

SB 239 STAFF MEASURE SUMMARY

Senate Committee On Human Services

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Sub-Referral To: Senate Committee On Judiciary

Meeting Dates: 2/8

WHAT THE MEASURE DOES:

Establishes process to determine consent of residents of residential care facility or adult foster home, to individually-based limitations of certain rights upon finding that the resident is incapable of providing or withholding consent. Defines terms.

FISCAL: May Have Fiscal Impact, But No Statement Yet Issued

REVENUE: May Have Revenue Impact, But No Statement Yet Issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Current Oregon law does not provide a mechanism for a residential care facilities and adult foster homes from imposing individually-based rights limitations without a resident's consent. Individually-based rights can include such things as a resident's free access to food, power to personalize living space, freely permitting visitors, choose roommates, or maintain privacy in a living space. Current law also does not provide for a facility or foster home to impose such limitations when it has been determined that the resident is not capable of actually providing or withholding consent.

Senate Bill 239 creates a process to determine consent for a resident of a residential care facility or an adult foster home who has been found incapable of providing or withholding consent to individually-based limitations of certain rights. The measure establishes that a relevant facility can seek a consent determination from a resident's legal guardian, spouse, or other specified family member. If a legal guardian or family member is not available, the facility or foster home can form a committee to determine consent. If a committee cannot be formed or a legal representative cannot be found in a timely manner to protect the safety of the resident, the facility can impose a temporary, emergency limitation. Senate Bill 239 also requires the resident or legal representative be notified upon a finding of "incapability," along with the Office of the Long Term Care Ombudsman and the resident's Medicaid case manager, after imposing an individually-based limitation.