

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2100

By COMMITTEE ON RULES

June 22

1 On page 1 of the printed A-engrossed bill, line 22, after “735.711” insert “and section 57, chapter
2 9, Oregon Laws 2011 (Enrolled Senate Bill 353), and section 4, chapter ___, Oregon Laws 2011 (En-
3 rolled House Bill 2600)”.

4 On page 137, after line 5, insert:
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“CONFLICT AMENDMENTS

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8 “**SECTION 230. If House Bill 2281 becomes law, section 75 of this 2011 Act (amending ORS**
9 **343.243) is repealed.**

10 “**SECTION 231. If House Bill 2281 becomes law, section 77 of this 2011 Act (amending ORS**
11 **343.961) is repealed and ORS 343.961, as amended by section 1, chapter ___, Oregon Laws 2011**
12 **(Enrolled House Bill 2281), is amended to read:**

13 “343.961. (1) As used in this section:

14 “(a) ‘Eligible residential treatment program’ means a residential treatment program with which
15 the Oregon Health Authority, **the Department of Human Services** or the Oregon Youth Authority
16 contracts for long-term care or treatment. ‘Eligible residential treatment program’ does not include
17 psychiatric day treatment programs or programs that provide care or treatment to juveniles who
18 are in detention facilities.

19 “(b) ‘Residential treatment program’ means a public or private residential program that provides
20 treatment of children with a mental illness, an emotional disturbance or another mental health issue.

21 “(c) ‘Student’ means a child who is placed in an eligible residential treatment program by a
22 public or private entity or by the child’s parent.

23 “(2) The Department of Education shall be responsible for payment of the costs of education of
24 students in eligible residential treatment programs by contracting with the school district in which
25 the eligible [*resident*] **residential** treatment program is located. The costs of education do not in-
26 clude transportation, care, treatment or medical expenses.

27 “(3)(a) The school district in which an eligible residential treatment program is located is re-
28 sponsible for providing the education of a student, including the identification, location and evalu-
29 ation of the student for the purpose of determining the student’s eligibility to receive special
30 education and related services under ORS 343.035.

31 “(b) A school district that is responsible for providing an education under this subsection may
32 provide the education:

33 “(A) Directly or through another school district or an education service district; and

34 “(B) In the facilities of an eligible residential treatment program, a school district or an educa-
35 tion service district.

1 “(c) When a student is no longer in an eligible residential treatment program, the responsibil-
2 ities imposed by this subsection terminate and become the responsibilities of the school district
3 where the student is a resident, as determined under ORS 339.133 and 339.134.

4 “(4) A school district may request the Department of Education to combine several eligible
5 residential treatment programs into one contract with another school district or an education ser-
6 vice district.

7 “(5) The Oregon Health Authority, **the Department of Human Services** or the Oregon Youth
8 Authority shall give the school district providing the education at an eligible residential treatment
9 program 14 days’ notice, **to the extent practicable**, before a student is dismissed from the program.

10 “(6) The Department of Education may make advances to school districts responsible for pro-
11 viding an education to students under this section from funds appropriated for that purpose based
12 on the estimated agreed cost of educating the students per school year. Advances equal to 25 per-
13 cent of the estimated cost may be made on September 1, December 1 and March 1 of the current
14 year. The balance may be paid whenever the full determination of cost is made.

15 “(7) School districts that provide the education described in this section on a year-round plan
16 may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January
17 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is
18 made.

19 “(8) In addition to the payment methods described in this section, the Department of Education
20 may:

21 “(a) Negotiate interagency agreements to pay for the cost of education in residential treatment
22 programs operated under the auspices of the State Board of Higher Education; and

23 “(b) Negotiate intergovernmental agreements to pay for the cost of education in residential
24 treatment programs operated under the auspices of the Oregon Health and Science University Board
25 of Directors.

26 “**SECTION 232. Section 57, chapter 9, Oregon Laws 2011 (Enrolled Senate Bill 353)**
27 **(amending ORS 414.355), is repealed.**

28 “**SECTION 233. Notwithstanding section 48, chapter __, Oregon Laws 2011 (Enrolled**
29 **Senate Bill 10) (amending ORS 414.720), if Senate Bill 10 becomes law, ORS 414.720 is repealed**
30 **by section 228 of this 2011 Act.**

31 “**SECTION 234. If House Bill 2600 becomes law, section 4, chapter __, Oregon Laws 2011**
32 **(Enrolled House Bill 2600) (amending ORS 427.005), is repealed and ORS 427.005, as amended**
33 **by section 165 of this 2011 Act, is amended to read:**

34 “427.005. As used in this chapter:

35 “(1) ‘Adaptive behavior’ means the effectiveness or degree with which an individual meets the
36 standards of personal independence and social responsibility expected for age and cultural group.

37 “(2) ‘Care’ means:

38 “(a) Supportive services, including, but not limited to, provision of room and board;

39 “(b) Supervision;

40 “(c) Protection; and

41 “(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or
42 recreation.

43 “(3) ‘Community developmental disabilities program director’ means the director of an entity
44 that provides services described in section 174 of this 2011 Act to persons with **intellectual disa-**
45 **bilities or other** developmental disabilities.

