

House Bill 2980

Sponsored by COMMITTEE ON HEALTH CARE

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**.

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

1
2 Relating to mental health services; amending ORS 426.133, 426.310, 430.620, 430.640, 430.662 and
3 430.670.

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

5 **SECTION 1.** ORS 430.640 is amended to read:

6 430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS
7 430.610, subject to the availability of funds, shall:

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

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

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

17 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
18 contract with the tribal council for the establishment and operation of a community mental health
19 program in the same manner in which the authority contracts with a county court or board of
20 county commissioners.

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

24 (A) Mental or emotional disturbances.

25 (B) Drug abuse.

26 (C) Alcohol abuse and alcoholism.

27 (f) Approve or disapprove the local plan and budget information for the establishment and op-
28 eration of each community mental health program. Subsequent amendments to or modifications of
29 an approved plan or budget information involving more than 10 percent of the state funds provided
30 for services under ORS 430.630 may not be placed in effect without prior approval of the authority.

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 However, an amendment or modification affecting 10 percent or less of state funds for services under
2 ORS 430.630 within the portion of the program for persons with mental or emotional disturbances
3 or within the portion for persons with alcohol or drug dependence may be made without authority
4 approval.

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

8 (h) Collect data and evaluate services in the state hospitals in accordance with the same meth-
9 ods prescribed for community mental health programs under ORS 430.634.

10 (i) Develop guidelines that include, for the development of comprehensive local plans in consul-
11 tation with local mental health authorities:

12 (A) The use of integrated services;

13 (B) The outcomes expected from services and programs provided;

14 (C) Incentives to reduce the use of state hospitals;

15 (D) Mechanisms for local sharing of risk for state hospitalization;

16 (E) The provision of clinically appropriate levels of care based on an assessment of the mental
17 health needs of consumers;

18 (F) The transition of consumers between levels of care; and

19 (G) The development, maintenance and continuation of older adult mental health programs with
20 mental health professionals trained in geriatrics.

21 (j) Work with local mental health authorities to provide incentives for community-based care
22 whenever appropriate while simultaneously ensuring adequate statewide capacity.

23 (k) Provide technical assistance and information regarding state and federal requirements to
24 local mental health authorities throughout the local planning process required under ORS 430.630
25 (9).

26 (L) Provide incentives for local mental health authorities to enhance or increase vocational
27 placements for adults with mental health needs.

28 (m) Develop or adopt nationally recognized system-level performance measures, linked to the
29 Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children,
30 adults and older adults, including but not limited to quality and appropriateness of services, out-
31 comes from services, structure and management of local plans, prevention of mental health disorders
32 and integration of mental health services with other needed supports.

33 (n) Develop standardized criteria for each level of care described in ORS 430.630 (9), including
34 protocols for implementation of local plans, strength-based mental health assessment and case plan-
35 ning.

36 (o) Develop a comprehensive long-term plan for providing appropriate and adequate mental
37 health treatment and services to children, adults and older adults that is derived from the needs
38 identified in local plans[*is consistent with the vision, values and guiding principles in the Report to*
39 *the Governor from the Mental Health Alignment Workgroup, January 2001,*] and addresses the need
40 for and the role of state hospitals.

41 (p) Report biennially to the Governor and the Legislative Assembly on the progress of the local
42 planning process and the implementation of the local plans adopted under ORS 430.630 (9)(b) and the
43 state planning process described in paragraph (o) of this subsection, and on the performance meas-
44 ures and performance data available under paragraph (m) of this subsection.

45 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate

1 prevalence and demand for mental health services using the most current nationally recognized
 2 models and data.

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

5 (2) The Oregon Health Authority may provide technical assistance and other incentives to assist
 6 in the planning, development and implementation of regional local mental health authorities when-
 7 ever the Oregon Health Authority determines that a regional approach will optimize the compre-
 8 hensive local plan described under ORS 430.630 (9).

9 (3) The enumeration of duties and functions in subsections (1) and (2) of this section shall not
 10 be deemed exclusive nor construed as a limitation on the powers and authority vested in the au-
 11 thority by other provisions of law.

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

13 430.670. (1) A community developmental disabilities program may provide services by contract-
 14 ing with [*a public agency, private corporation or individual*] **one or more public agencies, private**
 15 **corporations or individuals.** All elements of service provided for in the contract shall be consid-
 16 ered as a part of a community developmental disabilities program for all purposes of ORS 430.610
 17 to 430.695. Contracts authorized by this section shall comply with rules adopted by the Department
 18 of Human Services.

19 (2) A community mental health program may provide services by contracting with [*a public*
 20 *agency, private corporation or individual*] **one or more public agencies, private corporations or**
 21 **individuals.** All elements of service provided for in the contract shall be considered as a part of a
 22 community mental health program for all purposes of ORS 430.610 to 430.695. Contracts authorized
 23 by this section shall comply with rules adopted by the Oregon Health Authority.

24 (3) A private corporation that contracts with a county, the Department of Human Services or
 25 the Oregon Health Authority to operate a community mental health program or community devel-
 26 opmental disabilities program shall provide an opportunity for competition among private care pro-
 27 viders when awarding subcontracts for provision of services described in ORS 430.630 (1) to (3) and
 28 430.664.

