizations offering residential programs.

(1) Inspections and reviews of private schools or other organizations offering residential programs for children may be conducted by the Children's Services Division at times and frequencies of the division's choosing. The Children's Services Division shall consult with representatives of the private schools and organizations in developing the standards that shall be the basis for inspections and reviews.

(2) Upon finding that the facilities and operation of a school or organization described in subsection (1) of this section meet the standards of the Children's Services Division for the physical health, care and safety of the children, the division shall issue a license to operate the residential program. The license shall be valid for a period of two years, unless sooner suspended or revoked by the division. However, the division may require that application be made for amendment to an existing license when changes in a facility or program are to occur. The division shall charge no fee for its own inspections or reviews, nor for issuing licenses, but may charge fees to cover costs of inspections done by other governmental agencies for the division.

(3) No person or organization shall operate a facility described in subsection (1) of this section without having a current, valid license issued by the Children's Services Division.

(4) Any person, including the Assistant Director for Children's Services, may file a complaint with the Children's Services Division alleging that children attending a private school which provides boarding or residential programs, or that children within the control of any other organization which provides boarding or residential programs, are not receiving shelter, food, guidance, training or education necessary to the health, safety, welfare or social growth of the children or necessary to serve the best interests of society.

(5) The Children's Services Division shall investigate complaints made under subsection (4) of this section and, if a reasonable basis for sustaining the complaint appears, shall set a hearing to examine publicly the complaint. The Children's Services Division shall conduct its investigation under the standards and authority provided under ORS 418.215 to 418.325. Except as provided in subsection (7) of this section, at least two weeks' written notice of the hearing and substance of the complaint and the evidence in support thereof shall be provided to the operator of the school or organization. The parents of the

child or children involved shall be notified if such persons can be conveniently located. Notice shall be served personally on the operator of the school or organization, but may be served by mail at the last-known or determined address of the parent or other adult responsible for the child.

(6) The hearing shall comply with the provisions of ORS 183.310 to 183.550 as to procedures, findings and orders. Where the evidence at the hearing justifies such an order, the Children's Services Division is authorized to order the private school or organization to correct the conditions not in conformity with standards. If corrections are not made within time limits set by the division, the division may suspend or revoke the license or may refuse to renew the license and is empowered to make any other lawful orders necessary to the protection of the child or children involved.

(7) Where a condition exists that immediately endangers the health or safety of a child, the Assistant Director for Children's Services may issue an interim order without any notice, or with such notice as is practical under the circumstances, requiring the school or organization to alter the conditions under which the child lives or receives schooling. Such interim emergency order shall remain in force until a final order, after a hearing as provided in subsection (5) of this section, is entered.

(8) Any school or organization shall cooperate with the Children's Services Division in making any inspection or review or investigating any complaint made under this section.

(9) The Superintendent of Public Instruction shall cooperate with the division upon request by advising the Children's Services Division as to whether or not the educational program conducted at the school or organization meets minimum standards required of public educational institutions.

(10) Nothing in this section applies to public or private institutions of higher education, community colleges, common or union high school districts that provide board and room in lieu of transportation or any other child-caring program already subject to state licensing procedures by any agency of this state.

(11) Subject to ORS 183.310 to 183.550, the Children's Services Division may adopt rules to implement this section.

(12) In addition to remedies otherwise provided under this section and under ORS 418.990, the Children's Services Division may commence an action to enjoin operation of a private school

or other organization offering residential programs for children

(a) If the school or organization is being operated without a valid license issued under subsection (2) of this section, or

(b) If the private school or organization fails to correct the conditions not in conformity with standards, as set out in an order issued under subsection (6) of this section, within the time specified in the order [1975 c 313 §1, 1977 c 232 §1, 1979 c 284 §140, 1983 c 510 §15]

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 the child's 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 Rulemaking 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 Health Division. (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 Health Division 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 Health Division or by any state or federal relief agency [Formerly 419 158]

COMMUNITY COORDINATED CHILD CARE

418.373 Definitions for ORS 418.373 to 418.399 and 418.900 to 418.920. As used in ORS 418.373 to 418 399 and 418.900 to 418 920, unless the context requires otherwise

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

(2) "Day Care Program" means a program providing care of a child for a portion of the day, but less than 24 hours, outside of the child's own home, but does not include any program whose primary component is psychiatric treatment and does not include any program or activity not subject to rules and regulations of the Children's Services Division

(3) "Division" means the Children's Services Division

(4) "Assistant director" means the Assistant Director for Children's Services.

(5) "Consumer" means a parent or legal guardian of a child eligible to receive the benefit of day care programs

(6) "District council" means a district council for day care programs established pursuant to ORS 418.388 (2)

(7) "Program" includes any day care program services or activity coming under ORS 418.373 to 418.399 and 418.900 to 418.920, which is conducted either full or part time [1973 c 610 §2, 1985 c 753 §6]

418.375 Policy of ORS 418.373 to 418.399 and 418.900 to 418.920. It is the purpose of ORS 418.373 to 418.399 and 418.900 to 418.920 to provide for local government and public participation in day care programs [1973 c 610 §1]

418.379 [1973 c 610 §3, 1977 c 554 §1, 1979 c 524 §7, repealed by 1985 c 753 §7]

418.380 [1971 c 533 §1, renumbered 418.400]

418.381 [1973 c 610 §4, 1977 c 554 §2, repealed by 1985 c 753 §7]

418.383 [1973 c 610 §§5, 7, repealed by 1985 c 753 §7]

418.385 [1971 c 533 §2, renumbered 418.401]

418.386 [1973 c 610 §8, repealed by 1985 c 753 §7]

418.388 District designation; district councils. (1) The Children's Services Division shall designate a maximum of 14 districts, based upon appropriate geographic and population factors as districts for the purposes of ORS 418.373 to 418.399 and 418.900 to 418.920

(2) A district council shall be established pursuant to ORS 418.373 to 418.399 and 418.900 to 418.920 for each designated district and an additional district council shall be established to represent the migrant and Indian population of the state [1973 c 610 §§9, 10]

418.390 [1971 c 533 §3, renumbered 418.402]

418.391 District chairman. (1) In a district with no existing 4C council the chairman shall appoint the initial district chairman. The district chairman shall be a person residing in the district who has demonstrated an interest in community children's programs and family services. If only one 4C council exists in the district, the initial chairman appointed for the district shall be the chairman of the board of the 4C council

(2) In a district where two or more 4C councils exist, the initial district chairman shall be chosen by those councils [1973 c 610 §11]

418.393 Membership on district councils. (1) Each district council board shall consist of at least 11 members who shall represent the concerns of the following interested categories

(a) Local government

(b) Public-at-large.

(c) Consumers

(d) Proprietary and nonprofit organizations providing services to children.

(e) Public agencies which provide services consistent with or complementary to children's programs

(f) Business, labor and professional interests

(2) In a district where no 4C council exists, the district chairman shall appoint the initial council. If a 4C council exists in the district, the council shall appoint the initial district council. If two or more 4C councils exist in a district the 4C councils shall appoint the initial council. The initial district council shall serve for a term of one year [1973 c 610 §12, 1979 c 524 §8]

418.395 Duties of district councils. A district council

(1) Shall adopt rules governing the election of its chairman and the selection and term of members of the district council. However, the composition of the district council must be in accordance with ORS 418.373 to 418.399 and 418.900 to 418.920

(2) Shall serve as the agency for transmission of day care program and project requests to the Children's Services Division and shall ascertain and recommend priorities for day care services for children in the district to the council

(3) Shall design, develop, and review day care service needs within the district. Such programs shall be in harmony with any state-wide programs adopted by the Children's Services Division.

