

AN ACT

SB 964

Relating to child welfare services; creating new provisions; amending ORS 418.480, 418.485 and 418.495; appropriating money; and declaring an emergency.

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

SECTION 1. Sections 2 to 8 of this 2011 Act are added to and made a part of ORS chapter 418.

SECTION 2. As used in sections 2 to 8 of this 2011 Act:

(1) "Child" means a child who qualifies for child welfare services provided by the Department of Human Services.

(2) "Client-focused functional outcome measures" means objective, observable measures of outcomes for services provided to a child and a child's family under sections 2 to 8 of this 2011 Act, including but not limited to measures relating to permanency.

(3) "County partners" means employees or representatives of the Department of Human Services, the county, court appointed special advocates under ORS 419A.170, drug and alcohol treatment providers, mental health providers, providers of affordable housing and other persons or entities that provide services to children and families within a county of this state.

(4) "Family" means, at a minimum but not to the exclusion of siblings as defined in ORS 419A.004 or other persons living in the same household with a child, the child and:

(a) The child's parent as defined in ORS 419A.004;

(b) The child's guardian appointed pursuant to ORS chapter 125; or

(c) A person who has a caregiver relationship as defined in ORS 419B.116 with the child.

(5) "Intensive in-home services" means services that keep a child and family together in the child's and family's home with a goal of 24-hour on-call support while the child and the child's family engage in family strengthening activities and receive appropriate mental health and addiction treatment and other intensive support interventions.

(6) "Performance-based contract" means a contract entered into under section 4 of this 2011 Act that:

(a) Requires a program to demonstrate successful child-driven outcomes when compared to alternative placement options and long-term cost savings; and

(b) Bases termination or renewal of the contract on demonstration of the factors described in paragraph (a) of this subsection.

(7) "Program" means a Strengthening, Preserving and Reunifying Families program described in section 4 of this 2011 Act.

SECTION 3. The Legislative Assembly finds that:

(1) There is growing empirical evidence that severe trauma may result when children are removed from their families, and that this trauma may give rise to negative outcomes that last a lifetime, cause intergenerational patterns of addiction, abuse and neglect, and give rise to disrupted and broken families.

(2) Improving permanency outcomes for children is best accomplished by providing services that allow children to remain with their families and in their homes when appropriate and safe.

(3) Allowing families to remain intact while parents undergo mental health or addiction treatment, take steps to move out of poverty by obtaining employment and housing or receive family strengthening services preserves child-parent bonds with improved outcomes for children and families and positive long-term

societal effects.

(4) When placement in foster or substitute care outside the home must occur, this can be less traumatic and of shorter duration with the provision of family-focused treatment and services, and the provision of routine family contact and visitation as frequently as is appropriate. After children are returned to the family, they should receive continuing services to ensure safety and stabilization.

(5) Children should receive continuing services sufficient to achieve stabilization after returning to the community.

(6) A new systemwide model for providing child welfare services should be adopted that provides services and supports that have proved effective in keeping children safely with their parents, that reduces children's risk of future entry into the criminal justice and child welfare systems, that lowers the risk of intergenerational abuse and that decreases the associated human and economic costs.

(7) The efficacy of programs that allow families to remain together or that assist families with reunification has been demonstrated by pilot programs, including one that has operated in Jackson County since 2007 and other national best practice models.

(8) Foster care savings that are reinvested can enhance and expand child welfare services.

(9) Housing is essential to the safe reduction of the number of children in foster care. Partnerships between affordable housing providers and nonprofit service agencies must be formed where possible. Tenancy requirements and exclusion criteria related to criminal, credit and tenant histories, particularly when associated with substance abuse, must be reevaluated and modified where possible.

SECTION 4. (1) By October 1, 2012, and to the extent practicable using available resources, the Department of Human Services and county partners shall implement Strengthening, Preserving and Reunifying Families programs as described in this section. County partners are encouraged to form collaborations with programs to design, oversee and participate in program development and implementation as appropriate. The department shall be the lead agency in efforts undertaken pursuant to this section, but all officers, boards, commissions and other agencies of the State of Oregon shall cooperate with the department to accomplish the duties imposed on the department by sections 2 to 8 of this 2011 Act and to allocate services provided by programs as described in this section.

