

# Senate Bill 958

Sponsored by Senator JOHNSON

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Reduces fee for initial licensure of in-home care agency and sets fee for renewal of license.

Establishes violation of in-home care agency licensing requirements. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both. Authorizes Department of Human Services to commence action to enjoin violation and recover attorney fees.

## A BILL FOR AN ACT

1  
2 Relating to in-home care agencies; amending ORS 144.460, 418.475, 443.315, 443.400, 443.405, 443.991  
3 and 479.210.

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

5 **SECTION 1.** ORS 443.315 is amended to read:

6 443.315. (1) A person shall not operate or maintain an in-home care agency or purport to operate  
7 or maintain an in-home care agency without obtaining a license from the Department of Human  
8 Services.

9 (2) The department shall establish requirements and qualifications for licensure under this sec-  
10 tion by rule. The department shall issue a license to an applicant that has the necessary qualifica-  
11 tions and meets all requirements established by rule, including the payment of required fees.

12 (3) Application for a license required under subsection (1) of this section shall be made in the  
13 form and manner required by the department by rule and shall be accompanied by any required fees.

14 (4) The department shall adopt a schedule of required fees by rule. The fee for initial licensure  
15 shall not exceed [~~\$500~~] **\$125** per subunit of an in-home care agency. The fees established under this  
16 subsection are subject to the prior approval of the Oregon Department of Administrative Services  
17 and, if their adoption occurs between regular sessions of the Legislative Assembly, a report to the  
18 Emergency Board. The fees shall not exceed the cost of administering the provisions of ORS 443.305  
19 to 443.350.

20 (5) A license issued under this section is valid for one year. A license may be renewed by pay-  
21 ment of the required renewal fee [*established by rule*] **that may not exceed \$375**, and by demon-  
22 stration of compliance with requirements for renewal established by rule.

23 (6) A license issued under this section is not transferable.

24 **SECTION 2.** ORS 443.991 is amended to read:

25 443.991. (1) Violation of ORS 443.015 is punishable as a Class C misdemeanor.

26 (2) **Violation of any provision of ORS 443.305 to 443.350 is a Class B misdemeanor. In ad-**  
27 **dition, the Department of Human Services may commence an action to enjoin operation of**  
28 **an in-home care agency:**

29 (a) **When the in-home care agency is operated without valid licensure; or**

30 (b) **After notice of revocation has been given and a reasonable time for placement of in-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 **dividuals in other facilities has been allowed.**

2 [(2)] (3) Violation of any provision of ORS 443.400 to 443.455 is a Class B misdemeanor. In ad-  
3 dition, the department [*of Human Services*] may commence an action to enjoin operation of a resi-  
4 dential facility:

5 (a) When a residential facility is operated without valid licensure; or

6 (b) After notice of revocation has been given and a reasonable time for placement of individuals  
7 in other facilities has been allowed.

8 [(3)] (4) Violation of ORS 443.725 is punishable as a Class C misdemeanor.

9 [(4)] (5) Violation of any provision of ORS 443.755 is a Class B misdemeanor. In addition, the  
10 department may commence an action to enjoin operation of an adult foster home:

11 (a) When an adult foster home is operated without a valid license; or

12 (b) After notice of revocation has been given and a reasonable time for placement of individuals  
13 in other facilities has been allowed.

14 [(5)] (6) Violation of ORS 443.881 is punishable as a Class C misdemeanor.

15 **(7) In an action commenced by the department under subsection (2) of this section, the**  
16 **department is entitled to recover attorney fees if the department prevails.**

17 **SECTION 3.** ORS 144.460 is amended to read:

18 144.460. The Department of Corrections may contract with the governing bodies of political  
19 subdivisions in this state, with the federal government and with any private agencies approved by  
20 the department for the quartering in suitable local facilities of persons enrolled in work release  
21 programs. Each such facility having six or more residents must be licensed under ORS 443.400 to  
22 443.455 [*and 443.991 (2)*] and must satisfy standards established by the Department of Corrections  
23 to assure adequate supervision, custody, health and safety of persons quartered therein.

24 **SECTION 4.** ORS 418.475 is amended to read:

25 418.475. (1) Within the limit of moneys appropriated therefor, the Department of Human Services  
26 may establish or certify independent residence facilities for minors who:

27 (a) Are 16 years of age or older;

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

29 (c) Have been determined by the department to be unsuitable for placement in a substitute care  
30 resource;

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

33 (e) Have been determined by the department to be suitable for an independent resident program.

34 (2) Residence facilities shall provide independent housing arrangements with counseling services  
35 and minimal supervision available from at least one counselor. All residential facilities having six  
36 or more residents shall be licensed by the department under ORS 443.400 to 443.455 [*and 443.991*  
37 *(2)*].