(4) Shall provide to local governmental units its findings relative to determination of community needs and priority recommendations

(5) May serve as the official advisory board to any local governmental unit regarding day care programs

(6) May accept any lawful gift or donation of money or services to aid in the provision of programs authorized by ORS 418 373 to 418 399 and 418 900 to 418 920 [1973 c 610 §14]

418.397 Cooperation with district councils by local agencies. A district council may request and obtain from any county, city, municipality, school board or intergovernmental coordinating agency within the district such information and assistance as are necessary to enable the district council to carry out effectively the duties, powers and responsibilities of the district council as set forth in ORS 418 373 to 418 399 and 418 900 to 418 920 [1973 c 610 §13]

418 399 Duties of division under ORS 418.373 to 418.399. The Children's Services Division shall provide staff as necessary to carry out the purposes of ORS 418 373 to 418 399 and 418 900 to 418 920 [1973 c 610 §6]

418.400 Purpose of ORS 418.400 to 418.402. It is the purpose of ORS 418 400 to 418 402 to provide grants to local community coordinated child care organizations to expand and implement effective programs for day and night care services for children [Formerly 418 380]

418 401 Procedure for applying for grants. (1) In order to obtain a grant under ORS 418 400 to 418 402, 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 [Formerly 418 385]

418.402 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 [Formerly 418 390]

COMMISSION FOR CHILD CARE

Note Sections 1 to 4 and 8, chapter 753, Oregon Laws 1985, provide

Sec 1 (1) The Commission for Child Care is created to address the issues, problems and alternative solutions that are critical to the development of accessible, affordable and quality day care services

(2) The commission shall submit to the Governor at the commencement of each biennium a report containing the concerns and issues which have been identified pursuant to the terms of this Act and further identifying the programs, projects and activities which the commission will undertake regarding those issues

Sec 2 (1) The membership of the Commission for Child Care shall be comprised of 21 members, to include three representatives from the Legislative Assembly, one appointed by the President of the Senate and two appointed by the Speaker of the House of Representatives. Eighteen members shall be appointed as follows:

(a) Seven persons who are certified to provide or engage in the provision of day care services under ORS 418 805 to 418 890, one of whom must be a trainer of day care facility employees, three of whom are appointed by the Governor, two by the Speaker of the House of Representatives and two by the President of the Senate,

(b) Three persons who are representatives of state or local government, one of whom is appointed by the Governor, one by the Speaker of the House of Representatives and one by the President of the Senate,

(c) One person who is qualified by education or experience to render an opinion with regard to the tax and legal issues concerning child care appointed by the Governor

(d) One person who is representative of business management appointed by the President of the Senate,

(e) One person who is representative of labor appointed by the Speaker of the House of Representatives,

(f) One person who is a member of the Commission for Women appointed by the Governor, and

(g) Four persons who are consumers of day care, as defined in ORS 418 805, two of whom are appointed by the Governor, one by the Speaker of the House of Representatives and one by the President of the Senate

(2) Appointed members shall serve for three-year terms. Legislators shall serve two-year terms

(3) The Governor shall designate the chairperson of the commission to serve for a term of one year

(4) Members shall meet at the call of the chairperson no more than once every 30 days

(5) Consistent with Oregon law, the commission may receive and accept funds for purposes consistent with the creation of the commission

Sec 3 The commission may establish ad hoc committees to study specific areas and make periodic reports to the commission

(1) The chairpersons of such ad hoc committees shall be appointed by the chairperson of the commission, subject to approval by the commission

(2) Membership on ad hoc committees shall not be limited to members of the commission

(3) The period during which an ad hoc committee may function shall be determined at the time of its creation by the commission according to the nature of the study and project undertaken

(4) Members of the ad hoc committees shall be designated as consultants to the full commission

Sec 4 Members of the Commission for Child Care who are not members of the Legislative Assembly shall receive no compensation for their services, but subject to the availability of funds therefor are entitled to reimbursement for actual and necessary travel expenses incurred in the performance of their duties. Such expenses shall be paid from the budget of the commission or from member agency accounts subject to applicable state law. Members of ad hoc committees shall not receive such compensation. Members of the commission who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly [1985 c 753 §4 1987 c 879 §19]

Sec 8 Sections 1 to 4 of this Act are repealed July 1 1989

Note Section 1 chapter 585 Oregon Laws 1987 provides

Sec 1 (1) The Commission for Child Care shall establish a grant program to assist community-based public and private child care information and referral agencies and to assist in establishing such agencies in communities which are not served

(2) The Commission for Child Care shall set standards for the agencies described in subsection (1) of this section that the agencies supply information to assist

(a) Parents in locating available and appropriate child day care

(b) Parents of handicapped children in locating appropriate child day care.

(c) Providers in acquiring appropriate clients for their services.

(d) Providers in upgrading the quality of service offered and business operations and

(e) Communities in assessing and recruiting for underserved needs

(3) In order to be eligible for a grant under this section, the agency described in subsection (1) of this section must meet the standards authorized by subsection (2) of this section must demonstrate a willingness and an ability to share information with other such agencies and must be able to match the grant funds with an equal amount of financial support [1987 c 585 §1]

STATE AID 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 Health Division. 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 Health Division. Upon receiving such application, the Health Division 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, the deputy of the State Fire Marshal, or approved authority, pursuant to ORS 479.220, give the institution a certificate to that effect. If such institution has the approval of the Adult and Family Services Division, the Health Division shall join with the Adult and Family Services Division in issuing a certificate granting state aid. The Health Division 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 Health Division a financial and statistical report and statement of the preceding calendar year in such form as may be prescribed by the Health Division. If any such institution fails to comply with this section, either the Health Division 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 Health Division 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 the father deserting or abandoning or neglecting to provide for any of the children of the father who are 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 the parents of the voluntary inmate 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 418 185, 418 205 to 418 315, 418 355 to 418 370, 418 405 to 418 470, 418 505 to 418 565, 418 625 to 418 685 and 418 705 to 418 730 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 safe-

keeping 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

(3) As used in this section and ORS 418 472, "shelter-care home" means a certified foster home or a licensed facility contracted with by Children's Services Division for the purpose of safe-keeping of children taken into temporary custody pending investigation and disposition where the circumstances are such that the child need not be kept in secure custody [1969 c 184 §1, 1971 c 401 §36, 1985 c 791 §1]

418.472 Siting of shelter-care home. The governing body of a county or its designee in a county with a population of less than 400,000 may allow the operation of a shelter-care home, as defined in ORS 418 470, upon a lot or parcel in any zone, including an exclusive farm use or forest use zone, if the shelter-care home is an existing use on that lot or parcel on September 20, 1985 [1985 c 791 §2]

INDEPENDENT RESIDENCE FACILITIES

418.475 Independent residence facilities; extent and nature of agreement between minor and division. (1) Within the limit of moneys appropriated therefor, the Children's Services Division may establish or certify independent residence facilities for minors who

(a) Are 16 years of age or older,

(b) Have been placed in at least one substitute care resource,

(c) Have been determined by the Children's Services Division to be unsuitable for placement in a substitute care resource,

(d) Have received permission from the appropriate juvenile court, if they are wards of the court, and

(e) Have been determined by the Children's Services Division to be suitable for an independent resident program

(2) Residence facilities shall provide independent housing arrangements with counseling services and minimal supervision available from at least one counselor, and all residential facilities having six or more residents shall be licensed by the Department of Human Resources under ORS 443 400 to 443 455 and 443 991 (2)

(3) Each resident shall be required to maintain a program of education or employment, or a combination thereof, amounting to full-time activity and shall be required to pay a portion or all of the resident's housing expenses and other support costs.