(2)(a) The Director of Human Services or the director's designee, the Director of the Oregon Health Authority or the director's designee or the Director of the Housing and Community Services Department or the director's designee shall enter into a contract with, and make reasonable payment for services provided by, a program in accordance with sections 2 to 8 of this 2011 Act, and shall, where necessary, enter into contracts with a lead agency or with county and community entities that have been designated by the county partners to coordinate services provided under this section.

(b) A contract entered into under this subsection shall require only those services that are reasonably available in the county or region where the program is or will be providing services. Services may or may not be located in a given county or region.

(c) At the election of any director or director's designee, a contract entered into under this subsection may be a performance-based contract.

(3) The programs implemented under this section shall provide an array of services. Depending on resources and availability, the services provided may include but are not limited to the following:

(a) Front end intervention services that include alcohol and drug treatment providers or mental health providers accompanying department caseworkers on initial calls and visits in response to allegations or reports of abuse or neglect. County partners shall participate in assessments to determine the appropriateness and level of program services required for a child and the child's family, the creation of safety plans to enable the provision of in-home services if appropriate and the development of family preservation and reunification plans for presentation to the juvenile court.

(b) Residential treatment whereby a member of a child's family with care, custody or control of the child enters a treatment facility accompanied by the child with 24-hour supervision while the child and the member

of the child's family engage in family strengthening activities and receive appropriate mental health and addiction treatment support and services.

(c) Supervised housing whereby a child and the child's family remain together in program housing while they participate in family strengthening activities, receive mental health and addiction support and services and have the appropriate level of supervision to ensure the physical health, care and safety of the child.

(d) Family-centered day and outpatient treatment services, either after completion of residential treatment or in lieu of residential treatment, designed specifically for substance-abusing parents of children involved in the child welfare system.

(e) Intensive in-home services while the child and family engage in family strengthening activities.

(f) Facilitation of regular contact between a child and the child's family, if separation has occurred, to facilitate an easier, quicker and more successful transition of the child back into the family home.

(g) Case managers who provide child and family supervision, assistance identifying and accessing needed services, observation and monitoring of parenting behavior, assistance with life skills development and assistance in removing barriers to system independence.

(h) Immediate access to supervised drug-free emergency and short-term housing.

(i) Access to permanent, drug-free housing with on-site case managers and access to supportive services that increase stability for a child and the child's family.

(j) Family finding services to identify extended family members to provide additional support, resources and alternative placement options if necessary.

(k) Services of a court appointed special advocate appointed pursuant to ORS 419A.170 where available.

(l) Other services and interventions as programs evolve, research develops and funding becomes available.

(4) The services provided by programs must be culturally competent and include evidence-informed or evidence-based practices.

(5) The department shall establish by rule client-focused functional outcome measures for programs implemented under this section.

(6) Client-focused functional outcome measures may be used as a basis for funding programs and entering into or renewing contracts with programs.

(7) Programs shall develop and implement training and continuing education curricula for persons delivering program services and, when adequate funding exists, sponsor the attendance of service providers at state or national training programs, conferences or other similar events.

(8) Programs may seek funds from public and private sources to:

(a) Meet match requirements for state or federal grants to support the provision of program services;

(b) Implement and operate the training and educational requirements of subsection (7) of this section;
and

(c) Provide financial resources for the hiring of personnel and the provision of existing or enhanced program services.

(9) The department, in consultation with programs, shall report annually to the Governor and the appropriate interim committees of the Legislative Assembly that address child welfare issues on the progress toward and projected costs of full implementation of sections 2 to 8 of this 2011 Act.

SECTION 5. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Strengthening, Preserving and Reunifying Families Program Fund. Interest earned by the Strengthening, Preserving and Reunifying Families Program Fund shall be credited to the fund. The fund consists of:

(a) Moneys received by the Department of Human Services under section 6 of this 2011 Act;

(b) Amounts donated to the fund;

(c) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(d) Investment earnings received on moneys in the fund; and

(e) Other amounts deposited in the fund from any source.

(2) Moneys in the fund are continuously appropriated to the Department of Human Services for the purposes of sections 2 to 8 of this 2011 Act.

(3) Moneys in the fund supplement existing funds used for child welfare services and shall not be used in lieu of these existing funds. Other state agencies and entities shall continue to provide funds and services, including but not limited to housing, alcohol and drug treatment and mental health treatment as required under existing law.

