

Chapter 418

1989 EDITION

Child Welfare Services

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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 employees 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 employees of the division.

(3) The assistant director may authorize reimbursement of such expenses as are approved by the division and incurred by assistants and employees 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 §§1]

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 re-

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

(2) The Adult and Family Services Division may designate any responsible individual, including any public officer or employee, 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 ex-

penses 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 Govern-

ment 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]

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 fund in the State Treasury, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. 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, 1989 c.966 §48]

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 au-

thorizing 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 infor-

mation 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 employee 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; members and employees 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, and 418.625 to 418.685.

(2) No employee 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 employees 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 employee 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 re-

quire 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 rea-

son 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]

CHILD CARE RESOURCE AND REFERRAL PROGRAMS

418.342 Definition for ORS 418.342 to 418.363. As used in ORS 418.342 to 418.363 "resource and referral agencies" means agencies with programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. [1989 c.306 §2]

Note: 418.342 to 418.363 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.

418.344 Policy. The Legislative Assembly believes that:

(1) Child care resource and referral programs involving a state-wide network of local

resource and referral agencies coordinated centrally are essential to long-range solutions to the child care crisis. Services may be both public and private ventures, which meet the needs of diverse audiences including, but not limited to:

(a) Parents for consumer education to find, select and maintain quality child care;

(b) Providers for access to training and consultation;

(c) Employers for cost-effective solutions to meet the needs of their work force;

(d) Communities to plan effectively for improvements to the system; and

(e) The state for the need of a productive work force.

(2) The state has an essential role in solving the child care crisis by becoming a stable partner with parents, local communities, employers and private contributors in developing solid child care resource and referral agencies for all citizens. [1989 c.306 §1]

Note: See note under 418.342

418.346 Services by resource and referral agencies. Services offered by resource and referral agencies shall include, but are not limited to assistance for:

(1) Parents in locating available and appropriate child day care, including counseling on how to choose a quality arrangement and sources of subsidies for low income families;

(2) Parents in locating day care during nontraditional work hours;

(3) Parents of handicapped children in locating available and appropriate day care and respite care services;

(4) Parents in locating day care for ill children;

(5) Providers of day care programs in acquiring clients for their services;

(6) Providers of day care programs in upgrading the quality of services offered and business operation;

(7) Communities in assessing and recruiting for underserved needs; and

(8) Employers in providing assistance to employees in locating or providing day care. [1989 c.306 §3]

Note: See note under 418.342.

418.348 Resource and referral agency requirements. Each resource and referral agency shall establish a referral process, maintain a record file of existing child care facilities in the designated area, maintain documentation of requests, provide consultation to parents and provide technical assistance to providers of child care. [1989 c.306 §4]

Note: See note under 418.342.

418.350 Referrals to certified child care facilities; access requirements. (1) Resource and referral agencies shall make referrals to certified child care facilities. Referrals shall be made to uncertified child care facilities only if there is no requirement that the facility be certified.

(2) The referral process shall:

(a) Afford parents maximum access to all referral information. Access shall include, but is not limited to, telephone referrals to be made available for at least 20 hours per week of operation, including nontraditional hours.

(b) Make every effort to be accessible to all parents within the defined geographic area, including but not limited to any of the following:

(A) Toll-free telephone lines;

(B) Office space convenient to parents and providers; and

(C) Referrals in languages which are spoken in the community.

(3) Each child care resource and referral agency shall publicize its services through available sources, agencies and other appropriate methods. [1989 c.306 §5]

Note: See note under 418.342.

418.352 Resource files; content. (1) A resource file shall be maintained by resource and referral agencies to identify the full range of existing child care services through information provided by all relevant public and private agencies in the areas of service and through the development of a resource file of those services which shall be maintained and updated at least annually.

(2) The resource file shall include, but not be limited to, the following information:

(a) Type of program;

(b) Hours of service;

(c) Ages of children served;

(d) Fees and eligibility for services; and

(e) Significant program information. [1989 c.306 §6]

Note: See note under 418.342.