(4) The Children's Services Division may make payment grants directly to minors enrolled in an independent living program for food, shelter, clothing and incidental expenses. Such payment grants shall be subject to an agreement between the minor and the Children's Services Division which establishes a budget of expenses.

(5) The Children's Services Division may establish cooperative financial management agreements with a minor and for that purpose may enter into joint bank accounts requiring two signatures for withdrawals. Such management agreements or joint accounts shall not subject the division or any counselor involved to any liability for debts or other responsibilities of the minor.

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

(7) The enrollment of a minor in an independent living program in accordance with the provisions of subsection (1) of this section shall not remove or limit in any way the obligation of the parent of the minor to pay support as ordered by a court under the provisions of ORS 419 513 [1973 c 801 §1, 1977 c 717 §17, 1981 c 283 §1]

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 Department 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. Such priorities are to be set out in a form enumerating the number of children in each category of need, the type of child care and services needed, the areas of the state where such care and services are needed, and the projected costs. 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. In developing programs necessary to meet the needs of the children of this state, the Director of the Department of Human Resources shall make every attempt feasible to develop community organizations. Such efforts to develop community organizations are to be documented and presented to the next session of the Legislative Assembly [1971 c 457 §2, 1975 c 795 §3]

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 Health Division. 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 Health Division.

(2) Upon receiving such application, the Health Division shall investigate the affairs and methods of the agency and the conditions surrounding it. If the Health Division 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, the deputy of the State Fire Marshal, or approved authority pursuant to ORS 479 220, the Health Division shall give the agency a certificate to that effect and file and send a duplicate of such certificate to the Adult and Family Services Division. [Formerly 419 252, 1963 c 451 §2, 1967 c 89 §2, 1967 c 454 §51]

418.510 Annual financial and statistical report to Health Division; 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 Health Division a financial and statistical report and statement for the preceding calendar year in such form as may be prescribed by the Health Division. If any such institution fails to comply with this section, the Health Division 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 Health Division 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 Health Division in relation to state-aided institutions. The Health Division 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 Health Division. If any such institution fails to comply with any provision of this section, the Health Division 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 Assistant Director for Children's Services 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]

418 605 [Formerly 419 352, repealed by 1971 c 401 §120]

418 610 [Formerly 419 356, repealed by 1983 c 537 §7 and 1983 c 740 §142]

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 the care of the person in such home any child under the age of 18 years not related to the person by blood or marriage and unattended by its parent or guardian, for the purpose of providing such child with care, food and lodging, but does not include

(a) Any boarding school 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

(3) Certificate includes

(a) A "provisional" certificate issued for 90 days, or

(b) A "regular" certificate which is effective for one year [Formerly 419 402, 1971 c 401 §44, 1975 c 267 §1]

418.627 Placement consistent with the Indian Child Welfare Act. (1) The Legislative Assembly finds that in the Indian Child Welfare Act, Public Law 95-608, the United States Congress recognized the special legal status of Indian tribes and their members. This section implements the federal policy of protecting Indian cultures by insuring the placement of Indian children within Indian families or communities, and that as a consequence, the State of Oregon should take the actions provided in subsections (2) to (4) of this section.

(2) A person providing a foster home to an American Indian child shall be eligible for payments under ORS 418 625 to 418.645 regardless of the relationship by blood or marriage that the person has to the child where the child's placement in the foster home is pursuant to the Indian Child Welfare Act (25 U S C §1901 et seq.)

(3) Certification of a foster home described in subsection (2) of this section shall be pursuant to standards set out in an agreement between the Children's Services Division and the tribe of which the child is a member or, if there is no such agreement, certification shall be pursuant to standards adopted by a federally recognized Indian tribe.

(4) If subsection (2) or (3) of this section is found to be unconstitutional for any reason, then the entire section shall be null and void [1987 c 773 §§2, 3]

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; revocation. 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 qualifications of the foster home to be made to determine which type of certificate should be issued in accordance with the rules of the division pertinent to the certification of foster homes, and shall issue an appropriate certificate to any person maintaining a foster home which complies with ORS 418.625 to 418 645. Such certificate may be revoked by the division following notice and opportunity for hearing as provided in ORS 183 310 to 183 550 because of violation of any of the provisions of ORS 418 625 to 418 645 or of the rules 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. A provisional certificate may be renewed for an additional 90-day period [Formerly 419 406, 1973 c 612 §17, 1975 c 267 §2]

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 Court of Appeals as provided in ORS 183 480 for the review of orders in contested cases [Formerly 419 410, 1969 c 597 §256, 1971 c 401 §47, 1973 c 612 §18]

OREGON YOUTH CONSERVATION CORPS

418.650 Policy; purpose. (1) The Legislative Assembly of the State of Oregon finds and declares that

(a) It is the policy of the State of Oregon to maintain a strong economy in order to provide its citizens a stable and plentiful job market, and to conserve and protect its natural resources, scenic beauty, historical and cultural sites and other community facilities,

(b) The development and maintenance of a healthy economy for Oregon depends substantially upon a strong work ethic among Oregon's young adults;

(c) Many public lands and environmental resources, including parks, rangelands, forests, wildlife habitats, fisheries, soils and waters are and will continue to be subject to resource production demand and public uses,

(d) In order to instill and preserve superior work attitudes among Oregon's young adults and to maintain, protect and conserve the valuable resources of the State of Oregon, programs need

to be implemented which will assure continued economic productivity and scenic beauty, as well as the public health, safety and social benefit,

(e) To these ends, conservation work programs may prove successful and cost-effective both in providing jobs for young adults and in assisting land preservation and management agencies to conserve and protect natural and urban facilities, and

(f) As a result of such employment opportunities, benefits will redound to the state's environmental maintenance and productivity, the state's economy and to the youth participants who benefit from the exposure to and respect for the work ethic in the context of safeguarding and improving the environmental resources of the state

(2) The general purposes of ORS 418 650 to 418 663 are

(a) To establish a youth work program in order to perform conservation work of public value in the most cost-effective manner,

(b) To utilize such a program as a means of needed assistance to protect, conserve, rehabilitate and improve the natural, historical and cultural resources of the state, and

(c) To utilize such a program to increase educational, training and employment opportunities for youth for the purpose of improving work skills, instilling the work ethic and increasing employability [1987 c 326 §§1, 2]

Note. 418 650 to 418 663 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 418 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

418.653 Oregon Youth Conservation Corps; advisory committee; appointment; term; duties. (1) Subject to the availability of funds therefor, there is created an Oregon Youth Conservation Corps which shall provide emergency services, public conservation, rehabilitation and improvement programs. The corps shall be headed by a director, and shall be located in the office of the Governor for the biennium ending June 30, 1989

(2) Upon implementation of subsection (1) of this section, there shall be created an Oregon Youth Conservation Corps Advisory Committee to consist of nine members, three to be appointed by the President of the Senate, three to be appointed by the Speaker of the House of Representatives and three public members to be appointed by the Governor. No more than one Senator and one Representative shall be

appointed. Members shall receive no compensation for service on the committee. Members may be removed by the appointing authority. Vacancies shall be filled by the appointing authority. Members shall serve for a term of three years and may be reappointed for an additional consecutive term.

