

D R A F T

SUMMARY

Authorizes Department of Human Services and Oregon Health Authority to contract with more than one public agency or private corporation to provide mental health and developmental disabilities services if county declines to operate community mental health program or community developmental disabilities program.

A BILL FOR AN ACT

Relating to mental health services; amending ORS 426.133, 426.310, 430.620, 430.640, 430.662 and 430.670.

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

SECTION 1. ORS 430.640 is amended to read:

430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community mental health programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health program, contract with *[another public agency or private corporation]* **one or more public agencies or private corporations** to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community mental health program is operating within a county or when a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis.

1 (d) At the request of the tribal council of a federally recognized tribe of
2 Native Americans, contract with the tribal council for the establishment and
3 operation of a community mental health program in the same manner in
4 which the authority contracts with a county court or board of county com-
5 missioners.

6 (e) If a county agrees, contract with [*a public agency or private*
7 *corporation*] **one or more public agencies or private corporations** for all
8 services within one or more of the following program areas:

9 (A) Mental or emotional disturbances.

10 (B) Drug abuse.

11 (C) Alcohol abuse and alcoholism.

12 (f) Approve or disapprove the local plan and budget information for the
13 establishment and operation of each community mental health program.
14 Subsequent amendments to or modifications of an approved plan or budget
15 information involving more than 10 percent of the state funds provided for
16 services under ORS 430.630 may not be placed in effect without prior ap-
17 proval of the authority. However, an amendment or modification affecting
18 10 percent or less of state funds for services under ORS 430.630 within the
19 portion of the program for persons with mental or emotional disturbances
20 or within the portion for persons with alcohol or drug dependence may be
21 made without authority approval.

22 (g) Make all necessary and proper rules to govern the establishment and
23 operation of community mental health programs, including adopting rules
24 defining the range and nature of the services which shall or may be provided
25 under ORS 430.630.

26 (h) Collect data and evaluate services in the state hospitals in accordance
27 with the same methods prescribed for community mental health programs
28 under ORS 430.634.

29 (i) Develop guidelines that include, for the development of comprehensive
30 local plans in consultation with local mental health authorities:

31 (A) The use of integrated services;

- 1 (B) The outcomes expected from services and programs provided;
- 2 (C) Incentives to reduce the use of state hospitals;
- 3 (D) Mechanisms for local sharing of risk for state hospitalization;
- 4 (E) The provision of clinically appropriate levels of care based on an as-
- 5 sessment of the mental health needs of consumers;
- 6 (F) The transition of consumers between levels of care; and
- 7 (G) The development, maintenance and continuation of older adult mental
- 8 health programs with mental health professionals trained in geriatrics.
- 9 (j) Work with local mental health authorities to provide incentives for
- 10 community-based care whenever appropriate while simultaneously ensuring
- 11 adequate statewide capacity.
- 12 (k) Provide technical assistance and information regarding state and fed-
- 13 eral requirements to local mental health authorities throughout the local
- 14 planning process required under ORS 430.630 (9).
- 15 (L) Provide incentives for local mental health authorities to enhance or
- 16 increase vocational placements for adults with mental health needs.
- 17 (m) Develop or adopt nationally recognized system-level performance
- 18 measures, linked to the Oregon Benchmarks, for state-level monitoring and
- 19 reporting of mental health services for children, adults and older adults, in-
- 20 cluding but not limited to quality and appropriateness of services, outcomes
- 21 from services, structure and management of local plans, prevention of mental
- 22 health disorders and integration of mental health services with other needed
- 23 supports.
- 24 (n) Develop standardized criteria for each level of care described in ORS
- 25 430.630 (9), including protocols for implementation of local plans, strength-
- 26 based mental health assessment and case planning.
- 27 (o) Develop a comprehensive long-term plan for providing appropriate and
- 28 adequate mental health treatment and services to children, adults and older
- 29 adults that is derived from the needs identified in local plans[, *is consistent*
- 30 *with the vision, values and guiding principles in the Report to the Governor*
- 31 *from the Mental Health Alignment Workgroup, January 2001,]* and addresses

1 the need for and the role of state hospitals.