1 “(4) ‘Developmental disability’ means an intellectual disability, autism, cerebral palsy, epilepsy
2 or other neurological condition diagnosed by a qualified professional that:

3 “(a) Originates before an individual is 22 years of age, or 18 years of age for an intellectual
4 disability;

5 “(b) Originates in and directly affects the brain and is expected to continue indefinitely;

6 “(c) Results in a significant impairment in adaptive behavior as measured by a qualified profes-
7 sional;

8 “(d) Is not attributed primarily to other conditions including, but not limited to, a mental or
9 emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability
10 or attention deficit hyperactivity disorder; and

11 “(e) Requires training and support similar to that required by an individual with an intellectual
12 disability.

13 “[5] ‘*Developmental period*’ means the period of time between birth and the 18th birthday.]

14 “[6] (5) ‘Director of the facility’ means the superintendent of a state training center, or the
15 person in charge of care, treatment and training programs at other facilities.

16 “[7] (6) ‘Facility’ means a state training center, community hospital, group home, activity cen-
17 ter, intermediate care facility, community mental health clinic, or such other facility or program as
18 the Department of Human Services approves to provide necessary services to persons with [*mental*
19 *retardation*] **intellectual disabilities or other developmental disabilities**.

20 “[8] (7) ‘Incapacitated’ means a person is unable, without assistance, to properly manage or
21 take care of personal affairs or is incapable, without assistance, of self-care.

22 “[9] (8) ‘Independence’ means the extent to which persons with [*mental retardation or*] **intel-**
23 **lectual disabilities or other** developmental disabilities exert control and choice over their own
24 lives.

25 “[10] (9) ‘Integration’ means:

26 “(a) Use by persons with [*mental retardation or*] **intellectual disabilities or other** develop-
27 mental disabilities of the same community resources that are used by and available to other persons;

28 “(b) Participation by persons with [*mental retardation or*] **intellectual disabilities or other** develop-
29 mental disabilities in the same community activities in which persons without disabilities partici-
30 pate, together with regular contact with persons without disabilities; and

31 “(c) Residence by persons with **intellectual disabilities or other** developmental disabilities in
32 homes or in home-like settings that are in proximity to community resources, together with regular
33 contact with persons without disabilities in their community.

34 “[11] (10)(a) ‘Intellectual disability’ means significantly subaverage general intellectual func-
35 tioning, defined as intelligence quotients under 70 as measured by a qualified professional and ex-
36 isting concurrently with significant impairment in adaptive behavior, that is manifested before the
37 individual is 18 years of age.

38 “(b) An individual with intelligence quotients of 70 through 75 may be considered to have an
39 intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and
40 measured by a qualified professional.

41 “(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

42 “(d) Intellectual disability is synonymous with mental retardation.

43 “[12] (11) ‘Intellectual functioning’ means functioning as assessed by one or more of the indi-
44 vidually administered general intelligence tests developed for the purpose.

45 “[13] ‘*Mental retardation*’ is synonymous with *intellectual disability*.]”

1 “[(14)] (12) ‘Minor’ means an unmarried person under 18 years of age.

2 “[(15)] (13) ‘Physician’ means a person licensed by the Oregon Medical Board to practice medi-
3 cine and surgery.

4 “[(16)] (14) ‘Productivity’ means engagement in income-producing work by a person with [*mental*
5 *retardation*] **an intellectual disability** or [*a*] **another** developmental disability which is measured
6 through improvements in income level, employment status or job advancement or engagement by a
7 person with [*mental retardation*] **an intellectual disability** or [*a*] **another** developmental disability
8 in work contributing to a household or community.

9 “[(17)] (15) ‘Resident’ means a person admitted to a state training center either voluntarily or
10 after commitment to the department.

11 “[(18)] (16) ‘Significantly subaverage’ means a score on a test of intellectual functioning that is
12 two or more standard deviations below the mean for the test.

13 “[(19)] (17) ‘State training center’ means any facility that is an intermediate care facility for the
14 mentally retarded as defined in 42 U.S.C. 1396d(d).

15 “[(20)] (18) ‘Training’ means:

16 “(a) The systematic, planned maintenance, development or enhancement of self-care, social or
17 independent living skills; or

18 “(b) The planned sequence of systematic interactions, activities, structured learning situations
19 or education designed to meet each resident’s specified needs in the areas of physical, emotional,
20 intellectual and social growth.

21 “[(21)] (19) ‘Treatment’ means the provision of specific physical, mental, social interventions and
22 therapies which halt, control or reverse processes that cause, aggravate or complicate malfunctions
23 or dysfunctions.

24 “**SECTION 235. The amendments to ORS 427.005 by section 234 of this 2011 Act become**
25 **operative January 1, 2012.**

26 “**SECTION 236. If Senate Bill 89 becomes law, section 219 of this 2011 Act (amending ORS**
27 **743.730) is repealed.**

28 “**SECTION 237. If Senate Bill 89 becomes law, section 220 of this 2011 Act (amending ORS**
29 **743.736) is repealed.”.**

30 In line 9, delete “230” and insert “238”.

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