(3) The advisory committee established under subsection (2) of this section shall advise the director on the implementation of ORS 418 650 to 418 663 [1987 c 326 §3]

Note See note under 418 650

418.657 Duties of the director; rules; staff. (1) The director in consultation with the advisory committee shall

(a) Establish goals and report to the Sixty-fifth Legislative Assembly on the goals and the activities undertaken by the corps in the preceding two fiscal years, including a cost-effectiveness analysis of all projects

(b) Establish eligibility criteria for participants. Such criteria shall not render the program ineligible for federal funds. Participants shall be lawful permanent residents of the state

(c) Establish criteria in order to make the required determination that enrollment in the corps was not the reason that an individual ceased attendance at a secondary school.

(2) The director may take the following actions, including but not limited to

(a) Applying for and accepting grants or contributions of funds from any public or private source,

(b) Making agreements with any local, state or federal agency to utilize any service, material or property of any such agency, where such agreements are considered reasonable and necessary, and

(c) Purchasing or contracting for necessary private services, equipment, materials and property where such are needed to carry out the projects approved for and undertaken by the corps

(3) The director may adopt all necessary rules to carry out the purposes and objectives of the program and to regulate the standards of conduct and other operating guidelines for corps members and other personnel

(4) Staff and employees of the corps shall be exempt from the State Personnel Relations Law [1987 c 326 §§5, 6]

Note See note under 418 650

418.660 Projects; consistency with public land law. (1) The program established

under ORS 418 650 to 418 663 may include, but shall not be limited to, projects such as

- (a) Forestry and nursery operations,
- (b) Rangeland conservation, rehabilitation and improvement,
- (c) Endangered species and other wildlife habitat conservation, rehabilitation and improvement,
- (d) Urban revitalization,
- (e) Historical and cultural site preservation and maintenance,
- (f) Recreational area development, maintenance, improvement and beautification,
- (g) Road and trail maintenance and improvement,
- (h) Soil conservation work, including erosion control,
- (i) Flood, drought and storm damage assistance and relief,
- (j) Stream, lake, waterfront harbor and port improvement and pollution control,
- (k) Fish culture and habitat maintenance and improvement,
- (L) Insect, disease, rodent and other pestilence control,
- (m) Improvement of abandoned railroad land and right of way,
- (n) Land reclamation and improvement, including strip-mined lands, public landscape work and tree planting programs,
- (o) Energy conservation projects including assistance in the performance of energy efficiency audits, weatherization and renewable resource enhancement,
- (p) Emergency assistance in times of natural or other disaster, and
- (q) Recycling projects

(2) The director shall assure that projects selected under ORS 418 650 to 418 663 shall be consistent with all other provisions of applicable state and federal law relating to the management, oversight and administration of affected public lands. [1987 c 326 §§7, 8]

Note See note under 418 650

418.663 Employment goals. (1) Projects selected under ORS 418 650 to 418.663 shall

- (a) Result in an increase in employment opportunities over those opportunities which would otherwise be available,
- (b) Not result in the displacement of currently employed workers, including partial dis-

placement such as reduction in the hours of nonovertime work or wages or employment benefits;

(c) Not impair existing contracts for services or result in the substitution of state for other funds in connection with work that would otherwise be performed,

(d) Not substitute jobs assisted under ORS 418 650 to 418 663 for existing federally assisted jobs,

(e) Not employ any person when any other person is on layoff by an employer from the same or any substantially equivalent job in the same area, and

(f) Not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employe, otherwise reducing the regular work force not supported under ORS 418 650 to 418 663, in anticipation of filling the vacancy so created by hiring a person to be supported under ORS 418 650 to 418 663

(2) Where a labor organization represents employes who are engaged in similar work or a workers' cooperative is engaged in work in the same area to that proposed to be performed under the program for which an application is being developed, the organization or cooperative shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the director [1987 c 326 §9]

Note See note under 418 650

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 orphans' home located at Salem or Portland; make, on behalf of the state, all deeds of conveyance conveying real property owned by the state as trustee, receive and satisfy mortgages in that behalf and execute all other contracts or instruments necessary to be executed on behalf of the state for the above-named purposes. Such board of trustees shall have full control and management of said trust funds and may loan and invest the same on good securities, in the same manner that funds of the Common School Fund are loaned. The same laws governing the school

fund shall apply to loans made from this fund as far as practicable. All lawful expenses necessarily incurred in loaning said money or in the 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 [Formerly 419 454, 1975 c 605 §20]

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]

OREGON YOUTH CORPS

418.687 Policy. The Legislative Assembly recognizes that it is in the public interest to provide employment for young people within the existing administrative and financial capabilities of the Highway Division, the State Fish and Wildlife Commission, the State Forestry Department, Parks and Recreation Division and the Division of State Lands [1973 c 629 §1, 1981 c 230 §1]

418.690 Definitions for ORS 418.687 to 418.697. As used in ORS 418 687 to 418 697, unless the context requires otherwise

(1) "Corps" means the Oregon Youth Corps established under ORS 418 693

(2) "Youth" means persons 15 years of age but not over 22 years of age [1973 c 629 §2]

418 693 Oregon Youth Corps; operation; programs. (1) The Oregon Youth Corps is established

(2) The state agencies referred to in ORS 418 687, shall operate programs for enrollees in the Oregon Youth Corps

(3) Programs for enrollees in the corps shall include those within the particular function of each agency described in ORS 418 687 or may be those established by agreement between such agencies. The programs shall not be confined to urban or rural areas or to any particular time of year but are to be designed to maximize the contribution which enrollees are capable of making while giving them valuable work experience [1973 c 629 §3]

418.695 Application for enrolling in corps; eligibility. Any youth interested in

enrolling in the Oregon Youth Corps shall apply to a state agency described in ORS 418 687 or to a local office thereof. The agency shall select from among the applicants those youths who can benefit from and contribute to the programs of the corps, balancing age, sex, ethnic and social background and other factors so as to achieve a balanced enrollment [1973 c 629 §4]

418.697 Cooperation with Employment Division. The state agencies described in ORS 418 687 shall prepare plans for the employment of youth to maximize employment opportunities within the agency and throughout the state. Those agencies shall communicate their personnel requirements to the Oregon State Employment Service of the Employment Division for assistance in their recruitment efforts on a state-wide basis [1973 c 629 §5]

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 the county school superintendent 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 ORS 418 710 (2). 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]

REPORTING OF CHILD ABUSE

418.740 Definitions for ORS 418.740 to 418.775. As used in ORS 418 740 to 418 775, unless the context requires otherwise

(1) "Abuse" means

(a) Any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury

(b) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child

(c) Sexual abuse, including but not limited to rape, sodomy, sexual abuse, sexual penetration with a foreign object and incest, as those acts are defined in ORS chapter 163

(d) Sexual exploitation, including but not limited to

(A) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, or sexual abuse involving a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 418.760 and which is not designed to serve educational or other legitimate purposes, and

(B) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167

(e) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care. However, any child who is under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or the child's parent or guardian shall not, for this reason alone, be considered a neglected or maltreated child under this section

(f) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare

(2) "Child" means an unmarried person who is under 18 years of age

(3) "Public or private official" means

(a) Physician, including any intern or resident

(b) Dentist

(c) School employe

(d) Licensed practical nurse or registered nurse

(e) Employe of the Department of Human Resources, county health department, community mental health program, a county juvenile department, or a licensed child-caring agency.