2 (p) Report biennially to the Governor and the Legislative Assembly on the
3 progress of the local planning process and the implementation of the local
4 plans adopted under ORS 430.630 (9)(b) and the state planning process de-
5 scribed in paragraph (o) of this subsection, and on the performance measures
6 and performance data available under paragraph (m) of this subsection.

7 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodol-
8 ogy used to estimate prevalence and demand for mental health services using
9 the most current nationally recognized models and data.

10 (r) Encourage the development of regional local mental health authorities
11 comprised of two or more boards of county commissioners that establish or
12 operate a community mental health program.

13 (2) The Oregon Health Authority may provide technical assistance and
14 other incentives to assist in the planning, development and implementation
15 of regional local mental health authorities whenever the Oregon Health
16 Authority determines that a regional approach will optimize the comprehen-
17 sive local plan described under ORS 430.630 (9).

18 (3) The enumeration of duties and functions in subsections (1) and (2) of
19 this section shall not be deemed exclusive nor construed as a limitation on
20 the powers and authority vested in the authority by other provisions of law.

21 **SECTION 2.** ORS 430.670 is amended to read:

22 430.670. (1) A community developmental disabilities program may provide
23 services by contracting with [*a public agency, private corporation or individ-*
24 *ual*] **one or more public agencies, private corporations or individuals.**
25 All elements of service provided for in the contract shall be considered as
26 a part of a community developmental disabilities program for all purposes
27 of ORS 430.610 to 430.695. Contracts authorized by this section shall comply
28 with rules adopted by the Department of Human Services.

29 (2) A community mental health program may provide services by con-
30 tracting with [*a public agency, private corporation or individual*] **one or**
31 **more public agencies, private corporations or individuals.** All elements

1 of service provided for in the contract shall be considered as a part of a
2 community mental health program for all purposes of ORS 430.610 to 430.695.
3 Contracts authorized by this section shall comply with rules adopted by the
4 Oregon Health Authority.

5 (3) A private corporation that contracts with a county, the Department
6 of Human Services or the Oregon Health Authority to operate a community
7 mental health program or community developmental disabilities program
8 shall provide an opportunity for competition among private care providers
9 when awarding subcontracts for provision of services described in ORS
10 430.630 (1) to (3) and 430.664.

11 (4) In keeping with the principles of family support expressed in ORS
12 417.342 and notwithstanding subsection (3) of this section or ORS 291.047 (3),
13 an entity operating a community mental health program or community de-
14 velopmental disabilities program may purchase services for an individual
15 from a service provider without first providing an opportunity for competi-
16 tion among other service providers if the service provider is selected by the
17 individual, the individual's family or the individual's guardian, as long as the
18 service provider has been approved by the department or the authority to
19 provide such service.

20 **SECTION 3.** ORS 426.133 is amended to read:

21 426.133. (1) As used in ORS 426.005 to 426.390, "assisted outpatient treat-
22 ment" may not be construed to be a commitment under ORS 426.130 and does
23 not include taking a person into custody or the forced medication of a per-
24 son.

25 (2) A court may issue an order requiring a person to participate in as-
26 sisted outpatient treatment if the court finds that the person:

27 (a)(A) Is 18 years of age or older;

28 (B) Has a mental disorder;

29 (C) Will not obtain treatment in the community voluntarily; and

30 (D) Is unable to make an informed decision to seek or to comply with
31 voluntary treatment; and

1 (b) As a result of being a person described in paragraph (a) of this sub-
2 section:

3 (A) Is incapable of surviving safely in the community without treatment;
4 and

5 (B) Requires treatment to prevent a deterioration in the person's condi-
6 tion that will predictably result in the person becoming a person with mental
7 illness.

