

Requested by Representative NOBLE

**PROPOSED AMENDMENTS TO
HOUSE BILL 3415**

1 On page 1 of the printed bill, delete lines 3 through 27.

2 On page 2, delete lines 1 through 19 and insert:

3 “Whereas individuals who are deaf, deaf-blind or hard of hearing, as a
4 group, represent an underserved population in many respects, particularly
5 with respect to mental health services; and

6 “Whereas individuals who are deaf, deaf-blind or hard of hearing require
7 culturally and linguistically specialized mental health services; and

8 “Whereas research shows that individuals who are deaf, deaf-blind or hard
9 of hearing are subjected to additional burdens in access to mental health
10 services; and

11 “Whereas some individuals who are deaf, deaf-blind or hard of hearing
12 may have secondary disabilities that impact the type and manner of mental
13 health services that they need; and

14 “Whereas being deaf, deaf-blind or hard of hearing impacts the most basic
15 of human needs, which is the ability to communicate with other human be-
16 ings; and

17 “Whereas many individuals who are deaf, deaf-blind or hard of hearing
18 use sign language, which may be their primary language, while others ex-
19 press and receive language orally and aurally, with or without visual signs
20 or cues; and

21 “Whereas it is essential for the mental health and well-being of individ-

1 uals who are deaf, deaf-blind or hard of hearing that mental health programs
2 recognize the unique nature of being deaf, deaf-blind or hard of hearing and
3 ensure that all individuals who are deaf, deaf-blind or hard of hearing have
4 appropriate and fully accessible counseling and therapeutic options; and

5 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
6 of hearing have mental health options in which their effective communi-
7 cation mode is respected and utilized and that mental health professionals
8 are proficient in the primary communication mode of individuals who are
9 deaf, deaf-blind or hard of hearing; and

10 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
11 of hearing have mental health options in which psychiatrists, psychologists,
12 therapists, counselors, social workers and other mental health providers un-
13 derstand the unique nature of being deaf, deaf-blind or hard of hearing and
14 are specifically trained to work with individuals who are deaf, deaf-blind or
15 hard of hearing; and

16 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
17 of hearing have access to mental health professionals who are familiar with
18 their unique culture and needs; and

19 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
20 of hearing are involved in determining the extent, content and purpose of
21 mental health programs and services; and

22 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
23 of hearing have programs in which they have direct and appropriate access
24 to a full continuum of services, including but not limited to all modes of
25 therapy and evaluations; and

26 “Whereas it is essential that individuals who are deaf, deaf-blind or hard
27 of hearing have specialized programs that provide for their unique mental
28 health needs, including appropriate research, curricula, staff and outreach;
29 and

30 “Whereas mental health providers must make an individual determination

1 for each individual who is deaf, deaf-blind or hard of hearing of the most
2 accessible mental health services that take into consideration the findings
3 in this preamble; and

4 “Whereas given their unique communication needs, individuals who are
5 deaf, deaf-blind or hard of hearing would benefit from the development and
6 implementation of state and regional programs that address their the mental
7 health needs; now, therefore,”.

8 Delete lines 21 through 45 and delete pages 3 through 5 and insert:

9 **“SECTION 1. Sections 1 to 6 of this 2017 Act shall be known and
10 may be cited as the Mental Health for Deaf, Deaf-Blind and Hard of
11 Hearing Individuals’ Bill of Rights.**

12 **“SECTION 2. As used in sections 1 to 6 of this 2017 Act:**

13 **“(1) ‘Accessible mental health services’ means the full range of
14 mental health services provided, with the use of auxiliary aids or ser-
15 vices, by appropriately licensed mental health professionals who are
16 not fluent in the primary communication mode, style or language of
17 the individual requiring such services.**

18 **“(2) ‘American Sign Language’ means the visual language used by
19 people who are deaf or deaf-blind and some hard of hearing people in
20 the United States and parts of Canada and Mexico, with semantic,
21 syntactic, morphological and phonological rules that are distinct from
22 English.**

23 **“(3) ‘Auxiliary aids or services’ includes but is not limited to:**

24 **“(a) Qualified interpreters;**

25 **“(b) Signed English;**

26 **“(c) Cued speech;**

27 **“(d) Qualified captioners; and**

28 **“(e) Assistive listening devices.**

29 **“(4) ‘Communication mode, style or language’ means the following
30 systems or methods of communication used by deaf, deaf-blind and**

1 **hard of hearing individuals:**

2 **“(a) American Sign Language;**

3 **“(b) English-based manual or sign systems that use manual signs**
4 **in English word order, sometimes with added affixes that are not**
5 **present in American Sign Language; and**

6 **“(c) Minimal sign language systems to communicate with others**
7 **who use home-based signs, idiosyncratic signs or a sign system or**
8 **language from another country.**

9 **“(5) ‘Culturally and linguistically affirmative mental health**
10 **services’ means the full range of mental health services provided,**
11 **without the use of an interpreter or other auxiliary aids or services,**
12 **to a deaf, deaf-blind or hard of hearing individual by appropriately li-**
13 **icensed mental health professionals fluent in the primary communi-**
14 **cation mode, style or language as well as the cultural needs of the**
15 **individual requiring such services.**

