

# House Bill 3364

Sponsored by Representative WHITSETT, Senator STEINER HAYWARD

## 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**.

Modifies definition of "intellectual disability" as used in developmental disability services program.

## A BILL FOR AN ACT

Relating to persons with developmental disabilities; amending ORS 427.005.

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

**SECTION 1.** ORS 427.005 is amended to read:

427.005. As used in this chapter:

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

(2) "Care" means:

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

(b) Supervision;

(c) Protection; and

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

(3) "Community developmental disabilities program director" means the director of an entity that provides services described in ORS 430.664 to persons with intellectual disabilities or other developmental disabilities.

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

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

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

(c) Results in a significant impairment in adaptive behavior as measured by a qualified professional;

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

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

(5) "Director of the facility" means the person in charge of care, treatment and training programs at a facility.

(6) "Facility" means a group home, activity center, community mental health clinic or other fa-

**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 cility or program that the Department of Human Services approves to provide necessary services  
 2 to persons with intellectual disabilities or other developmental disabilities.

3 (7) "Incapacitated" means a person is unable, without assistance, to properly manage or take  
 4 care of personal affairs, including but not limited to financial and medical decision-making, or is  
 5 incapable, without assistance, of self-care.

6 (8) "Independence" means the extent to which persons with intellectual disabilities or other  
 7 developmental disabilities exert control and choice over their own lives.

8 (9) "Integration" means:

9 (a) Use by persons with intellectual disabilities or other developmental disabilities of the same  
 10 community resources that are used by and available to other persons;

11 (b) Participation by persons with intellectual disabilities or other developmental disabilities in  
 12 the same community activities in which persons without disabilities participate, together with reg-  
 13 ular contact with persons without disabilities; and

14 (c) Residence by persons with intellectual disabilities or other developmental disabilities in  
 15 homes or in home-like settings that are in proximity to community resources, together with regular  
 16 contact with persons without disabilities in their community.

17 (10)(a) "Intellectual disability" means significantly subaverage general intellectual functioning,  
 18 defined as intelligence quotients under 70 as measured by a qualified professional and existing con-  
 19 currently with significant impairment in adaptive behavior, that is manifested before the individual  
 20 is 18 years of age.

21 (b) An individual with intelligence quotients of 70 through 75 [*may*] **shall** be considered to have  
 22 an intellectual disability if:

23 **(A)** There is also significant impairment in adaptive behavior, as diagnosed and measured by a  
 24 qualified professional[.]; **and**

25 [*(c)*] **(B)** The impairment in adaptive behavior [*must be directly*] **is** related to:

26 **(i)** The intellectual disability;

27 **(ii) A mental illness; or**

28 **(iii) An illness, disease or other medical condition.**

29 [*(d)*] **(c)** Intellectual disability is synonymous with mental retardation.

30 (11) "Intellectual functioning" means functioning as assessed by one or more of the individually  
 31 administered general intelligence tests developed for the purpose.

32 (12) "Minor" means an unmarried person under 18 years of age.

33 (13) "Physician" means a person licensed by the Oregon Medical Board to practice medicine and  
 34 surgery.

35 (14) "Productivity" means regular engagement in income-producing work, preferable competitive  
 36 employment with supports and accommodations to the extent necessary, by a person with an intel-  
 37 lectual disability or another developmental disability which is measured through improvements in  
 38 income level, employment status or job advancement or engagement by a person with an intellectual  
 39 disability or another developmental disability in work contributing to a household or community.

40 (15) "Service coordination" means person-centered planning, case management, procuring, coor-  
 41 dinating and monitoring of services under an individualized support plan to establish desired out-  
 42 comes, determine needs and identify resources for a person with developmental disabilities and  
 43 advocating for the person.

44 (16) "Significantly subaverage" means a score on a test of intellectual functioning that is two  
 45 or more standard deviations below the mean for the test.

1 (17) "Training" means:

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

4 (b) The planned sequence of systematic interactions, activities, structured learning situations  
5 or education designed to meet each person's specified needs in the areas of physical, emotional, in-  
6 tellectual and social growth.

7 (18) "Treatment" means the provision of specific physical, mental, social interventions and  
8 therapies that halt, control or reverse processes that cause, aggravate or complicate malfunctions  
9 or dysfunctions.

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