418.354 Documentation of requests for service. (1) Resource and referral agencies shall maintain documentation of requests for service. The following documentation of requests shall be maintained by resource and referral agencies:

(a) Number and time of calls and contacts to the child care resource and referral agency;

(b) Ages of children for whom care is requested;

(c) Time category of child care requested for each child;

(d) Special time category, such as nights, weekends and swing shift; and

(e) The reason child care is needed.

(2) The information shall be maintained in such a manner that it is easily accessible for dissemination and evaluation purposes. [1989 c 306 §7]

Note: See note under 418.342

418.356 Technical assistance to providers of child care services. (1) Resource and referral agencies shall provide technical assistance, with input from providers, to existing and potential providers of all types of child care services. Assistance shall include, but not be limited to, the following:

(a) Information on initiating new child care services, including but not limited to licensing, zoning, program and budget development and assistance in finding information from other such sources;

(b) Information and resources which shall help existing child care services providers to maximize their ability to serve the children and parents of the community; and

(c) Facilitation of communication between existing child care and child-related services providers in the community served.

(2) Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources. [1989 c 306 §8]

Note: See note under 418.342

418.358 Duties of Commission for Child Care; duties of Children's Services Division; financial obligation of local agencies. (1) The Commission for Child Care shall establish criteria for proposals for child care resource and referral grants. The commission shall contract with the Children's Services Division to prepare requests for proposals consistent with the commission's criteria. The commission shall review the division's work, receive proposals and award grants for the establishment of resource and referral services.

(2) The Children's Services Division shall collect and report data concerning resource and referral programs.

(3) The local agencies shall match grant funds with an equal amount of financial support, including but not limited to in-kind contributions.

(4) As used in this section, "in-kind contributions" means nonmonetary contributions which include but are not limited to:

(a) Provision of rent-free program space;

(b) Provision of utilities;

(c) Provision of custodial services;

(d) Provision of secretarial services;

(e) Provision of liability insurance or health insurance benefits;

(f) Administrative services; and

(g) Transportation services. [1989 c.306 §9]

Note: See note under 418.342

418.361 Duties of division staff; duty of commission to monitor and disseminate information. (1) The Children's Services Division staff shall provide technical assistance, linkage of local agencies, data collection and monitoring.

(2) The Commission for Child Care shall continually monitor and disseminate information about federal and charitable programs for the purposes of ORS 418.342 to 418.363. [1989 c 306 §10]

Note: See note under 418.342.

418.363 Criteria for renewal of program; reallocation of funds. (1) The criteria for the renewal of a resource and referral program shall include the following:

(a) Current and continuous satisfactory performance as a resource and referral agency providing the full range of services required by ORS 418.342 to 418.363.

(b) Full fiscal and program compliance with contract requirements established by the Commission for Child Care.

(c) Cost effectiveness.

(d) Extent and quality of service to the community.

(2) The commission shall reallocate any funds made available through nonrenewal of a contract for resource and referral agencies.

(3) Satisfactory contract performance by a resource and referral agency shall be a condition for the renewal of that contract in the subsequent fiscal year. [1989 c.306 §11]

Note: See note under 418.342

418.355 [Formerly 419.152; 1971 c.401 §28; repealed by 1989 c 41 §2]

418.360 [Formerly 419.154, 1971 c 401 §29, repealed by 1989 c.41 §2]

418.365 [Formerly 419.156, 1971 c.401 §30, repealed by 1989 c.41 §2]

418.370 [Formerly 419.158, repealed by 1989 c 41 §2]

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 chil-

dren'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, as amended by chapter 121, Oregon Laws 1989, 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. [1985 c 753 §1]

Sec. 2. (1) The membership of the Commission for Child Care shall be comprised of 22 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 who shall serve as nonvoting members on matters other than those described in section 1, chapter 753, Oregon Laws 1985. Nineteen voting 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;

(g) One person whose profession involves the physical and mental well-being of children, and

(h) Four persons who are consumers of day care, as defined in ORS 418.805, one of whom is receiving or is qualified to receive state-subsidized day care assistance, 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 grants, gifts and other funds and disburse such grants, gifts or other funds for purposes consistent with the purposes of the commission.