(4) Moneys in the fund may be invested and reinvested as provided in ORS 293.701 to 293.820.

(5) The department may not expend more than 15 percent of moneys available in the fund for administrative costs and expenses of the department incurred in implementing sections 2 to 8 of this 2011 Act.

SECTION 6. (1) The Department of Human Services shall seek federal approval, renewal of an existing waiver of federal requirements or a new waiver of federal requirements as necessary to access federal savings that have accrued to the state as a result of a reduction in the cost of foster and substitute care for children in the legal custody of the department.

(2) The department shall:

(a) Create a plan for reinvesting federal savings into the provision of services through Strengthening, Preserving and Reunifying Families programs under sections 2 to 8 of this 2011 Act; and

(b) Combine state, federal and private resources to support implementation of a statewide system of programs at the local level as provided under sections 2 to 8 of this 2011 Act.

SECTION 7. (1) In considering what constitutes reasonable or active efforts or whether reasonable or active efforts have been made under ORS 419B.185, 419B.337, 419B.340, 419B.470, 419B.476, 419B.498 and 419C.173, the Department of Human Services and the juvenile court shall consider whether placement of a child and referral of a child and the child's family to a Strengthening, Preserving and Reunifying Families program is or was in the child's best interests and the action most likely to prevent or eliminate the need for removal of the child from the child's home or the action most likely to make it possible for the child to safely return home.

(2) If the department or juvenile court determines that placement of the child and referral of the child and the child's family to a program would not prevent or eliminate the need for removal of the child from the child's home or be the action most likely to make it possible for the child to safely return home, the department shall, in any description or documentation of its reasonable or active efforts, include a written explanation of the reasons why the department did not believe the placement of the child and referral of the child and the child's family to the program was in the child's best interests and the course most likely to prevent placement or effect the return of the child to the child's family.

SECTION 8. (1) The Department of Human Services shall adopt rules to implement the provisions of sections 2 to 8 of this 2011 Act.

(2) Rules adopted by the department under subsection (1) of this section may not require reporting and compilation of data that exceed the minimum required for the department to comply with sections 2 to 8 of this 2011 Act and federal laws or regulations.

SECTION 9. ORS 418.480 is amended to read:

418.480. 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 provided by Strengthening, Preserving and Reunifying Families programs under sections 2 to 8 of this 2011 Act, services to the unwed mother and her child and such other care and services as the Department of Human Services shall determine to be necessary to carry out the policy stated in ORS 418.485.

SECTION 10. ORS 418.485 is amended to read:

418.485. It is the policy of the State of Oregon to strengthen family life and to [*insure*] ensure 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 Human Services shall, in cooperation with public and private child-caring agencies and with Strengthening, Preserving and Reunifying Families programs under sections 2 to 8 of this 2011 Act, 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 and Strengthening, Preserving and Reunifying Families programs under sections 2 to 8 of this 2011 Act 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 Human Services shall make every attempt feasible to develop local, community and county-based organizations. [*Such efforts to develop community organizations are to be documented and presented to the next session of the Legislative Assembly.*] The Department of Human Services shall document and present an annual report to the committees of the Legislative Assembly that address efforts taken under this section.

SECTION 11. ORS 418.495 is amended to read:

418.495. (1) Within the limits of funds available therefor, the Department of Human Services may enter into agreements and contracts with licensed child-caring agencies, Strengthening, Preserving and Reunifying Families programs under sections 2 to 8 of this 2011 Act 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 department is their guardian or has their custody or whether the children are surrendered to a child-caring agency or to a Strengthening, Preserving and Reunifying Families program under sections 2 to 8 of this 2011 Act committed thereto by order of a court under ORS chapter 419B or 419C. The agreement shall prescribe the procedures for payment[,] and the rate of payment and may contain such other conditions as the department and the agency, [*or*] facility or program may agree.

(2) The department shall by rule adopt payment standards for foster care. In establishing standards, the department may take into account the income, resources and maintenance available to and the necessary expenditures of a foster parent who is a relative, as defined by rule, of the child placed in care.

SECTION 12. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Approved by the Governor June 28, 2011

Filed in the office of Secretary of State June 29, 2011

Effective date June 28, 2011