16 **“(6) ‘Deaf-blind individual’ means a person who has a combination**
17 **of severe hearing loss and vision loss that necessitates specialized ad-**
18 **aptation of spoken, tactile and written information.**

19 **“(7) ‘Deaf individual’ means an individual who has a severe or**
20 **complete absence of auditory sensitivity so that the primary effective**
21 **communication mode is visual and the individual has difficulty in**
22 **processing linguistic information through hearing, with or without**
23 **amplification or other assistive technology.**

24 **“(8) ‘Hard of hearing individual’ means an individual who has a**
25 **hearing loss but retains some residual hearing, wishes to be part of**
26 **the hearing world, rarely understands American Sign Language, can**
27 **benefit from hearing aids or cochlear implants and for whom under-**
28 **standing speech is further enhanced by using hearing assistive tech-**
29 **nology and coping skills.**

30 **“(9) ‘Primary communication mode, style or language’ means the**

1 **communication mode, style or language that is preferred by and most**
2 **effective for a particular individual, as determined by appropriate**
3 **language assessment undertaken by individuals proficient in the com-**
4 **munication mode, style or language being assessed.**

5 **“SECTION 3. The Oregon Health Authority shall:**

6 **“(1) Make available throughout this state mental health programs**
7 **that provide culturally and linguistically affirmative mental health**
8 **services to deaf, deaf-blind and hard of hearing individuals in their**
9 **primary communication mode, style or language.**

10 **“(2) Develop, train and retain a mental health professional**
11 **workforce sufficient to ensure appropriate culturally and linguistically**
12 **affirmative mental health services for deaf, deaf-blind and hard of**
13 **hearing individuals in their primary communication mode, style or**
14 **language, including but not limited to:**

15 **“(a) Occupational therapists familiar with the unique needs of in-**
16 **dividuals who are deaf, deaf-blind or hard of hearing;**

17 **“(b) Prevention specialists;**

18 **“(c) Chemical dependency counselors;**

19 **“(d) Social workers;**

20 **“(e) Licensed professional counselors and marriage and family**
21 **therapists;**

22 **“(f) Licensed psychologists;**

23 **“(g) Licensed psychiatrists; and**

24 **“(h) Registered nurses.**

25 **“(3) Develop, train and make available resources sufficient to en-**
26 **sure appropriate, accessible mental health services for deaf, deaf-blind**
27 **and hard of hearing individuals in their primary communication mode,**
28 **style or language, including but not limited to:**

29 **“(a) Qualified interpreters certified to render effective communi-**
30 **cation in the mental health setting;**

1 **“(b) Certified deaf interpreters; and**

2 **“(c) Foreign sign language interpreters.**

3 **“(4) Monitor state-funded mental health programs, schools, courts,**
4 **medical facilities, long term care facilities and providers of addiction**
5 **and substance abuse treatment to ensure that deaf, deaf-blind and**
6 **hard of hearing individuals of all ages are served.**

7 **“(5) Allocate adequate funding for all mental health programs that**
8 **provide accessible mental health services to deaf, deaf-blind and hard**
9 **of hearing individuals.**

10 **“(6) Develop and implement strategies and plans to address the**
11 **unmet need in geographical areas where there are an insufficient**
12 **number of mental health professionals adequately trained in any**
13 **communication mode, style or language to treat deaf, deaf-blind or**
14 **hard of hearing individuals, including but not limited to authorizing**
15 **qualified mental health professionals licensed by another state to treat**
16 **and serve the needs of deaf, deaf-blind or hard of hearing individuals**
17 **in this state.**

18 **“(7) Authorize the use of technology, in treatment, that allows deaf,**
19 **deaf-blind or hard of hearing individuals to receive culturally and lin-**
20 **guistically affirmative mental health services from mental health**
21 **professionals who are licensed in this state or another state.**

22 **“SECTION 4. (1) An individual who is deaf, deaf-blind or hard of**
23 **hearing may not be denied access to culturally and linguistically af-**
24 **firmative mental health services in the individual’s preferred commu-**
25 **nication mode, style or language on the basis that:**

26 **“(a) The individual has a residual hearing ability, whether assisted**
27 **or not; or**

28 **“(b) The individual has previous experience with another commu-**
29 **nication mode, style or language.**

30 **“(2) This section does not prohibit the provision of mental health**

1 treatment in more than one communication mode, style or language
2 for any particular individual. An individual shall receive treatment in
3 the communication mode, style or language that is determined to be
4 most effective.

5 “(3) Violation of subsection (1) of this section is an unlawful prac-
6 tice that is subject to enforcement under ORS chapter 659A.

7 “SECTION 5. (1) The Oregon Health Authority shall appoint a Co-
8 ordinator of Mental Health Services for Deaf, Deaf-Blind and Hard of
9 Hearing Individuals to coordinate the statewide provision of culturally
10 and linguistically affirmative mental health services to deaf, deaf-blind
11 and hard of hearing individuals.