(f) Peace officer

(g) Psychologist

(h) Clergyman.

(i) Social worker

(j) Optometrist

(k) Chiropractor

(L) Certified provider of day care, foster care, or an employe thereof

(m) Attorney.

(n) Naturopathic physician

(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, 1973 c 408 §32, 1975 c 644 §2, 1979 c 731 §4, 1985 c 723 §1a]

418.745 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children [1971 c 451 §1, 1975 c 644 §3]

418.750 Duty of officials to report child abuse; exception for privileged communications. Any public or private official having reasonable cause to believe that any child with whom the official comes in contact in an official capacity has suffered abuse, or that any person with whom the official comes in contact in an official capacity has abused a child shall report or cause a report to be made in the manner required in ORS 418.755. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 [1971 c 451 §3, 1973 c 110 §2, 1975 c 644 §4, 1981 c 892 §94]

418.755 Report content; notice of report to law enforcement agencies and local Children's Services Division office. An oral report shall be made immediately by

telephone or otherwise to the local office of the Children's Services Division or to a law enforcement agency within the county where the person making the report is at the time of the contact. If known, such reports shall contain the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator. When a report is received by the Children's Services Division the division shall immediately notify a law enforcement agency within the county where the report was made. When a report is received by a law enforcement agency, the agency shall immediately notify the local Children's Services Division within the county where the report was made. [1971 c 451 §4, 1975 c 644 §7, 1977 c 741 §1]

418.760 Duty of division or law enforcement agency receiving report; investigation; protective services for child.

(1) Upon receipt of oral report required under ORS 418 750, the Children's Services Division or the law enforcement agency shall immediately cause an investigation to be made to determine the nature and cause of the abuse of the child. If the investigation is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by the administrator may, at the investigator's discretion, be present to facilitate the investigation. The Children's Services Division or the law enforcement agency making the investigation shall be advised of the child's handicapping conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child's school records, except that the school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

(2) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify in writing the local office of the Children's Services Division. The

Children's Services Division shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(3) If a child is placed in protective custody by the Children's Services Division, the division shall promptly make reasonable efforts to ascertain the name and address of the child's parent or guardian. If the name and address can be ascertained, the division shall notify the parent or guardian that the child is in protective custody. [1971 c 451 §5, 1975 c 644 §8, 1977 c 741 §2, 1983 c 815 §13, 1985 c 723 §2]

418.762 Immunity of persons making reports in good faith. Anyone participating in good faith in the making of a report pursuant to ORS 418 750 to 418 760 and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed

with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1975 c 644 §6]

418.764 Photographing child during investigation; photographs as records. (1) In carrying out its duties under ORS 418 760, any law enforcement agency or the Children's Services Division may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation.

(2) For purposes of ORS 418 770, photographs taken under authority of subsection (1) of this section shall be considered records. [1977 c 97 §2]

418.765 Central registry of reports. A central state registry shall be established and maintained by the Children's Services Division. The local offices of the Children's Services Division shall report to the state registry in writing when investigation has shown that the child's condition was the result of abuse even 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, 1973 c 306 §1, 1975 c 644 §9, 1977 c 741 §3]

418.770 Confidentiality of records; when available to others. (1) Notwithstanding the provisions of ORS 192 001 to 192 170, 192 210 to 192 505 and 192 610 to 192 990 relating to confidentiality and accessibility for public inspection of public records and public docu-

ments, reports and records compiled under the provisions of ORS 418 750 to 418 762 and 418 765 are confidential and are not accessible for public inspection. However, the Children's Services Division shall make records available to

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse,

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment,

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding,

(d) Citizen review boards established by the division or a juvenile court for the purpose of periodically reviewing the status of children under the jurisdiction of the juvenile court under ORS 419 476. Citizen review boards may make such records available to participants in case reviews, and

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child had been subjected to child abuse or neglect

(2) The division may make reports and records available to any person, administrative hearings officer, court, agency, organization or other entity, when the division determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the assistant director gives prior written approval. The division shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection and subsection (1) of this section. The names, addresses or other identifying information about the person who made the report shall not be disclosed pursuant to this subsection and subsection (1) of this section.

(3) Any record made available to a law enforcement agency in this state or a physician in this state, as authorized by subsections (1) and (2) of this section, shall be kept confidential by the agency or physician. Any record or report disclosed by the division to other persons or entities pursuant to subsections (1) and (2) of this section shall be kept confidential.

(4) No officer or employe of the Children's Services Division or any person or entity to whom disclosure is made pursuant to subsections

(1) and (2) of this section shall release any information not authorized by subsections (1) and (2) of this section [1971 c 451 §7, 1973 c 306 §2, 1975 c 644 §10, 1977 c 741 §4, 1983 c 153 §1, 1985 c 601 §1, 1987 c 906 §8]

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, the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to registered clinical social workers and the husband-wife privilege created by ORS 40 230 to 40 255 shall not be a ground for excluding evidence regarding a child's abuse, 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, 1973 c 110 §1, 1975 c 644 §11, 1981 c 892 §95]

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) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) "Child" means a child under 13 years of age.

(3) Subject to ORS 418 817, "day care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, 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,

(e) By providers of medical services, or

(f) By a babysitter.

(4) "Day care facility" means any facility that provides day care to children, including a day nursery, nursery school group, home of a family

day care provider 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) Residential facility licensed under ORS 443 400 to 443 455

(f) Babysitters

(5) "Family day care provider" means a day care provider who regularly provides day care in the provider's home in the family living quarters [1969 c 641 §1, 1977 c 717 §20, 1979 c 745 §1, 1987 c 794 §1]

418.810 Certificate of approval; when not required; rules; effect of number of children. (1) No person shall operate a day care facility caring for seven or more children without a certificate of approval for such facility from the Children's Services Division

(2) Notwithstanding subsection (1) of this section, a person may operate, without a certificate of approval, a facility caring for six or fewer children full time, with an additional four or fewer full-time or part-time children eligible for the first grade or above, when school is not in session during the regular school year, but for not more than a total of 10 children at any given time, including the provider's children

(3) Notwithstanding subsection (1) of this section, a person may operate, without a certificate of approval, a facility caring for six or fewer children full time, with an additional four or fewer part-time children when the regular school year is not in operation, but for not more than a total of 10 children at any given time, including the provider's children

(4) The office of the Director of the Department of Human Resources shall define "full-time" and "part-time" by rule

(5) By July 1, 1988, the office of the director shall adopt rules for the certification of a day care facility caring for not more than 12 children. The rules shall be specifically adopted for the regulation of certified family day care facilities. These

rules shall account for the fact that family day care is provided in homes. Notwithstanding fire and other safety regulations, the rules that the office of the director adopts for certified family day care shall set standards which can be met without significant architectural modification of a typical home. In adopting the rules, the office of the director may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time. In addition to rules adopted for and applied to facilities providing day care for more than 12 children, the office of the director may adopt and apply separate rules appropriate for any day care facility that cares for not more than 12 children and is not the home of a family day care provider.