(6) The commission may employ staff or contract for staff services necessary to assist the commission in the performance of its duties. [1985 c 753 §2; 1989 c.121 §3]

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 [1985 c.753 §3]

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, chapter 753, Oregon Laws 1985, are repealed July 1, 1993 [1985 c.753 §8, 1989 c.121 §2]

Note: Section 4, chapter 110, Oregon Laws 1989, provides

Sec. 4. There is created within the General Fund, the Commission for Child Care Account, to which shall be credited Miscellaneous Receipts collected or received by the Commission for Child Care. Moneys in the account are continuously appropriated for purposes consistent with the creation of the commission. [1989 c.110 §4]

Note: Section 12, chapter 306, Oregon Laws 1989, provides

Sec. 12. The Commission for Child Care shall report to the Sixty-sixth Legislative Assembly concerning the program authorized by this Act by submitting a report at the beginning of the regular session to the Speaker of the House of Representatives and to the President of the Senate, each of whom shall refer the report to an appropriate standing committee

SHELTER-CARE HOMES

418.405 [Formerly 419.202, 1963 c.451 §1, 1971 c.401 §31; repealed by 1989 c.41 §2]

418.410 [Formerly 419.204, 1967 c.89 §1; repealed by 1989 c.41 §2]

418.415 [Formerly 419.206, 1971 c.401 §32, repealed by 1989 c.41 §2]

418.420 [Formerly 419.208; 1969 c.440 §1, 1971 c.401 §33, repealed by 1989 c.41 §2]

418.425 [Formerly 419.210, 1971 c.401 §34, repealed by 1989 c.41 §2]

418.430 [Formerly 419.212; 1967 c.454 §50, 1971 c.401 §35; repealed by 1989 c.41 §2]

418.435 [Formerly 419.214; 1963 c.450 §1; repealed by 1989 c.41 §2]

418.440 [Formerly 419.216, repealed by 1989 c.41 §2]

418.445 [Formerly 419.218, 1967 c.534 §18; repealed by 1989 c.41 §2]

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

418.455 [Formerly 419.222, repealed by 1989 c.41 §2]

418.460 [Formerly 419.566 and then 419.224; repealed by 1989 c.41 §2]

418.465 [1963 c.150 §2; repealed by 1989 c.41 §2]

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

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

(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 safekeeping 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]

418.505 [Formerly 419.252, 1963 c.451 §2, 1967 c.89 §2; 1967 c.454 §51; repealed by 1989 c.41 §2]

418.510 [Formerly 419.254; 1967 c.454 §52, 1971 c.401 §37; repealed by 1989 c.41 §2]

418.515 [Formerly 419.256, 1963 c.451 §3; 1969 c.440 §2; 1971 c.401 §38, repealed by 1989 c.41 §2]

418.520 [Formerly 419.258, 1971 c.401 §39, repealed by 1989 c.41 §2]

418.525 [Formerly 419.260, 1967 c.454 §53, 1971 c.401 §40; repealed by 1989 c.41 §2]

418.530 [Formerly 419.262; repealed by 1989 c.41 §2]

418.555 [Formerly 419.302, repealed by 1989 c.41 §2]

418.560 [Formerly 419.304, 1971 c.401 §41, repealed by 1989 c.41 §2]

418.565 [Formerly 419.306, 1967 c.454 §54, 1969 c.597 §255, 1971 c.401 §42, repealed by 1989 c.41 §2]

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 provi-

sional 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; foster parent training; law enforcement officer training. (1) The Children's Services Division shall adopt such rules, 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 Children's Services Division shall adopt rules assuring that all foster parents receive training designed to assist the foster parent in both understanding the mental and emotional problems that occur in child victims of abuse and neglect, including sexual abuse, and in managing the behavior that may result from such problems. The training shall be provided in accordance with rules adopted by the Children's Services Division.