29 (4) In keeping with the principles of family support expressed in ORS 417.342 and
 30 notwithstanding subsection (3) of this section or ORS 291.047 (3), an entity operating a community
 31 mental health program or community developmental disabilities program may purchase services for
 32 an individual from a service provider without first providing an opportunity for competition among
 33 other service providers if the service provider is selected by the individual, the individual's family
 34 or the individual's guardian, as long as the service provider has been approved by the department
 35 or the authority to provide such service.

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

37 426.133. (1) As used in ORS 426.005 to 426.390, "assisted outpatient treatment" may not be con-
 38 strued to be a commitment under ORS 426.130 and does not include taking a person into custody
 39 or the forced medication of a person.

40 (2) A court may issue an order requiring a person to participate in assisted outpatient treatment
 41 if the court finds that the person:

- 42 (a)(A) Is 18 years of age or older;
- 43 (B) Has a mental disorder;
- 44 (C) Will not obtain treatment in the community voluntarily; and
- 45 (D) Is unable to make an informed decision to seek or to comply with voluntary treatment; and

1 (b) As a result of being a person described in paragraph (a) of this subsection:

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

3 (B) Requires treatment to prevent a deterioration in the person's condition that will predictably
4 result in the person becoming a person with mental illness.

5 (3) In determining whether to issue the order under subsection (2) of this section, the court shall
6 consider, but is not limited to considering, the following factors:

7 (a) The person's ability to access finances in order to get food or medicine.

8 (b) The person's ability to obtain treatment for the person's medical condition.

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

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

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

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

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

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

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

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

17 (4) The community mental health program director may recommend to the court a treatment
18 plan for a person participating in assisted outpatient treatment. The court may adopt the plan as
19 recommended or with modifications.

20 (5) As part of the order under subsection (2) of this section, the court may prohibit the person
21 from purchasing or possessing a firearm during the period of assisted outpatient treatment if, in the
22 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self
23 or others or to the community at large as a result of the person's mental or psychological state, as
24 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
25 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
26 a court adds a firearm prohibition to an order under subsection (2) of this section, the court shall
27 cause a copy of the order to be delivered to the sheriff of the county, who shall enter the informa-
28 tion into the Law Enforcement Data System.

29 (6) The court retains jurisdiction over the person until the earlier of the end of the period of
30 the assisted outpatient treatment established under ORS 426.130 (2) or until the court finds that the
31 person no longer meets the criteria in subsection (2) of this section.

32 (7) This section does not:

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

34 (b) Require a community mental health program to provide treatment or services to, or super-
35 vision of, the person:

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

37 (B) In the case of a county that has declined to operate or contract for a community mental
38 health program, if [*the*] a public agency or private corporation that contracts with the Oregon
39 Health Authority to provide the program, as described in ORS 430.640, lacks sufficient funds for
40 such purposes.

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

42 426.310. (1) If a person with mental illness is a resident of some other county in this state, the
43 county making the commitment shall be reimbursed by the county of which the person is a resident.
44 All reasonable and actual expenses incurred and paid by the county by reason of the care, custody,
45 treatment, investigation, examination and commitment hearing shall, upon presentation of a copy

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

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

12 (3) In the case of a county that declines to operate or contract for a community mental health
 13 program, *[the]* **a** public agency or private corporation that contracts with the Oregon Health Au-
 14 thority *[to provide the program]*, as described in ORS 430.640, **to provide services to a person de-**
 15 **scribed in subsection (1) or (2) of this section**, is responsible for reimbursing a county for the
 16 costs incurred by the county in the care, custody, treatment, investigation and examination of the
 17 person.

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

19 430.620. (1) The county court or board of county commissioners, or its representatives desig-
 20 nated by it for the purpose, of any county, on behalf of the county, may:

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

24 (b) In conformity with the rules of the Oregon Health Authority, establish and operate, or con-
 25 tract with *[a public agency or private corporation for,]* **one or more public agencies or private**
 26 **corporations to operate**, a community mental health program.

27 (c) Cooperate, coordinate or act jointly with any other county or counties or any appropriate
 28 officer or agency of *[such]* **the** counties in establishing and operating or contracting for a community
 29 mental health program or community developmental disabilities program to *[service all such]* **serve**
 30 **the** counties in conformity with the regulations of the department or the authority.

31 (d) Expend county moneys for the purposes referred to in paragraph (a), (b) or (c) of this sub-
 32 section.

33 (e) Accept and use or expend property or moneys from any public or private source made
 34 available for the purposes referred to in paragraph (a), (b) or (c) of this subsection.

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

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

39 430.662. (1) The Department of Human Services, in carrying out the legislative policy declared
 40 in ORS 430.610, subject to the availability of funds, shall:

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

44 (b) If a county declines to operate or contract for a community developmental disabilities pro-
 45 gram, contract with *[another public agency or private corporation]* **one or more public agencies or**

1 **private corporations** to provide the program. The county must be provided with an opportunity to
2 review and comment.

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

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

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

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

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

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

24