8 (3) In determining whether to issue the order under subsection (2) of this
9 section, the court shall consider, but is not limited to considering, the fol-
10 lowing factors:

11 (a) The person's ability to access finances in order to get food or medi-
12 cine.

13 (b) The person's ability to obtain treatment for the person's medical con-
14 dition.

15 (c) The person's ability to access necessary resources in the community
16 without assistance.

17 (d) The degree to which there are risks to the person's safety.

18 (e) The likelihood that the person will decompensate without immediate
19 care or treatment.

20 (f) The person's previous attempts to inflict physical injury on self or
21 others.

22 (g) The person's history of mental health treatment in the community.

23 (h) The person's patterns of decompensation in the past.

24 (i) The person's risk of being victimized or harmed by others.

25 (j) The person's access to the means to inflict harm on self or others.

26 (4) The community mental health program director may recommend to the
27 court a treatment plan for a person participating in assisted outpatient
28 treatment. The court may adopt the plan as recommended or with modifica-
29 tions.

30 (5) As part of the order under subsection (2) of this section, the court may
31 prohibit the person from purchasing or possessing a firearm during the pe-

1 rioid of assisted outpatient treatment if, in the opinion of the court, there is
2 a reasonable likelihood the person would constitute a danger to self or oth-
3 ers or to the community at large as a result of the person's mental or psy-
4 chological state, as demonstrated by past behavior or participation in
5 incidents involving unlawful violence or threats of unlawful violence, or by
6 reason of a single incident of extreme, violent, unlawful conduct. When a
7 court adds a firearm prohibition to an order under subsection (2) of this
8 section, the court shall cause a copy of the order to be delivered to the
9 sheriff of the county, who shall enter the information into the Law
10 Enforcement Data System.

11 (6) The court retains jurisdiction over the person until the earlier of the
12 end of the period of the assisted outpatient treatment established under ORS
13 426.130 (2) or until the court finds that the person no longer meets the cri-
14 teria in subsection (2) of this section.

15 (7) This section does not:

16 (a) Prevent a court from appointing a guardian ad litem to act for the
17 person; or

18 (b) Require a community mental health program to provide treatment or
19 services to, or supervision of, the person:

20 (A) If the county lacks sufficient funds for such purposes; or

21 (B) In the case of a county that has declined to operate or contract for
22 a community mental health program, if [*the*] a public agency or private cor-
23 poration that contracts with the Oregon Health Authority to provide the
24 program, as described in ORS 430.640, lacks sufficient funds for such pur-
25 poses.

26 **SECTION 4.** ORS 426.310 is amended to read:

27 426.310. (1) If a person with mental illness is a resident of some other
28 county in this state, the county making the commitment shall be reimbursed
29 by the county of which the person is a resident. All reasonable and actual
30 expenses incurred and paid by the county by reason of the care, custody,
31 treatment, investigation, examination and commitment hearing shall, upon

1 presentation of a copy of the order of the judge making the examination and
 2 commitment, together with a properly itemized and certified claim covering
 3 the expense, be promptly paid to the county by the county of which the
 4 person was a resident. The expenses reimbursed under this subsection shall
 5 include any expenses incurred to pay for representation of the state's interest
 6 under ORS 426.100 and 426.250.

7 (2) If a person alleged to have a mental illness is a resident of some other
 8 county in this state, a county [*attempting*] **initiating** a commitment shall be
 9 reimbursed by the county of which the person is a resident, as defined in
 10 ORS 426.241, for all actual, reasonable expenses incurred and paid by the
 11 county [*attempting*] **initiating** commitment by reason of the care, custody,
 12 treatment, investigation, examination and commitment hearing. The expenses
 13 reimbursed under this subsection shall include any expenses incurred to pay
 14 for representation of the state's interest under ORS 426.100 and 426.250.