(3) By July 1, 1991, the Board on Police Standards and Training shall develop a training program for law enforcement officers investigating child abuse cases and interviewing child abuse victims. The curriculum shall address the area of training and education necessary to facilitate the skills necessary to investigate reports of child abuse. The curriculum shall include, but not be limited to:

- (a) Assessment of risk to child;
- (b) Dynamics of child abuse; and
- (c) Legally sound and age appropriate interview and investigatory techniques.

(4) 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; 1989 c.998 §1]

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 Employment Division of the Department of Human Resources.

(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; 1989 c.786 §6]

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) Report to the 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.

(d) Develop and submit to the Sixty-sixth Legislative Assembly a plan for providing services for forestation and reforestation projects in this state. The plan also shall include recommendations for funding, the scope and nature of appropriate reforestation projects and an assessment of their feasibility and the prospect and nature of cooperative relationships with other states and federal agencies for implementation of projects.

(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, 1989 c.786 §7]

Note: See note under 418.650.

418.658 Pilot programs for community service; projects to be considered; education tuition vouchers for program participants; sponsors; criteria. (1) Beginning July 1, 1990, the Director of the Oregon Youth Conservation Corps shall establish, on a pilot basis and within the Oregon Youth Conservation Corps, a separate program known as the Oregon Community Service Corps. In addition to the established purposes of the Oregon Youth Conservation Corps, the purpose of the Oregon Community Service Corps is to promote community service activities throughout the state for a broad cross section of Oregon youth through programs that also include appropriate educational and job training opportunities for participants.

(2) In addition to projects submitted under ORS 418.660 (1), projects of the Oregon Community Service Corps may include, but shall not be limited to:

(a) Child care services.

(b) Elderly and disabled care services.

(c) Literacy education programs.

(d) Recycling and other waste reduction services.

(3) The Oregon Community Service Corps shall offer employment and educational opportunities of at least three but not more than 12 months' duration for selected participants.

(4) Under rules adopted by the director, participants who successfully complete any 12-month program under this section shall be eligible for \$1,500 in tuition vouchers that can be used at any vocational or post-secondary educational institution that is qualified to receive assistance through the State Scholarship Commission.

(5) All Oregonians who are at least 16 years of age and under 25 years of age are

eligible to participate in the program. To insure that Oregon Community Service Corps participants represent a broad cross section of Oregonians, special emphasis shall be given to recruiting high school dropouts and other at-risk youth, according to criteria established by the Oregon Youth Conservation Corps Advisory Committee.

(6) To the extent practicable, the director shall enlist state and federal agencies, local government, nonprofit organizations, and private businesses, and any combination of such entities, to act as sponsors for programs administered under this section. Selection of sponsors shall be based on criteria that include the following:

(a) The availability of other resources on a matching basis, including contributions from private sources, other federal, state and local agencies, and moneys available through the Job Training Partnership Act (P.L. 97-300, as amended, 29 U.S.C. 1501 et seq.);

(b) The provision of related educational and job training programs to participants, including but not limited to high school and college coursework, General Educational Development test (GED) equivalency training, project-related education and vocational training;

(c) Assurances that proposed projects will not displace existing employees or duplicate existing private or government programs; and

(d) Assurances that proposed projects are devoted to the enhancement of the community and are not based in maintenance activities and that these projects meet an identified need.

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 projects which include, but are not limited to, receiving and planting surplus tree seedlings supplied by the Federal Government forestry and nursery activities, and the reforestation of land in this state;

(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, 1989 c.786 §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 displacement 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 employee, otherwise reducing the regular work force not supported under ORS 418.650 to 418.663, in an

icipation 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 employees 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]

GOVERNMENT POLICY

418.687 [1973 c 629 §1; 1981 c 230 §1; repealed by 1989 c.786 §13 and amended by 1989 c.904 §64 (see 418.688)]

418.688 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, State Parks and Recreation Department and the Division of State Lands. [1989 c.904 §64]

418.690 [1973 c.629 §2]

418.693 [1973 c.629 §3, repealed by 1989 c 786 §13]