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

41 (4) The department may make payment grants directly to minors enrolled in an independent  
42 living program for food, shelter, clothing and incidental expenses. Such payment grants shall be  
43 subject to an agreement between the minor and the department which establishes a budget of ex-  
44 penses.

45 (5) The department may establish cooperative financial management agreements with a minor

1 and for that purpose may enter into joint bank accounts requiring two signatures for withdrawals.  
2 Such management agreements or joint accounts shall not subject the department or any counselor  
3 involved to any liability for debts or other responsibilities of the minor.

4 (6) The department shall make periodic reports to the juvenile court as required by the court  
5 regarding any minor who is ward of the court enrolled in an independent living program.

6 (7) The enrollment of a minor in an independent living program in accordance with the pro-  
7 visions of subsection (1) of this section shall not remove or limit in any way the obligation of the  
8 parent of the minor to pay support as ordered by a court under the provisions of ORS 419B.400 or  
9 419C.590.

10 **SECTION 5.** ORS 443.400 is amended to read:

11 443.400. As used in ORS 443.400 to 443.455 and 443.991 [(2)] (3), unless the context requires  
12 otherwise:

13 (1) "Department" means the Department of Human Services.

14 (2) "Director" means the Director of Human Services.

15 (3) "Resident" means any individual residing in a facility who receives residential care, treat-  
16 ment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be a  
17 resident if the individual is related by blood or marriage within the fourth degree as determined by  
18 civil law to the person licensed to operate or maintain the facility.

19 (4) "Residential care" means services such as supervision; protection; assistance while bathing,  
20 dressing, grooming or eating; management of money; transportation; recreation; and the providing  
21 of room and board.

22 (5) "Residential care facility" means a facility that provides, for six or more physically disabled  
23 or socially dependent individuals, residential care in one or more buildings on contiguous properties.

24 (6) "Residential facility" means a residential care facility, residential training facility, residen-  
25 tial treatment facility, residential training home or residential treatment home.

26 (7) "Residential training facility" means a facility that provides, for six or more mentally re-  
27 tardated or other developmentally disabled individuals, residential care and training in one or more  
28 buildings on contiguous properties.

29 (8) "Residential training home" means a facility that provides, for five or fewer mentally re-  
30 tardated or other developmentally disabled individuals, residential care and training in one or more  
31 buildings on contiguous properties, when so certified and funded by the department.

32 (9) "Residential treatment facility" means a facility that provides, for six or more mentally,  
33 emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential  
34 care and treatment in one or more buildings on contiguous properties.

35 (10) "Residential treatment home" means a facility that provides for five or fewer mentally,  
36 emotionally or behaviorally disturbed individuals or alcohol or drug dependent persons, residential  
37 care and treatment in one or more buildings on contiguous properties.

38 (11) "Training" means the systematic, planned maintenance, development or enhancement of  
39 self-care skills, social skills or independent living skills, or the planned sequence of systematic  
40 interactions, activities or structured learning situations designed to meet each resident's specified  
41 needs in the areas of physical, social, emotional and intellectual growth.

42 (12) "Treatment" means a planned, individualized program of medical, psychological or  
43 rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-  
44 tional, physical or other symptoms or social, educational or vocational disabilities resulting from or  
45 related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

1       **SECTION 6.** ORS 443.405 is amended to read:

2       443.405. For purposes of ORS 443.400 to 443.455 and 443.991 [(2)] (3), “residential facility” does  
3 not include:

4       (1) A residential school;

5       (2) A state or local correctional facility, other than a local facility for persons enrolled in work  
6 release programs maintained under ORS 144.460;

7       (3) A youth correction facility as defined in ORS 420.005;

8       (4) A youth care center operated by a county juvenile department under administrative control  
9 of a juvenile court pursuant to ORS 420.855 to 420.885;

10       (5) A juvenile detention facility as defined in ORS 419A.004;

11       (6) A nursing home;

12       (7) A hospital;

13       (8) A place primarily engaged in recreational activities;

14       (9) A foster home; or

15       (10) A place providing care and treatment on less than a 24-hour basis.

16       **SECTION 7.** ORS 479.210 is amended to read:

17       479.210. As used in ORS 479.215 to 479.220, unless the context requires otherwise, “institution”  
18 means:

19       (1) A child-caring facility which provides residential care and which receives state aid under  
20 ORS 418.005 to 418.025, 418.035 to 418.185, 418.205 to 418.315 and 418.625 to 418.685;

21       (2) An inpatient care facility required to be licensed under ORS 441.015 to 441.087, 441.525 to  
22 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463; or

23       (3) A residential facility subject to licensure under ORS 443.400 to 443.455 [*and 443.991 (2)*].  
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