

# House Bill 3442

Sponsored by Representative HOYLE

## 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 transfer to secure residential setting of person committed based on intellectual disability if person engages in violent act that harms another resident or member of staff. Requires that secure setting have staff with training and expertise in ensuring safety of person and other residents and staff.

## A BILL FOR AN ACT

1  
2 Relating to treatment facilities for persons with mental impairments; amending ORS 427.300.

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

4 **SECTION 1.** ORS 427.300 is amended to read:

5 427.300. (1) The Department of Human Services may, at its discretion, direct any person with  
6 an intellectual disability who has been committed under ORS 427.290 to the facility best able to  
7 treat and train the person. The authority of the department on such matters shall be final.

8 (2)(a) At any time, for good cause and in the best interest of the person, the department may  
9 decide to transfer the person from one facility to another or discharge the person as no longer in  
10 need of residential care, treatment or training.

11 (b) At least 30 days prior to the transfer or discharge, the department shall notify, by regular  
12 mail, the person and the parent, guardian or other individual entitled to custody of the person of the  
13 decision to transfer or discharge. The notice must inform the person of the right to appeal the  
14 department's decision to transfer or discharge. In the case of a medical emergency, the department  
15 is not required to give 30 days' notice but shall give the notice as soon as possible under the cir-  
16 cumstances. The department shall define "medical emergency" by rule, including but not limited to  
17 an increase in the level of needed care or the person engaging in a behavior that poses an imminent  
18 danger to self or others.

19 (c) Except in a medical emergency, the person has the right to an administrative hearing prior  
20 to an involuntary transfer or discharge. ORS 441.605 (4) and the department's rules governing  
21 transfer notices and hearings for residents of long term care facilities apply to a transfer or dis-  
22 charge under this section. If the person is being transferred or discharged for a medical emergency,  
23 the hearing must be held no later than seven days after the transfer or discharge. The department  
24 shall maintain a space in the facility for the person pending the administrative order.

25 **(d) In a medical emergency in which the person has engaged in violent behavior that has**  
26 **caused physical harm to another resident or a member of the staff of the facility, the de-**  
27 **partment shall transfer the person to a secure residential facility that has staff with the**  
28 **training and expertise to ensure the safety of the person and other residents and staff.**

29 (3) The department, pursuant to its rules, may delegate to a community developmental disabili-  
30 ties program director the responsibility for assignment of persons with intellectual disabilities to

**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 suitable facilities or transfer between such facilities under conditions that the department may de-  
2 fine.  
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