418.695 [1973 c.629 §4, repealed by 1989 c.786 §13]

418.697 [1973 c 629 §5, repealed by 1989 c 786 §13]

418.705 [1961 c.621 §1; repealed by 1989 c 786 §13]

418.710 [1961 c.621 §4, repealed by 1989 c 786 §13]

418.715 [1961 c.621 §§2, 5; repealed by 1989 c 786 §13]

418.720 [1961 c.621 §3, repealed by 1989 c.786 §13]

418.725 [1961 c.621 §6; repealed by 1989 c.786 §13]

418.730 [1961 c 621 §7; repealed by 1989 c.786 §13]

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 employee.

(d) Licensed practical nurse or registered nurse.

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

(f) Peace officer.

(g) Psychologist.

(h) Clergyman.

(i) Licensed clinical social worker.

(j) Optometrist.

(k) Chiropractor.

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

(m) Attorney.

(n) Naturopathic physician.

(o) Licensed professional counselor.

(p) Licensed marriage and family therapist.

(q) Firefighters and emergency medical technicians.

(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; 1989 c.65 §1; 1989 c.721 §§9, 51]

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]

418.747 Interagency teams for investigation of child abuse; duties; training; method of investigation. (1) The district attorney in each county shall be responsible for developing interagency and multidisciplinary teams to consist of but not be limited to law enforcement personnel, Children's Services Division protective service workers, school officials, health departments and courts, as well as others specially trained in child abuse and child sexual abuse investigation.

(2) The teams shall develop a written protocol for investigation of child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies that specify the role of each agency, procedures to be followed to assess risks to the child and criteria and procedures to be followed when removal of the child is necessary for the child's safety.

(3) Each team member and those conducting child abuse investigations and interviews of child abuse victims shall be trained in risk assessment, dynamics of child abuse and child sexual abuse, legally sound and age appropriate interview and investigatory techniques.

(4) All investigations of child abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures called for in this section. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or division employee, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of physical harm, the investigation can proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

(5) Protection of the child is of primary importance. In no case should the criminal investigation take precedence over the safety of the child.

(6) Each team shall classify, assess and review cases under investigation.

(7) Each multidiscipline team shall develop policies that provide for an independent review of investigation procedures of sensitive cases after completion of court actions on particular cases. The policies shall include independent citizen input. Parents of child abuse victims shall be notified of the review procedure. [1989 c.998 §4]

418.748 State-wide team on child abuse. The Children's Services Division shall form a state-wide interdisciplinary team to meet twice a year to review child fatality cases where child abuse is suspected, identify trends, make recommendations and take actions involving state-wide issues. [1989 c.998 §5]

418.749 Training and continuing education for persons required to investigate child abuse; curriculum; notice to persons required to report child abuse. (1) The Children's Services Division shall implement a training and continuing education curriculum for persons other than law enforcement officers required by law to investigate allegations of child abuse. The curriculum shall address the areas of training and education necessary to facilitate the skills necessary to investigate reports of child abuse and shall include but not be limited to:

- (a) Assessment of risk to the child;
- (b) Dynamics of child abuse and child sexual abuse; and
- (c) Legally sound and age appropriate interview and investigatory techniques.

(2) The Oregon State Bar and each board that licenses, certifies or registers public and private officials required to report child abuse under ORS 418.750 shall identify those persons regulated by the board who in their official capacity have regular and on-going contact with children and shall notify those persons every two years of their duty to report child abuse. Such notice shall contain what the person is required to report and where such report shall be made and also advise of the symptoms to look for and provide a contact number for further information.

(3) The Children's Services Division shall develop content of the notice for such a mailing. The cost of distribution shall be paid by the board.

(4) The Children's Services Division shall develop and make available, at cost, training materials that may be used at training conferences and other similar events involving such public and private officials, as defined in ORS 418.740. [1989 c.998 §6]

Note: 418.749 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.

418.750 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; notice to parents; physical examination. (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 by oral report followed by written report 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 taken into 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.

