

# B-Engrossed House Bill 3230

Ordered by the House June 22  
Including House Amendments dated April 27 and June 22

Sponsored by Representative GALLEGOS; Representative MCLAIN

## 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.

Modifies registration requirements for certain residential facilities. Prohibits retaliation by owner or operator of facility associated with complaint.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to registered residential facilities; creating new provisions; amending ORS 443.405, 443.480,  
3 443.485, 443.490 and 443.500; and declaring an emergency.

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

5 **SECTION 1.** ORS 443.405 is amended to read:

6 443.405. For purposes of ORS 443.400 to 443.455 and 443.991, "residential facility" does not in-  
7 clude:

8 (1) A residential school;

9 (2) A state or local correctional facility;

10 (3) A youth correction facility as defined in ORS 420.005;

11 (4) A youth care center operated by a county juvenile department under administrative control  
12 of a juvenile court pursuant to ORS 420.855 to 420.885;

13 (5) A juvenile detention facility as defined in ORS 419A.004;

14 (6) A nursing home;

15 (7) A hospital;

16 (8) A place primarily engaged in recreational activities;

17 (9) A foster home; *[or]*

18 (10) A place providing care and treatment on less than a 24-hour basis; **or**

19 **(11) A residential facility registered under ORS 443.485.**

20 **SECTION 2.** ORS 443.480 is amended to read:

21 443.480. As used in ORS 443.480 to 443.500:

22 (1) **"Community-based structured housing" means congregate housing, excluding resi-**  
23 **dential care or treatment, where services and support are provided by the owner or operator**  
24 **of the facility to assist residents who have mental, emotional, behavioral or substance use**  
25 **disorders.**

26 (2) **"Congregate housing" means housing in which each resident has a private or shared**  
27 **bedroom or living quarters and shares with other residents a dining room, recreational room**  
28 **and other common areas.**

**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 [(1)] (3) "Elderly" means an individual who is 62 years of age or older.

2 [(2)] (4) "Disability" means a physical or mental impairment which for the individual constitutes  
3 or results in a functional limitation to one or more major life activities.

4 (5) "Residential care" has the meaning given that term in ORS 443.400.

5 (6) "Treatment" has the meaning given that term in ORS 443.400.

6 **SECTION 3.** ORS 443.485 is amended to read:

7 443.485. (1) Subject to ORS 443.490, [*any person who offers to the general public residential fa-*  
8 *cilities and meals for compensation*] **the owner or operator of a community-based structured**  
9 **housing facility offered to the general public shall register with the Department of Human**  
10 **Services or the Oregon Health Authority, as appropriate, the name and address of the owner**  
11 **or operator if the facility:**

12 (a) **Provides housing and meals** to two or more adults who are elderly or have disabilities,  
13 as defined in ORS 443.480, **and who are** not related to the person by blood or marriage[, *and*]; **and**

14 (b) Is not licensed or registered under any other law of this state or city or county ordinance  
15 or regulation [*shall register the person's name and address with the Department of Human Services*].

16 (2) The registration fee is \$20 annually.

17 (3) The department **and the authority** shall establish by rule reasonable and appropriate stan-  
18 dards for the operation of facilities subject to ORS 443.480 to 443.500[,] **that fall within their re-**  
19 **spective jurisdictions. The standards must be** consistent with [*their*] **the residential nature of**  
20 **the facilities and must address, at a minimum, the:**

21 (a) **Physical properties of the facility;**

22 (b) **Storage, preparation and serving of food at the facility;**

23 (c) **Storage, preparation and dispensing of medications and the assistance provided by**  
24 **staff to residents in taking medications; and**

25 (d) **Number, experience and training of the staff of the facility.**

26 [(2)] (4) The department [*of Human Services*] **or the authority** shall provide evidence of the  
27 registration to the person. The evidence shall be posted in the [*residence*] **facility.**

28 [(3)] (5) The department [*of Human Services*] **or the authority** may impose a civil penalty not  
29 to exceed \$200 for:

30 (a) Operating without registration as required under this section; or

31 (b) A violation of ORS 443.880 or 443.881.

32 [(4)] (6) The department **or the authority** may suspend or revoke registration or deny the is-  
33 suance of registration for violation of any statute, rule, ordinance or regulation relating to the  
34 [*safety of occupants of the residential*] facility.

35 (7) **A facility may not be required to register with both the department and the authority**  
36 **under this section. If a facility falls within the jurisdiction of both the department and the**  
37 **authority, the Director of Human Services and the Director of the Oregon Health Authority**  
38 **shall determine the agency responsible for registering the facility.**

39 (8) **Rules adopted under subsection (3) of this section must avoid imposing on facilities**  
40 **regulated by federal agencies any reporting requirements or review processes that duplicate**  
41 **the reporting requirements or review processes imposed by the federal agency.**

42 **SECTION 4.** ORS 443.490 is amended to read:

43 443.490. [*Any county or city that requires registration or licensure in the manner described in ORS*  
44 *443.485, whether or not a fee is required, may request a waiver of the requirements of ORS 443.485.*]  
45 If the Department of Human Services **or the Oregon Health Authority** finds that [*the county or city*

1 *registration or licensure requirement is substantially similar or superior, it]* **another governmental**  
2 **entity's standards for the operation of a facility subject to ORS 443.480 to 443.500 are sub-**  
3 **stantially similar or superior to those under ORS 443.485 (3), the department or the authority**  
4 may waive the requirements of ORS 443.485.

5 **SECTION 5.** ORS 443.500 is amended to read:

6 443.500. (1) The Department of Human Services **or Oregon Health Authority** staff shall be  
7 permitted access to enter and investigate complaints of abuse in all facilities registered under ORS  
8 443.480 to 443.500 [*for purposes of ascertaining*] **and to ascertain the facility's** compliance with  
9 applicable rules, statutes, ordinances and regulations. If the department **or the authority** has rea-  
10 sonable cause to believe any facility is operating without registration **or is** in violation of ORS  
11 443.480 to 443.500, [*it*] **the department or the authority** may apply to the circuit court for a search  
12 warrant.

13 (2) Upon complaint of any person:

14 (a) The state or local fire inspectors shall be permitted access to enter and inspect facilities  
15 registered under ORS 443.480 to 443.500 regarding fire safety.

16 (b) The state or local health officers shall be permitted access to enter and inspect facilities  
17 registered under ORS 443.480 to 443.500 regarding health and sanitation.

18 (3) **The owner or operator of a facility may not retaliate against any individual who files**  
19 **a complaint or any witness or employee of a facility interviewed about the complaint, in-**  
20 **cluding but not limited to retaliation by restriction of a resident's otherwise lawful access**  
21 **to the facility and, with respect to an employee, retaliation by dismissal or harassment.**

22 **SECTION 6.** In addition to and not in lieu of any other appropriation, there is appropri-  
23 ated to the Oregon Health Authority, for the biennium beginning July 1, 2015, out of the  
24 General Fund, the amount of \$106,320, which may be expended for carrying out the provisions  
25 of this 2015 Act.

26 **SECTION 7.** Section 6 of this 2015 Act becomes operative on July 1, 2015.

27 **SECTION 8.** This 2015 Act being necessary for the immediate preservation of the public  
28 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
29 on its passage.

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