(6) Any person operating a day care facility may apply for a certificate of approval for such facility from the Children's Services Division, and receive a certificate of approval upon meeting certification requirements [1969 c 641 §2, 1971 c 401 §48, 1975 c 311 §1, 1987 c 794 §4]

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) The moral character and habits of the person will not endanger the well-being of children for whom the person is to provide care

(2) The attitude of the person toward children and understanding of their needs qualify the person to care for children

(3) The person 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, including exclusion of any individual with a criminal record indicating conviction of any crime which would bar the individual from operating or being employed in a day care facility under ORS 418 820 (3) [1969 c 641 §3, 1971 c 401 §49, 1985 c 792 §2]

418.817 Application of zoning ordinances. (1) A family day care provider's home shall be considered a residential use of property for zoning purposes. The home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. No city or county shall enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day care provider's home facility.

(2) A city or county may impose zoning conditions on the establishment and maintenance of a family day care provider's home in an area zoned for residential or commercial use, provided that such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

(3) A county may

(a) Allow a family day care provider's home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215 203,

(b) Impose reasonable conditions on the establishment of a family day care provider's home in an area zoned for farm use, and

(c) Allow a division of land for a family day care provider's home in an exclusive farm use zone only as provided in ORS 215 263 (8)

(4) This section applies only to any family day care provider who provides care in the home of the provider to fewer than 13 children, including children of the provider, regardless of full-time or part-time status [1987 c 621 §12, 1987 c 794 §3]

Note Section 7, chapter 794, Oregon Laws 1987, provides

Sec 7 This Act becomes operative July 1, 1988 [1987 c 794 §7]

418.820 Minimum standards for day care facilities; criminal record background check. (1) After consultation with appropriate agencies and interested persons, the Children's Services Division shall establish minimum standards for day care facilities and the operation thereof and for the administration of ORS 418 805 to 418 885. The division may also require persons who function as operators, staff or

employees of day care facilities, juvenile detention facilities, juvenile corrections facilities or juvenile treatment facilities to provide fingerprints and written consent of the operator or a member or prospective member of the operator's staff or prospective or actual employe as may be required for the performance of nationwide criminal record checks pursuant to ORS 181 537 (2). In carrying out this subsection, the division may require facility operators to pay a fee equal to the cost of performing a nationwide criminal record check. However, nothing in this section shall be interpreted to prevent probationary employment for 30 days of individuals whose criminal record check is currently pending or which is expected to be completed within a reasonable time.

(2) In establishing minimum standards of health and safety, the division shall consult with the Health Division 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

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

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

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

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

(3) The division by rule shall prohibit operation of or employment in a day care facility of any person who has been convicted within the previous five years of child abuse, offenses against persons, sexual offenses, child neglect, felony offenses involving controlled substances, or any other offense bearing a substantial relation to the qualifications, functions or duties of an operator or employe of a day care facility [1969 c 641 §4, 1975 c 268 §1, 1985 c 792 §3]

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. The fee shall vary according to the number of children for which the facility is requesting to be certified, shall be determined and applied through rules promulgated by the division, and shall not exceed \$25 per year.

(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 ORS 418 835 (2), an annual certificate of approval expires one year from the date of issuance [1969 c 641 §6, 1971 c 401 §51, 1975 c 311 §2]

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 Children's Services 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, 1975 c 268 §2]

418.845 Notice; hearing; decision; judicial review. (1) Upon deciding to revoke, suspend or not to renew an annual certificate of approval, the Children's Services Division shall give notice and opportunity for hearing as provided in ORS 183 310 to 183.550.

(2) 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 by the Court of Appeals in the manner provided in ORS 183 480 for the review of orders in contested cases [1969 c 641 §9, 1971 c 401 §53, 1973 c 612 §19]

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 six or more children without a certificate of approval, the authorized representative 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, 1975 c 311 §3]

418.855 Inspection of premises; report.

(1) An authorized representative of the Health Division 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 Health Division 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 Health Division has been requested unless an authorized representative of the Health Division submits a written finding that the facility is in compliance with applicable laws and regulations relating to health and sanitation

(3) A sanitarian's inspection may be performed by a private consultant so long as the consultant is registered under ORS chapter 700 [1969 c 641 §12, 1971 c 401 §55, 1987 c 794 §6]

418.860 Search warrant. (1) In the event that any authorized representative of the Children's Services Division, Health Division 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, the magistrate 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 Health Division, 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 [1969 c 641 §4a, 1971 c 401 §59, repealed by 1975 c 352 §2]

418 880 [1969 c 641 §§4b, 4c, 1971 c 401 §60, repealed by 1975 c 352 §2]

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]

418.890 Separate sleeping quarters not required for certain persons providing day care or babysitting services; exemption from age group segregation requirements. Notwithstanding any other provision of law, children of any person providing babysitting or day care services within the person's own home shall not be required to sleep in any area other than their normal sleeping quarters. Such children related by blood within the first degree of consanguinity shall not be segregated by age grouping while in the care of a person providing babysitting or day care services if the parents request exemption from the operation of any statute or rule requiring such segregation or separation by age [1979 c 745 §2]

COOPERATIVE NETWORK CHILD CARE

418.900 Policy. (1) Recognizing the acute problem of inadequate availability of child care and alternatives and recognizing the problem funding traditional child care programs, it is the intent of ORS 418 900 to 418 920, to create an alternative type of child care program which shall be entitled Cooperative Network Child Care. The intent in creating this pilot project is to promote parent involvement in child care involving unified child care networking

(2) The purpose of this legislation is to provide seed money for a pilot child care program which encompasses a unified community network approach to child care and integrates practical parenting skills in the child care delivery program [1979 c 524 §1]

418.905 Grants for child care program; qualifications; advisory board; program evaluation. (1) The Children's Services Division may award a grant to a child care program that

(a) Is operated by a parent board of directors or some other responsible party who can demonstrate that the program involves parents significantly in decision-making,

(b) Is not operated for profit,

(c) Provides parents information regarding community child care alternatives, networks and resources,

(d) Teaches practical parenting skills,

(e) Includes employer education regarding the needs and benefits of parental involvement in child care,

(f) Involves at least 10 families and 20 children and the participating parent must be either employed at least part time or a student taking at least nine university hours or the equivalent thereof which may be in a high school or other precollege program,

(g) Incorporates a method for evaluation of participation and cost of the program, and

(h) Designates at least one staff position, called program director-teacher, who has a background in early childhood education and who can demonstrate the ability to

(A) Administer and coordinate a child care program,

(B) Develop a cooperative child care network system, the system being defined as the identification and location of child care alternatives,

(C) Teach children the following Self-care, self-knowledge, life roles in the home, school, neighborhood and community, speaking, listening, reading and writing skills, basic art awareness, thinking and reasoning skills, physical skills and social skills, and

(D) Teach parents parenting skills

(2) The proposed program shall

(a) Designate as program director-teacher a person who satisfies the requirements of ORS 418 815 as well as satisfies the requirements of paragraph (h) of subsection (1) of this section, and

(b) Include an advisory board comprised of a cross section of the local community, including representatives from social service agencies providing services to youth and families, members of private nonprofit agencies providing services to children and youth, members from among business, labor and professional interests, community citizen members, parent members of the program and the program director-teacher

(3) The grant shall

(a) Cover a period of not to exceed 24 months and if for less than 24 months, be covered by a contract approved by the Children's Services Division with the consent of the advisory board described in paragraph (b) of subsection (2) of this section,

(b) Not exceed \$30,000,

(c) Be disbursed in equal monthly installments over the period of the grant unless otherwise approved by the Children's Services Division with the consent of the advisory board described in paragraph (b) of subsection (2) of this section, subject to renegotiation for other than equal payments if services cannot be delivered or have not been performed in a timely manner; and

(d) Be used solely for the purpose of staff salaries

(4) The number and amount of grants under this section shall be determined by the Children's Services Division Grant payment shall be made to the parent board of directors or, if there is no parent board of directors, to the party responsible for the program operation Grant payment shall begin 30 days prior to operation of the child care program.

