

House Bill 3279

Sponsored by Representative KENNEMER (at the request of Adult-Care.ORG)

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**.

Requires Department of Human Services to develop and administer resident satisfaction survey for adult foster homes. Directs department to require additional continuing education to address source of dissatisfaction identified in surveys. Prohibits adult foster home provider from retaliating against resident who gives poor rating.

A BILL FOR AN ACT

1
2 Relating to adult foster homes; creating new provisions; and amending ORS 443.740, 443.742 and
3 443.765.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 443.705 to**
6 **443.825.**

7 **SECTION 2. The Department of Human Services shall develop and administer a resident**
8 **satisfaction survey including ratings of the home, provider and resident manager, to be**
9 **completed by residents or family members of residents of adult foster homes. The depart-**
10 **ment shall maintain records of the survey results. The department may contract with a**
11 **private organization to develop and administer the survey.**

12 **SECTION 3. ORS 443.740 is amended to read:**

13 443.740. (1) The Department of Human Services shall maintain current information on all li-
14 censed adult foster homes and shall make that information available to prospective residents and
15 other interested members of the public at local department offices or area agencies on aging li-
16 censing offices throughout the state.

17 (2) The information shall include:

18 (a) The location of the adult foster home;

19 (b) A brief description of the physical characteristics of the home;

20 (c) The name and mailing address of the provider;

21 (d) The license classification of the home and the date the provider was first licensed to operate
22 that home;

23 (e) The date of the last inspection, the name and telephone number of the office that performed
24 the inspection and a summary of the findings;

25 (f) Copies of all [*complaint investigations*] **substantiated complaints** involving the home, to-
26 gether with the findings of the department, the actions taken by the department and the [*outcome*
27 *of the complaint investigation*] **outcomes of the complaints**;

28 (g) An explanation of the terms used in the investigation report;

29 (h) Any license conditions, suspensions, denials, revocations, civil penalties, exceptions or other
30 actions taken by the department involving the home; [*and*]

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 (i) Whether care is provided primarily by the licensed provider, a resident manager or other
 2 arrangement[.]; **and**

3 **(j) The results of the resident satisfaction surveys conducted in accordance with section**
 4 **2 of this 2009 Act.**

5 (3) Any list of adult foster homes maintained or distributed by the department or a local li-
 6 censing office shall include notification to the reader of the availability of public records concerning
 7 the homes.

8 **SECTION 4.** ORS 443.742 is amended to read:

9 443.742. (1) The Department of Human Services shall require all providers and resident manag-
 10 ers to complete annually 12 hours of continuing education approved by the department, related to:

11 (a) Care of the elderly and persons with disabilities; and

12 (b) Business operations of adult foster homes.

13 (2) Providers and resident managers may not fulfill the continuing education requirements de-
 14 scribed in subsection (1) of this section with more than four hours of continuing education related
 15 to the business operations of adult foster homes.

16 (3) The department may, by rule, establish continuing education requirements for caregivers who
 17 are not providers.

18 **(4) In addition to the continuing education requirements under this section, the depart-**
 19 **ment shall require training for a provider or resident manager who receives an overall rating**
 20 **of less than satisfactory in the resident satisfaction survey conducted under section 2 of this**
 21 **2009 Act. The training shall address complaints raised in resident satisfaction surveys.**

22 **SECTION 5.** ORS 443.765 is amended to read:

23 443.765. (1) Complaints against adult foster homes may be filed with the Department of Human
 24 Services by any person, whether or not a resident of the home. The department shall investigate
 25 complaints regarding adult foster homes and shall adopt by rule standards governing investigations
 26 pursuant to this section.

27 (2) The department shall prepare a notice which must be posted in a conspicuous place in each
 28 adult foster home stating the telephone number of the department and the procedure for making
 29 complaints.

30 (3) The department shall maintain a file of all complaints and the action taken on the complaint,
 31 indexed by the name of the owner or operator. When the department concludes the investigation of
 32 a complaint, the department shall clearly designate the outcome of the complaint investigation in
 33 the complaint file. The filed complaint forms shall protect the privacy of the complainant, the resi-
 34 dent and the witnesses.

35 (4) Any person has a right to inspect and photocopy the complaint files maintained by the de-
 36 partment.

37 (5)(a) The owner or operator of an adult foster home may not prohibit, discourage or use in-
 38 timidation against any person to prevent the filing of a complaint with the department **or the**
 39 **completion of a resident satisfaction survey.**

40 (b) If a resident, or a person acting on the resident's behalf, files a complaint with the depart-
 41 ment **or rates a provider or resident manager as less than satisfactory on the resident sat-**
 42 **isfaction survey conducted under section 2 of this 2009 Act,** the owner or operator of an adult
 43 foster home may not retaliate against the resident by:

44 (A) Increasing charges;

45 (B) Decreasing services, rights or privileges;

- 1 (C) Threatening to increase charges or decrease services, rights or privileges;
- 2 (D) Taking or threatening to take any action to coerce or compel the resident to leave the fa-
- 3 cility; or
- 4 (E) Abusing or threatening to harass or abuse a resident in any manner.
- 5 (c) The owner or operator of an adult foster home may not retaliate against any person who files
- 6 a complaint or any witness or employee of a facility interviewed about the complaint, including but
- 7 not limited to retaliation by restriction of otherwise lawful access to the adult foster home or to any
- 8 resident thereof, or, if an employee, to dismissal or harassment.
- 9 (6) The provider shall give all residents, upon admission, a notice of the monthly rates and the
- 10 house rules.
- 11 (7) Anyone participating in good faith in the filing of a complaint pursuant to this section is
- 12 immune from any liability, civil or criminal, that might otherwise be incurred or imposed with re-
- 13 spect to the filing or substance of the complaint. Any such participant shall have the same immunity
- 14 with respect to participating in any judicial proceeding resulting from the complaint. A person does
- 15 not act in good faith for the purposes of this subsection if the substance of the complaint is false
- 16 and:
- 17 (a) The person knows that the substance of the complaint is false; or
- 18 (b) The person makes the complaint with the intent to harm the owner or operator of the adult
- 19 foster home, or the adult foster home, and the person shows a reckless disregard for the truth or
- 20 falsity of the substance of the complaint.

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