(4)(a) If a child is taken into protective custody by the division or a law enforcement official, the division or law enforcement official shall, if possible, make reasonable efforts to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child has been taken into custody and general information about the child's placement, and the telephone number of the division office and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information requested by paragraph (a) of this subsection also shall be provided to the parents in writing as soon as possible.

(c) The division also shall make a reasonable effort to notify the noncustodial parent of the information requested by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the division, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(5) If a law enforcement officer or the Children's Services Division, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse as defined in ORS 418.740 (1)(c) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the Children's Services Division to consent to physical examinations at other times.

(6) A minor child of 12 years of age or older may refuse to consent to such examination. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 and, whenever practical, trained in conducting such examinations. [1971 c.451 §5; 1975 c.644 §8; 1977 c.741 §2; 1983 c.815 §13; 1985 c.723 §2; 1989 c.998 §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. (1) 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 reasonable cause to believe that the

child's condition was the result of abuse even if the cause remains unknown. Each registry shall contain current information from reports catalogued both as to the name of the child and the name of the family.

(2) When the division shares specific case information from the central state registry, it shall include a notice that the information does not necessarily reflect any subsequent proceedings that are not within the jurisdiction of the division. [1971 c.451 §6; 1973 c.306 §1; 1975 c.644 §9; 1977 c.741 §3, 1989 c.371 §1]

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 documents, 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 employee 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]

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 and adult individuals who reside at the facility premises or who are on the facility premises for significant periods of time when children are present, 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 employee or adult individuals who reside at the facility premises or who are on the facility premises for significant periods of time when children are present, 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 a day care facility if any of the following 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 a day care facility:

- (a) The operator of the day care facility;
- (b) Any resident of the day care facility premises;
- (c) Any employee of the day care facility; or
- (d) Any adult person on the day care facility premises for significant periods of time when children are present. [1969 c.641 §4; 1975 c.268 §1; 1985 c.792 §3, 1989 c.439 §2]

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 AND EXTENDED NEIGHBORHOOD LATCHKEY

418.900 Policy; "latchkey" defined. (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 or Extended Neighborhood Latchkey. The intent in creating these pilot projects is to promote community and parent involvement in child care involving unified child care networking. Such a program may include schools or neighborhood networking.

(2) The purpose of ORS 418.900 to 418.920 is to provide seed money for a pilot child care program which encompasses a unified community network approach to child care or a comprehensive latchkey network that involves the neighborhood and integrates practical parenting skills in the child care delivery program.

(3) As used in ORS 418.900 to 418.920, "latchkey" means child care available before and after school. [1979 c.524 §1, 1989 c.302 §1]

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

(a) Is operated by a parent board of directors or some other responsible party who can demonstrate that the program involves parents or the neighborhood 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 or extended neighborhood latchkey 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 and responsibilities 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 instalments 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 except as provided in subsection (7) of this section.

(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.

(7)(a) The Children's Services Division may award a grant to a latchkey program that:

(A) Works in cooperation with school districts, community school programs and community colleges;

(B) Involves community education in before-school and after-school child care;

(C) May be linked with existing latchkey and community programs;

(D) Enables neighborhood responsibility for a child support system; and

(E) Provides a resource person in the neighborhood.

(b) The grant shall be used for:

(A) Developing an extended latchkey program;

(B) Training of the neighborhood volunteers;

(C) Meeting specified expenses incurred to organize a neighborhood latchkey program; and

(D) Paying the salary of the director. [1979 c 524 §2, 1985 c 650 §1; 1987 c 585 §2, 1989 c.302 §2]

418.910 Grant applications; guidelines for approval. (1) A child care or extended neighborhood latchkey 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 and extended neighborhood latchkey programs which are adapted to the needs and utilize the resources of the community they serve. [1979 c 524 §3; 1989 c 302 §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 statewide, 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 facili-

ties 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]

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; recording of order. (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) When an order assessing a civil penalty under this section becomes final by op-

eration of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien-Record. [1983 c.510 §27; 1989 c.706 §12]

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]