(5) The parent board of directors and the program director-teacher shall design a method of evaluating the program and include the design in the grant proposal

(6) The advisory board shall evaluate the child care cooperative every six months [1979 c 524 §2, 1985 c 650 §1, 1987 c 585 §2]

418.910 Grant applications; guidelines for approval. (1) A child care program may apply for a grant authorized by ORS 418 905 by submitting an application on forms approved by the Children's Services Division to the division The division shall award grants based on the following guidelines

(a) Whether or not the proposed program meets all the criteria set forth in ORS 418 905,

(b) Whether or not the proposed staff has an adequate background in early childhood education, parenting skills and administration,

(c) Whether the proposed program will be available a sufficient number of hours per day, and

(d) Whether or not the proposed program is operationally viable

(2) Priority shall be given to innovative child care programs which are adapted to the needs and utilize the resources of the community they serve [1979 c 524 §3]

418.915 Grant revocation. The Children's Services Division may revoke a grant awarded under ORS 418 905 if the grantee fails to meet the qualifications specified by ORS 418 905 or fails to operate a child care program in conformance with the information supplied in a grant application [1979 c 524 §4]

418.920 Contract with 4C councils for issuing facility certificates of approval. The Children's Services Division may contract with 4C councils for the purpose of issuing certificates of approval to operate day care facilities and certifying compliance with applicable federal standards, solely for these purposes 4C councils are extensions of the Children's Services Division [1979 c 524 §5]

REFUGEE CHILDREN

418.925 "Refugee child" defined. As used in ORS 418 925 to 418 945, "refugee child" is a person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion [1985 c 358 §1]

418.927 When removal of refugee child from home authorized. (1) The Children's Services Division shall not remove a refugee child from the child's home pursuant to ORS 419 569 unless, in addition to the requirements of ORS 419 569, removal is necessary to prevent imminent serious emotional or physical harm to the child and the provision of preventative or remedial services do not alleviate the harm

(2) Whenever the division removes a refugee child from the child's home pursuant to the temporary custody provisions of ORS 419 569, the division shall place the child according to ORS 418 937 [1985 c 358 §2]

418.930 Petition to include reasons for removal. Within one working day of the removal of a refugee child, the Children's Services Division shall file a petition with the juvenile court containing, in addition to the facts required by ORS 419 484, a specific and detailed account of the circumstances which led the division to conclude that the child was in imminent danger of serious emotional or physical harm [1985 c 358 §5]

418.933 Judicial determination; required action by division. (1) No refugee child shall remain out of the child's home pursuant to ORS 418 927 for longer than five days unless there has been a judicial determination supported by clear and convincing evidence that

(a) Preventative or remedial services provided by the Children's Services Division have failed to alleviate the need for removal, and

(b) Return to the home will likely result in psychological or physical damage to the child

(2) The Children's Services Division must include in its petition in addition to the material required under ORS 418 930 and 419 484, the following

(a) Specific actions the division is taking or has taken to alleviate the need for removal

(b) Assurance that the division has complied with the placement preferences of ORS 418 937

(c) Assurance that the division is making or has made diligent efforts to locate and to give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee of the pendency of the petition [1985 c 358 §6]

418.935 Relatives with standing to petition court. Any person within the fifth degree of consanguinity of a refugee child may petition the juvenile court for standing in actions arising under ORS 419 569 equal to that of the primary parenting family where the primary parenting family has been determined incompetent, missing, dead or has had parental rights terminated as a result of judicial proceedings [1985 c 358 §9]

418.937 Placement of refugee child. When making any placement decision involving a refugee child under ORS 419 569, the Children's Services Division and the juvenile court shall consider that child's culture and tradition Unless shown to be inappropriate and inconsistent with the best interests of the child, the division and juvenile court shall place the child with the following in order of preference

(1) Natural parents

- (2) Extended family members
- (3) Members of the same cultural heritage
- (4) Persons with knowledge and appreciation of the cultural heritage of the child [1985 c 358 §3]

418.939 Record for refugee child; content. The Children's Services Division shall maintain a record for each refugee child in its care containing

- (1) The name, age, former residence, legal status, health records, sex, race and accumulated length of time in foster care,
- (2) The name, former residence, health history and character of each genetic parent,
- (3) The date of reception, placing out and adoption of each child and the name, race, occupation and residence of the person with whom a child is placed,
- (4) The date of the removal of any child to another home and the reason for removal,
- (5) The date of termination of guardianship,
- (6) The history of each child until the child reaches 18 years of age, is legally adopted or is discharged according to law, and
- (7) Such other further demographic information as is required [1985 c 358 §7]

418.941 Refugee Child Welfare Advisory Committee; duties. (1) In cooperation with refugee community resources, the Children's Services Division shall establish a Refugee Child Welfare Advisory Committee. The division shall assist the committee in its required tasks

- (2) The committee shall
 - (a) Assist in the review of the division's implementation of ORS 418 925 to 418 945
 - (b) Assist in the identification, development and certification of foster family homes that meet the requirements of ORS 418 925 to 418 945 for the placement of refugee children. Special emphasis shall be placed on locating refugee homes
 - (c) Assist the division in developing training programs to insure the availability of culturally sensitive social work

(3) Notwithstanding the provisions of ORS 40 225 to 40 275, 418 130, 418 770 and 419 567, the committee shall have access to any records of the juvenile court which are pertinent to the care of an individual refugee child [1985 c 358 §4]

418.943 Annual report. The Children's Services Division shall publish annually a report on refugee children in its care. The report shall include, by county and state-wide, information on legal status, living arrangement, age, sex, race,

accumulated length of time in foster care and other demographic information deemed appropriate. The report shall also state the extent to which the division has complied with ORS 418 925 to 418 945 and shall include descriptions of the methods of compliance [1985 c 358 §8]

418.945 Rulemaking. The Children's Services Division shall adopt rules necessary to implement ORS 418 925 to 418 945 [1985 c 358 §10]

LOCAL RESIDENTIAL CHILD CARE FACILITIES

418.950 Definitions for ORS 418.950 to 418.970 As used in ORS 418 950 to 418 970, unless the context requires otherwise

- (1) "Agency" means any person or organization providing substitute residential care for an average daily population of eight or fewer children. "Agency" includes but is not limited to
 - (a) Child-caring agencies licensed by the Children's Services Division under ORS 418 205 to 418 325,
 - (b) Foster homes as defined in ORS 418 625 providing care for more than four children, and
 - (c) Youth care centers as defined in ORS 420 855

