

# House Bill 3634

Sponsored by Representative WEIDNER; Representatives GARRARD, KRIEGER

## 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 and Oregon Health Authority to collaborate to develop and administer resident satisfaction survey for adult foster homes. Directs department and authority to require additional continuing education to address sources 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 2011 Act is added to and made a part of ORS 443.705 to**  
6 **443.825.**

7 **SECTION 2. (1) The Department of Human Services and the Oregon Health Authority**  
8 **shall collaborate to develop and administer a resident satisfaction survey for adult foster**  
9 **homes to be completed by residents, or by family members of residents, of adult foster**  
10 **homes.**

11 **(2) The survey must include ratings of the adult foster home, provider and resident**  
12 **manager and other ratings designed to reduce resident abuse and raise the quality of care**  
13 **provided by adult foster homes.**

14 **(3) The department and authority shall collaborate to maintain records of the survey**  
15 **results.**

16 **(4) The department and authority may contract with a private organization to develop**  
17 **and administer the survey.**

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

19 443.740. (1) The licensing agency shall maintain current information on all licensed adult foster  
20 homes and shall make that information available to prospective residents and other interested  
21 members of the public at local offices or area agencies on aging licensing offices throughout the  
22 state.

23 (2) The information shall include:

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

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

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

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

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

**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 (f) Copies of all [*complaint investigations*] **substantiated complaints** involving the home, to-  
 2 gether with the findings of the licensing agency, the actions taken by the agency and the [*outcome*  
 3 *of the complaint investigation*] **outcomes of the complaints**;

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

5 (h) Any license conditions, suspensions, denials, revocations, civil penalties, exceptions or other  
 6 actions taken by the licensing agency involving the home; [*and*]

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

9 **(j) The results of the resident satisfaction surveys conducted in accordance with section**  
 10 **2 of this 2011 Act.**

11 (3) Any list of adult foster homes maintained or distributed by the licensing agency or a local  
 12 licensing office shall include notification to the reader of the availability of public records con-  
 13 cerning the homes.

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

15 443.742. (1) The licensing agency shall require all providers and resident managers to complete  
 16 annually 12 hours of continuing education approved by the agency, related to:

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

18 (b) Business operations of adult foster homes.

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

22 (3) The licensing agency may, by rule, establish continuing education requirements for  
 23 caregivers who are not providers.

24 **(4) In addition to the continuing education requirements under this section, the licensing**  
 25 **agency shall require training for a provider or resident manager who receives an overall**  
 26 **rating of less than satisfactory in the resident satisfaction survey conducted under section**  
 27 **2 of this 2011 Act. The training must address complaints raised in resident satisfaction sur-**  
 28 **veys.**

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

30 443.765. (1) Complaints against adult foster homes may be filed with the licensing agency by any  
 31 person, whether or not a resident of the home. The licensing agency shall investigate complaints  
 32 regarding adult foster homes and shall adopt by rule standards governing investigations pursuant  
 33 to this section.

34 (2) The licensing agency shall prepare a notice which must be posted in a conspicuous place in  
 35 each adult foster home stating the telephone number of the agency and the procedure for making  
 36 complaints.

37 (3) The licensing agency shall maintain a file of all complaints and the action taken on the  
 38 complaint, indexed by the name of the owner or operator. When the licensing agency concludes the  
 39 investigation of a complaint, the agency shall clearly designate the outcome of the complaint in-  
 40 vestigation in the complaint file. The filed complaint forms shall protect the privacy of the  
 41 complainant, the resident and the witnesses.

42 (4) Any person has a right to inspect and photocopy the complaint files maintained by the li-  
 43 censing agency.

44 (5)(a) The owner or operator of an adult foster home may not prohibit, discourage or use in-  
 45 timidation against any person to prevent the filing of a complaint with the licensing agency **or the**

1 **completion of a resident satisfaction survey.**

2 (b) If a resident, or a person acting on the resident's behalf, files a complaint with the licensing  
3 agency **or rates a provider or resident manager as less than satisfactory on the resident**  
4 **satisfaction survey conducted under section 2 of this 2011 Act**, the owner or operator of an  
5 adult foster home may not retaliate against the resident by:

6 (A) Increasing charges;

7 (B) Decreasing services, rights or privileges;

8 (C) Threatening to increase charges or decrease services, rights or privileges;

9 (D) Taking or threatening to take any action to coerce or compel the resident to leave the fa-  
10 cility; or

11 (E) Abusing or threatening to harass or abuse a resident in any manner.

12 (c) The owner or operator of an adult foster home may not retaliate against any person who files  
13 a complaint or any witness or employee of a facility interviewed about the complaint, including but  
14 not limited to retaliation by restriction of otherwise lawful access to the adult foster home or to any  
15 resident thereof, or, if an employee, to dismissal or harassment.

16 (6) The provider shall give all residents, upon admission, a notice of the monthly rates and the  
17 house rules.

18 (7) Anyone participating in good faith in the filing of a complaint pursuant to this section is  
19 immune from any liability, civil or criminal, that might otherwise be incurred or imposed with re-  
20 spect to the filing or substance of the complaint. Any such participant shall have the same immunity  
21 with respect to participating in any judicial proceeding resulting from the complaint. A person does  
22 not act in good faith for the purposes of this subsection if the substance of the complaint is false  
23 and:

24 (a) The person knows that the substance of the complaint is false; or

25 (b) The person makes the complaint with the intent to harm the owner or operator of the adult  
26 foster home, or the adult foster home, and the person shows a reckless disregard for the truth or  
27 falsity of the substance of the complaint.

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