12 “(2) The coordinator must have leadership abilities and extensive
13 experience in treating deaf, deaf-blind and hard of hearing individuals
14 and must:

15 “(a) Be fluent in American Sign Language and possess a thorough
16 understanding of the culture of the deaf, deaf-blind and hard of hear-
17 ing community;

18 “(b) Have completed clinical training and possess a minimum of five
19 years of experience providing direct services to deaf, deaf-blind and
20 hard of hearing individuals with mental health needs;

21 “(c) Possess at least a master’s degree in a behavioral health or
22 other relevant clinical field, with a preference given to individuals who
23 are licensed to practice independently;

24 “(d) Know and understand applicable federal and state laws;

25 “(e) Be capable of or have experience in creating or integrating
26 programs in the mental health service delivery system in this state to
27 ensure that deaf, deaf-blind and hard of hearing individuals have ac-
28 cess to the full continuum of mental health care; and

29 “(f) Demonstrate the aptitude to develop policies and procedures
30 based on the actual service needs of deaf, deaf-blind and hard of

1 hearing individuals.

2 “(3) The coordinator shall be responsible for ensuring that cul-
3 turally and linguistically affirmative mental health services are avail-
4 able to deaf, deaf-blind and hard of hearing individuals statewide and
5 shall have the authority to:

6 “(a) Take steps necessary to ensure access to training, consultation
7 and technical assistance by mental health treatment providers in var-
8 ious settings, including but not limited to inpatient hospitalization,
9 outpatient treatment and residential programs serving deaf, deaf-blind
10 and hard of hearing individuals with mental health needs or addiction
11 or substance abuse disorders;

12 “(b) Facilitate collaboration between state agencies and depart-
13 ments to maximize the use of state resources and joint planning;

14 “(c) Develop, oversee and directly supervise staff responsible for the
15 statewide delivery of accessible mental health services;

16 “(d) Establish statewide mental health standards for the care of
17 deaf, deaf-blind and hard of hearing individuals, including standards
18 for American Sign Language skills in mental health settings;

19 “(e) Allocate mental health funds or grants to public and private
20 mental health providers to achieve optimum service delivery within
21 the system of care in this state; and

22 “(f) Collect and evaluate clinical and programmatic outcomes data
23 from each mental health service provider serving deaf, deaf-blind or
24 hard of hearing individuals in this state.

25 **“SECTION 6. (1) A deaf, deaf-blind or hard of hearing individual**
26 **admitted to a hospital or residential treatment center must be as-**
27 **signed to a qualified staff member or clinical treatment team with the**
28 **primary responsibility for coordinating and implementing the**
29 **individual’s treatment plan.**

30 “(2) A hospital or residential treatment center must have written

1 procedures to ensure that deaf, deaf-blind or hard of hearing individ-
2 uals are provided culturally and linguistically affirmative mental
3 health services, including but not limited to the following:

4 “(a) Direct access to mental health services by a staff member who
5 meets qualification criteria adopted by the Oregon Health Authority
6 by rule for fluency in the language or communication mode, style or
7 language preferred by the individual.

8 “(b) If the services described in paragraph (a) of this subsection
9 cannot be made available, free language assistance in compliance with
10 federal and state laws. All interpreters must be qualified to work in
11 the treatment setting according to standards adopted by rule by the
12 authority. Family members, employees, colleagues or friends of a deaf,
13 deaf-blind or hard of hearing individual may not be used as interpret-
14 ers under any circumstances.

15 “(3) The authority or the coordinator shall specify how mental
16 health services must be provided if in-person interpreters are not
17 available. If remote interpreters are used, the provider of mental
18 health services shall be responsible for ensuring that the remote in-
19 terpreters are qualified to provide the interpretation of mental health
20 services.

21 “(4) If qualified interpreters are offered but refused by a deaf,
22 deaf-blind or hard of hearing individual in need of mental health ser-
23 vices, the mental health service provider must obtain a signed waiver
24 from the individual of the right to accessible mental health services
25 and retain the waiver in the individual’s case record.

26 “(5) Diagnostic testing of deaf, deaf-blind and hard of hearing indi-
27 viduals requires expertise in the administration and interpretation of
28 standardized objective or projective tests and must be performed by
29 qualified mental health treatment providers with the level of fluency
30 in sign language or other mode of communication prescribed by the

1 **authority by rule.**

2 **“SECTION 7. (1) The Oregon Health Authority may impose a civil**
3 **penalty of up to \$5,000 on a person for failure to comply with section**
4 **6 of this 2017 Act.**

5 **“(2) Civil penalties under this section must be imposed in the**
6 **manner provided by ORS 183.745.**

7 **“(3) All penalties recovered under this section shall be paid into the**
8 **State Treasury and credited to the Oregon Health Authority Fund es-**
9 **tablished under ORS 413.101.**

10 **“SECTION 8. The requirements of section 4 of this 2017 Act apply**
11 **to conduct occurring on or after the effective date of this 2017 Act.”.**

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