(2) "Average daily population" means the sum of days in residence of all children residing in a child-caring facility during a certain period divided by the number of days in the period

(3) "Child-caring facility" means a residence or building used by an agency to provide substitute residential care for children [1979 c 597 §2, 1987 c 94 §133]

418.955 Policy. The Legislative Assembly finds and declares that

- (1) It is the policy of this state to encourage and promote the provision of local residential care for the disadvantaged children of this state,
- (2) There is a growing need for community-based child-caring facilities to provide quality care and protect the welfare of these children,
- (3) Restrictions on the siting of such facilities have become a problem in the state,
- (4) It is the policy of this state to provide for the equitable distribution of child-caring facilities throughout the cities and counties of the state, and

(5) It is a matter of state-wide concern that procedures be adopted by cities and counties for determining the siting of child-caring facilities [1979 c 597 §1]

418.960 City and county siting of child-caring facilities; applications; denial procedure; proof of facility qualifications. (1) Each city and county may adopt a procedure which will provide opportunities for the siting of child-caring facilities within its jurisdiction including the siting of such facilities in single-family residential zones. The procedure shall specify all conditions the requirements of which must be satisfied for the approval of an application for the siting of a child-caring facility, including any applicable zoning or land use restrictions.

(2) If a city or county denies an application for the siting of a child-caring facility, it shall make formal findings under the provisions of the procedure adopted under subsection (1) of this section.

(3) Denial of an application for the siting of a child-caring facility by an agency, board or commission of a city or county may be appealed to the governing body of the city or county.

(4) A city or county shall not require, under the procedure established under this section, independent satisfaction of conditions that have been required by the state for certification of the child-caring facility, unless, in the case of the particular facility, the city or county finds

(a) That circumstances have changed,

(b) That additional information about those conditions is necessary, or

(c) That review of such conditions is necessary to respond to the residents of the jurisdiction.

(5) Upon request, an agency applying for certification of a child-caring facility shall supply the city or county with a copy of the agency's application for state certification of the facility [1979 c 597 §3].

418.965 Approval or denial of applications. (1) A city or county shall approve or deny an application for the siting of a child-caring facility within 90 days after the date of application, unless both the applicant and the city or county agree to an extension of time.

(2) After July 1, 1980, no city or county may deny an application for the siting of a child-caring facility unless it has adopted the procedure authorized by ORS 418.960 [1979 c 597 §§4, 5].

418.970 ORS 418.950 to 418.970 inapplicable to existing facilities. The provisions of ORS 418.950 to 418.970 do not apply to child-caring facilities in existence and operating on October 3, 1979 [1979 c 597 §6].

PENALTIES

418.990 Criminal penalties. (1) A person who violates ORS 418.130 or 418.140 (1) commits a Class A misdemeanor.

(2) A person who violates ORS 418.290, 418.300, 418.250 (2) or 418.255 commits a violation punishable by a fine not exceeding \$100.

(3) A person who violates ORS 418.630 commits a Class B misdemeanor.

(4) A person who violates ORS 418.810 commits a Class A misdemeanor. Each day of violation is a separate offense.

(5) A person who violates ORS 418.750 commits a violation punishable by a fine not exceeding \$1,000. Prosecution under this subsection may be commenced at any time within 18 months after commission of the offense.

(6) A person who violates ORS 418.770 (3) commits a violation punishable by a fine not exceeding \$1,000.

(7) Violation of ORS 418.215, 418.250 (1) or 418.327 (3) is a Class A misdemeanor. Each day of violation is a separate offense. [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, subsection (7) enacted as 1973 c 306 §3, 1975 c 644 §12, 1977 c 232 §2, 1983 c 510 §16, 1985 c 723 §3, 1987 c 94 §134, 1987 c 794 §5].

Note The amendments to 418.990 by section 5, chapter 794, Oregon Laws 1987, become operative July 1, 1988. See section 7, chapter 794, Oregon Laws 1987.

418.992 Civil penalty. (1) In addition to any other liability or penalty provided by law, the Assistant Director for Children's Services may impose a civil penalty on a private child-caring agency for any of the following:

(a) Violation of any of the terms or conditions of a license issued under ORS 418.205 to 418.310 and 418.992 to 418.998.

(b) Violation of any rule or general order of the Children's Services Division that pertains to a private child-caring agency.

(c) Violation of any final order of the assistant director that pertains specifically to the private child-caring agency.

(2) A civil penalty may not be imposed under this section for violations other than:

(a) Those involving direct care or feeding of children, staff to child ratio, sanitation involving direct care, or

(b) Unless a violation is found on two consecutive surveys of the private child-caring agency.

(3) The assistant director in every case shall prescribe a reasonable time for elimination of a violation

(a) Not to exceed 30 days after first notice of a violation, or

(b) In cases where the violation requires more than 30 days to correct, such time as is specified in a plan of correction found acceptable by the assistant director

(4) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the Assistant Director for Children's Services considers proper and consistent with the public health and safety [1983 c 510 §23]

418.993 Procedure. (1) Any civil penalty imposed under ORS 418 992 shall become due and payable when the private child-caring agency incurring the penalty receives a notice in writing from the Assistant Director for Children's Services. The notice referred to in this section shall be sent by registered or certified mail and shall include

(a) A reference to the particular sections of the statute, rule, standard or order involved,

(b) A short and plain statement of the matters asserted or charged,

(c) A statement of the amount of the penalty or penalties imposed, and

(d) A statement of the private child-caring agency right to request a hearing

(2) The private child-caring agency to whom the notice is addressed shall have 10 days from the date of mailing of the notice in which to make written application for a hearing before the assistant director

(3) All hearings shall be conducted pursuant to the applicable provisions of ORS 183 310 to 183 550 [1983 c 510 §24]

418.994 Schedule of penalties. After public hearing, the Assistant Director for Children's Services by rule shall adopt a schedule establishing the civil penalty that may be imposed under ORS 418 992. However, the civil penalty shall not exceed \$500 for each violation [1983 c 510 §25]

418.995 Factors considered in imposing penalty. In imposing a penalty pursuant to the schedule adopted pursuant to ORS 418 992, the Assistant Director for Children's Services shall consider the following factors

(1) The past history of the private child-caring agency incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation

(2) Any prior violations of statutes or rules pertaining to private child-caring agencies

(3) The economic and financial conditions of the private child-caring agency incurring the penalty

(4) The immediacy and extent to which the violation threatens the health, safety and well-being of the children [1983 c 510 §26]

418.996 Hearing. (1) If the private child-caring agency notified fails to request a hearing within the time specified in ORS 418 993, or if after a hearing the agency is found to be in violation of a license, rule or order described in ORS 418 992, an order may be entered by the division assessing a civil penalty

(2) If the order is not appealed, the amount of the penalty is payable within 10 days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, shall constitute a judgment and may be filed in accordance with the provisions of ORS 18 320 to 18 370. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record [1983 c 510 §27]

418.997 Judicial review. Judicial review of civil penalties imposed under ORS 418 992, shall be as provided under ORS 183 480, except that the court may, in its discretion, reduce the amount of the penalty [1983 c 510 §28]

418.998 Disposition of penalties. All penalties recovered under ORS 418 992 to 418 998 shall be paid into the State Treasury and credited to the General Fund [1983 c 510 §29]

