

House Bill 2769

Sponsored by COMMITTEE ON HUMAN SERVICES AND HOUSING

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 discharge plan for child receiving developmental disability or mental health services who is placed in intermediate care facility or skilled nursing facility. Requires assessment of eligibility for services for child residing in facility for six months or more if child is not receiving services. Requires child receiving services who resides in facility to have individualized written service plan revised weekly until child is discharged from facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children in long term care facilities; amending ORS 430.205 and 430.210; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 430.210 is amended to read:

6 430.210. (1) While receiving services, every person shall have [*the right to*] **all of the following**
7 **rights:**

8 (a) **The right to** choose from available services those which are appropriate, consistent with the
9 plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting
10 and under conditions that are least restrictive to the person's liberty, that are least intrusive to the
11 person and that provide for the greatest degree of independence.

12 (b) **The right to** an individualized written service plan, services based upon that plan and pe-
13 riodic review and reassessment of service needs. **A child who is placed in a long term care fa-**
14 **ility has the right to an individualized discharge plan at the time of admission.**

15 (c) **The right to** ongoing participation in planning of services in a manner appropriate to the
16 person's capabilities, including the right to participate in the development and periodic revision of
17 the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable
18 explanation of all service considerations. **After six months, the individualized written service**
19 **plan for a child placed in a long term care facility must be revised on a weekly basis until**
20 **the child is discharged from the long term care facility.**

21 (d) **The right to** not receive services without informed voluntary written consent except in a
22 medical emergency or as otherwise permitted by law.

23 (e) **The right to** not participate in experimentation without informed voluntary written consent.

24 (f) **The right to** receive medication only for the person's individual clinical needs.

25 (g) **The right to** not be involuntarily terminated or transferred from services without prior no-
26 tice, notification of available sources of necessary continued services and exercise of a grievance
27 procedure.

28 (h) **The right to** a humane service environment that affords reasonable protection from harm,
29 reasonable privacy and daily access to fresh air and the outdoors, except that such access may be

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 limited when it would create significant risk of harm to the person or others.

2 (i) **The right to** be free from abuse or neglect and to report any incident of abuse without being
3 subject to retaliation.

4 (j) **The right to** religious freedom.

5 (k) **The right to** not be required to perform labor, except personal housekeeping duties, without
6 reasonable and lawful compensation.

7 (L) **The right to** visit with family members, friends, advocates and legal and medical profes-
8 sionals.

9 (m) **The right to** exercise all rights set forth in ORS 427.031 if the [*individual*] **person** is com-
10 mitted to the Department of Human Services.

11 (n) **The right to** exercise all rights set forth in ORS 426.385 if the [*individual*] **person** is com-
12 mitted to the Oregon Health Authority.

13 (o) **The right to** be informed at the start of services and periodically thereafter of the rights
14 guaranteed by this section and the procedures for reporting abuse, and to have these rights and
15 procedures, including the name, address and telephone number of the system described in ORS
16 192.517 (1), prominently posted in a location readily accessible to the person and made available to
17 the person's guardian and any representative designated by the person.

18 (p) **The right to** assert grievances with respect to infringement of the rights described in this
19 section, including the right to have such grievances considered in a fair, timely and impartial
20 grievance procedure.

21 (q) **The right to** have access to and communicate privately with any public or private rights
22 protection program or rights advocate.

23 (r) **The right to** exercise all rights described in this section without any form of reprisal or
24 punishment.

25 (2) [*An individual*] **A person** who is receiving developmental disability services under ORS
26 430.664 has the right to be informed and have the [*individual's*] **person's** guardian and any repre-
27 sentative designated by the [*individual*] **person** be informed that a family member has contacted the
28 Department of Human Services to determine the location of the [*individual*] **person**, and to be in-
29 formed of the name and contact information, if known, of the family member.

30 (3) **If a child has resided in a long term care facility for six months or more and is not**
31 **receiving developmental disability services, the department shall determine the child's eligi-**
32 **bility for developmental disability services and shall reassess the child's eligibility for devel-**
33 **opmental disability services every six months thereafter until the child is determined to be**
34 **eligible for developmental disability services.**

35 [(3)] (4) The rights described in this section are in addition to, and do not limit, all other stat-
36 utory and constitutional rights which are afforded all citizens including, but not limited to, the right
37 to vote, marry, have or not have children, own and dispose of property, enter into contracts and
38 execute documents.

39 [(4)] (5) The rights described in this section may be asserted and exercised by the person, the
40 person's guardian and any representative designated by the person.

41 [(5)] (6) Nothing in this section may be construed to alter any legal rights and responsibilities
42 between parent and child.

43 **SECTION 2.** ORS 430.205 is amended to read:

44 430.205. As used in this section and ORS 430.210:

45 (1) **"Child" means a person under 18 years of age.**

1 [(1)] (2) "Facility" means any of the following that are licensed or certified by the Department
2 of Human Services or the Oregon Health Authority or that contract with the department or au-
3 thority for the provision of services:

- 4 (a) A health care facility as defined in ORS 442.015;
- 5 (b) A domiciliary care facility as defined in ORS 443.205;
- 6 (c) A residential facility as defined in ORS 443.400; or
- 7 (d) An adult foster home as defined in ORS 443.705.

8 (3) **"Long term care facility" has the meaning given that term in ORS 442.015.**

9 [(2)] (4) "Person" means an individual who has a mental illness or developmental disability and
10 receives services from a program or facility.

11 [(3)] (5) "Program" means a community mental health program or a community developmental
12 disabilities program as described in ORS 430.610 to 430.695 and agencies with which the program
13 contracts to provide services.

14 [(4)] (6) "Services" means mental health services or developmental disabilities services provided
15 under ORS 430.630 or 430.664.

16 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
18 **on its passage.**