15 (3) In the case of a county that declines to operate or contract for a
 16 community mental health program, [*the*] **a public agency or private corpo-**
 17 **ration that contracts with the Oregon Health Authority [*to provide the pro-***
 18 ***gram*], as described in ORS 430.640, to provide services to a person**
 19 **described in subsection (1) or (2) of this section,** is responsible for reim-
 20 bursing a county for the costs incurred by the county in the care, custody,
 21 treatment, investigation and examination of the person.

22 **SECTION 5.** ORS 430.620 is amended to read:

23 430.620. (1) The county court or board of county commissioners, or its
 24 representatives designated by it for the purpose, of any county, on behalf of
 25 the county, may:

26 (a) By contract with and subject to the rules of the Department of Human
 27 Services, establish and operate, or contract with [*a public agency or private*
 28 *corporation for,*] **one or more public agencies or private corporations to**
 29 **operate,** a community developmental disabilities program.

30 (b) In conformity with the rules of the Oregon Health Authority, establish
 31 and operate, or contract with [*a public agency or private corporation for,*] **one**

1 **or more public agencies or private corporations to operate**, a commu-
2 nity mental health program.

3 (c) Cooperate, coordinate or act jointly with any other county or counties
4 or any appropriate officer or agency of [*such*] **the** counties in establishing
5 and operating or contracting for a community mental health program or
6 community developmental disabilities program to [*service all such*] **serve the**
7 counties in conformity with the regulations of the department or the au-
8 thority.

9 (d) Expend county moneys for the purposes referred to in paragraph (a),
10 (b) or (c) of this subsection.

11 (e) Accept and use or expend property or moneys from any public or pri-
12 vate source made available for the purposes referred to in paragraph (a), (b)
13 or (c) of this subsection.

14 (2) All officers and agencies of a county, upon request, shall cooperate
15 insofar as possible with the county court or board of county commissioners,
16 or its designated representatives, in conducting programs and carrying on
17 and coordinating activities under subsection (1) of this section.

18 **SECTION 6.** ORS 430.662 is amended to read:

19 430.662. (1) The Department of Human Services, in carrying out the leg-
20 islative policy declared in ORS 430.610, subject to the availability of funds,
21 shall:

22 (a) Regulate and assist Oregon counties and groups of Oregon counties
23 in the establishment and financing of community developmental disabilities
24 programs operated or contracted for by one or more counties.

25 (b) If a county declines to operate or contract for a community develop-
26 mental disabilities program, contract with [*another public agency or private*
27 *corporation*] **one or more public agencies or private corporations** to pro-
28 vide the program. The county must be provided with an opportunity to re-
29 view and comment.

30 (c) When no community developmental disabilities program is operating
31 within a county, operate the program or service.

1 (d) At the request of the tribal council of a federally recognized tribe of
2 Native Americans, contract with the tribal council for the establishment and
3 operation of a community developmental disabilities program in the same
4 manner in which the department contracts with a county court or board of
5 county commissioners.

6 (e) If necessary to carry out the legislative policy declared in ORS 430.610,
7 contract with [*a public agency or private corporation*] **one or more public**
8 **agencies or private corporations**, in cooperation with the county, [*for*] **to**
9 **provide** some or all developmental disabilities services.

10 (f) Approve or disapprove the biennial plan and budget information for
11 the establishment and operation of each community developmental disabili-
12 ties program. Subsequent amendments to or modifications of an approved
13 plan or budget information involving more than 10 percent of the state funds
14 provided for services under ORS 430.664 may not be placed in effect without
15 prior approval of the department. However, an amendment or modification
16 affecting 10 percent or less of state funds for services under ORS 430.664
17 within the portion of the program for persons with developmental disabilities
18 may be made without department approval.

19 (g) Make all necessary and proper rules to regulate the establishment and
20 operation of community developmental disabilities programs.

21 (2) The enumeration of duties and functions in subsection (1) of this sec-
22 tion may not be deemed exclusive or construed as a limitation on the powers
23 and authority vested in the department by other provisions of law.

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