

House Bill 2058

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

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**.

Authorizes Director of Human Services to impose civil penalty on unlicensed person providing adult foster care.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to adult foster care; amending ORS 443.790; and declaring an emergency.

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

SECTION 1. ORS 443.790 is amended to read:

443.790. (1) In addition to any other liability or penalty provided by law, the director of the licensing agency may impose a civil penalty on a person for any of the following:

(a) Violation of any of the terms or conditions of a license issued under ORS 443.735.

(b) Violation of any rule or general order of the licensing agency that pertains to a facility.

(c) Violation of any final order of the director that pertains specifically to the facility owned or operated by the person incurring the penalty.

(d) Violation of ORS 443.745 or of rules required to be adopted under ORS 443.775.

(e) Violation of the requirement to have a license under ORS 443.725 (1).

(2) The director shall impose a civil penalty not to exceed \$500, unless otherwise required by law, on any adult foster home for falsifying resident or facility records or causing another to do so.

(3) The director shall impose a civil penalty of \$250 on a provider who violates ORS 443.725 (3).

(4) The director shall impose a civil penalty of not less than \$250 nor more than \$500, unless otherwise required by law, on a provider who admits a resident knowing that the resident's care needs exceed the license classification of the provider if the admission places the resident or other residents at grave risk of harm.

(5)(a) In every case other than those involving the health, safety or welfare of a resident, the director shall prescribe a reasonable time for elimination of a violation but except as provided in paragraph (b) of this subsection shall not prescribe a period to exceed 30 days after notice of the violation.

(b) The director may approve a reasonable amount of time in excess of 30 days if correction of the violation within 30 days is determined to be impossible.

(6) In imposing a civil penalty, the director shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules or orders pertaining to facilities.

(c) The economic and financial conditions of the person incurring the penalty.

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 (d) The immediacy and extent to which the violation threatens or threatened the health, safety
2 or welfare of one or more residents.

3 (7) The licensing agency shall adopt rules establishing objective criteria for the imposition and
4 amount of civil penalties under this section.

5 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
7 **on its passage.**

8
