

A-Engrossed
House Bill 2369

Ordered by the House April 23
Including House Amendments dated April 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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.

Requires Department of Human Services to establish by rule responsibilities of case manager who receives notice of life-sustaining procedures for principal for purposes related to withholding or withdrawing those life-sustaining procedures.

A BILL FOR AN ACT

1
2 Relating to life-sustaining procedures; amending ORS 127.635.

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

4 **SECTION 1.** ORS 127.635 is amended to read:

5 127.635. (1) Life-sustaining procedures, as defined in ORS 127.505, that would otherwise be ap-
6 plied to an incapable principal who does not have an appointed health care representative or ap-
7 plicable valid advance directive may be withheld or withdrawn in accordance with subsections (2)
8 and (3) of this section if **one of the following conditions is** *[the principal has been]* medically con-
9 firmed *[to be in one of the following conditions]*:

10 (a) **The principal has** a terminal condition;

11 (b) **The principal is** permanently unconscious;

12 (c) **The principal has** a condition in which administration of life-sustaining procedures would
13 not benefit the principal's medical condition and would cause permanent and severe pain; or

14 (d) The *[person]* **principal** has a progressive illness that will be fatal and is in an advanced
15 stage, the *[person]* **principal** is *[consistently and]* permanently unable to communicate by any means,
16 swallow food and water safely, care for the *[person's]* **principal's** self and recognize the *[person's]*
17 **principal's** family and other people, and it is very unlikely that the *[person's]* **principal's** condition
18 will substantially improve.

19 (2) If a principal's condition has been determined to meet one of the conditions set forth in
20 subsection (1) of this section, and the principal does not have an appointed health care represen-
21 tative or applicable advance directive, the principal's health care representative shall be the first
22 of the following, in the following order, who can be located upon reasonable effort by the health
23 care facility and who is willing to serve as the health care representative:

24 (a) A guardian of the principal who is authorized to make health care decisions, *[if any]* **for the**
25 **principal;**

26 (b) The principal's spouse;

27 (c) An adult designated by the others listed in this subsection who can be *[so]* located **with**

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 **reasonable effort**, if *[no]* **not one** person listed in this subsection objects to the designation;

2 (d) A majority of the adult children of the principal who can be *[so]* located **with reasonable**
3 **effort**;

4 (e) Either parent of the principal;

5 (f) A majority of the adult siblings of the principal who can be located with reasonable effort;

6 or

7 (g) *[Any]* **An** adult relative or adult friend.

8 (3) If *[none of the persons]* **not one person** described in subsection (2) of this section is available,
9 then life-sustaining procedures may be withheld or withdrawn upon the direction and under the
10 supervision of the attending physician.

11 (4)(a) Life-sustaining procedures may be withheld or withdrawn upon the direction and under
12 the supervision of the attending physician at the request of a person designated *[the]* **as a** health
13 care representative under subsections (2) and (3) of this section only after the person has consulted
14 with concerned family and close friends[,] and, if the principal has a case manager[,] as defined *[by*
15 *rules adopted]* by the Department of Human Services **by rule**, after giving notice to the principal's
16 case manager.

17 (b) **The department shall establish by rule the responsibilities of a case manager who**
18 **receives notice under this subsection, including rules that require the case manager to pro-**
19 **vide the person designated as the health care representative under subsections (2) and (3)**
20 **of this section with any knowledge, documentation or other information in the case**
21 **manager's possession that is related to the principal's values, desires and preferences con-**
22 **cerning the withholding or withdrawing of life-sustaining procedures.**

23 (5) Notwithstanding subsection (2) of this section, a person who is the principal's parent or for-
24 mer guardian may not withhold or withdraw life-sustaining procedures under this section if:

25 (a) At any time while the principal was under the care, custody or control of the person, a court
26 entered an order:

27 (A) Taking the principal into protective custody under ORS 419B.150; or

28 (B) Committing the principal to the legal custody of the department *[of Human Services]* for care,
29 placement and supervision under ORS 419B.337; and

30 (b) The court entered a subsequent order *[that]*:

31 (A) **That** the principal should be permanently removed from the person's home, or continued in
32 substitute care, because *[it was not safe for]* **returning** the principal to *[be returned to]* the person's
33 home **would be unsafe**, and no subsequent order of the court was entered that permitted the prin-
34 cipal to return to the person's home before the principal's wardship was terminated under ORS
35 419B.328; or

36 (B) **That** terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524.

37 (6) A principal, while not incapable, may petition the court to remove a prohibition *[contained]*
38 **described** in subsection (5) of this section.

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