

SENATE AMENDMENTS TO SENATE BILL 19

By COMMITTEE ON HUMAN SERVICES

April 3

1 On page 11 of the printed bill, delete lines 28 through 45 and delete pages 12 and 13.

2 On page 14, delete lines 1 through 3 and insert:

3 “**SECTION 7.** ORS 427.005 is amended to read:

4 “427.005. As used in this chapter:

5 “(1) ‘Adaptive behavior’ means the effectiveness or degree with which an individual meets the
6 standards of personal independence and social responsibility expected for age and cultural group.

7 “(2) ‘Care’ means:

8 “(a) Supportive services, including, but not limited to, provision of room and board;

9 “(b) Supervision;

10 “(c) Protection; and

11 “(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or
12 recreation.

13 “(3) ‘Community developmental disabilities program director’ means the director of an entity
14 that provides services described in ORS 430.664 to persons with intellectual disabilities or other
15 developmental disabilities.

16 “(4) ‘Developmental disability’ means [*an intellectual disability,*] autism, cerebral palsy, epilepsy
17 or other [*neurological*] condition diagnosed by a qualified professional that:

18 “(a) Originates before an individual is 22 years of age[, or 18 years of age for an intellectual
19 disability;]

20 “[*(b) Originates in and directly affects the brain*] and is expected to continue indefinitely;

21 “[*(c)*] **(b)** Results in a significant impairment in adaptive behavior as measured by a qualified
22 professional;

23 “[*(d)*] **(c)** Is not attributed primarily to other conditions including, but not limited to, a mental
24 or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability
25 or attention deficit hyperactivity disorder; and

26 “[*(e)*] **(d)** Requires [*training and support*] **supports** similar to [*that*] **those** required by an indi-
27 vidual with an intellectual disability.

28 “(5) ‘Director of the facility’ means the person in charge of care, treatment and training pro-
29 grams at a facility.

30 “(6) ‘Facility’ means a group home, activity center, community mental health clinic or other fa-
31 cility or program that the Department of Human Services approves to provide necessary services
32 to persons with intellectual disabilities or other developmental disabilities.

33 “(7) ‘Incapacitated’ means a person is unable, without assistance, to properly manage or take
34 care of personal affairs, including but not limited to financial and medical decision-making, or is
35 incapable, without assistance, of self-care.

1 “(8) ‘Independence’ means the extent to which persons with intellectual disabilities or other
2 developmental disabilities exert control and choice over their own lives.

3 “(9) ‘Integration’ means:

4 “(a) Use by persons with intellectual disabilities or other developmental disabilities of the same
5 community resources that are used by and available to other persons;

6 “(b) Participation by persons with intellectual disabilities or other developmental disabilities in
7 the same community activities in which persons without disabilities participate, together with reg-
8 ular contact with persons without disabilities; and

9 “(c) Residence by persons with intellectual disabilities or other developmental disabilities in
10 homes or in home-like settings that are in proximity to community resources, together with regular
11 contact with persons without disabilities in their community.

12 “(10)(a) ‘Intellectual disability’ means [*significantly subaverage general intellectual functioning,*
13 *defined as intelligence quotients under 70*] **an intelligence quotient of 70 or below** as measured by
14 a qualified professional and existing concurrently with significant impairment in adaptive behavior,
15 that is manifested before the individual is 18 years of age.

16 “(b) An individual with intelligence quotients of [70] **71** through 75 may be considered to have
17 an intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed
18 and measured by a qualified professional.

19 “(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

20 “[*(d) Intellectual disability is synonymous with mental retardation.*]

21 “[*(11) ‘Intellectual functioning’ means functioning as assessed by one or more of the individually*
22 *administered general intelligence tests developed for the purpose.*]

23 “[*(12)*] **(11) ‘Minor’** means an unmarried person under 18 years of age.

24 “[*(13)*] **(12) ‘Naturopathic physician’** has the meaning given the term in ORS 685.010.

25 “[*(14)*] **(13) ‘Physician’** means a person licensed by the Oregon Medical Board to practice medi-
26 cine and surgery.

27 “[*(15)*] **(14) ‘Productivity’** means regular engagement in income-producing work, [*preferable*]
28 **preferably** competitive employment with supports and accommodations to the extent necessary, by
29 a person with an intellectual disability or another developmental disability which is measured
30 through improvements in income level, employment status or job advancement or engagement by a
31 person with an intellectual disability or another developmental disability in work contributing to a
32 household or community.

33 “[*(16)*] **(15) ‘Service coordination’** means person-centered planning, case management, procuring,
34 coordinating and monitoring of services under an individualized support plan to establish desired
35 outcomes, determine needs and identify resources for a person with developmental disabilities and
36 advocating for the person.

37 “[*(17) ‘Significantly subaverage’ means a score on a test of intellectual functioning that is two or*
38 *more standard deviations below the mean for the test.*]

39 “[*(18)*] **(16) ‘Training’** means:

40 “(a) The systematic, planned maintenance, development or enhancement of self-care, social or
41 independent living skills; or

42 “(b) The planned sequence of systematic interactions, activities, structured learning situations
43 or education designed to meet each person’s specified needs in the areas of physical, emotional, in-
44 tellectual and social growth.

45 “[*(19)*] **(17) ‘Treatment’** means the provision of specific physical, mental, social interventions and

1 therapies that halt, control or reverse processes that cause, aggravate or complicate malfunctions
2 or dysfunctions.

3
4 **“AUTHORITY OF DEPARTMENT OF HUMAN SERVICES**
5 **TO IMPOSE CIVIL PENALTIES**
6

7 **“SECTION 8. (1) The Department of Human Services shall adopt by rule civil penalties**
8 **to be imposed, in accordance with ORS 183.745, on any provider contracting with the de-**
9 **partment to provide intellectual or developmental disability services for a violation of a**
10 **statutory requirement or a rule adopted by the department applicable to the provision of**
11 **services described in ORS 409.010 (2).**

12 **“(2) This section may not be construed to supersede ORS 418.992 or 441.710 or any other**
13 **statute that prescribes criteria for or limitations on the imposition of a civil penalty.**

14 **“(3) Moneys collected by the department pursuant to rules adopted under this section**
15 **shall be transferred to the State Treasury for deposit to the Department of Human Services**
16 **Account established under ORS 409.060 and may be used by the division of the department**
17 **that provides developmental disabilities services for system improvements and the imple-**
18 **mentation of policies.**

19
20 **“DEPARTMENT OF HUMAN SERVICES**
21 **DONATED FUND ACCOUNT**
22

23 **“SECTION 9.** ORS 409.365 is amended to read:

24 **“409.365. (1) The Department of Human Services [*Volunteer Program*] Donated Fund Account is**
25 **established separate and distinct from the General Fund. Interest earned, if any, shall inure to the**
26 **benefit of the account. The moneys in the account are appropriated continuously to the Department**
27 **of Human Services.**

28 **“(2) The Department of Human Services [*Volunteer Program*] shall keep a record of all moneys**
29 **credited to and deposited in the Department of Human Services [*Volunteer Program*] Donated Fund**
30 **Account. The record shall indicate the source from which the moneys are derived and the activity**
31 **or program against which each withdrawal is charged.**

32 **“(3) All private donations or contributions made for the use or benefit of the Department of**
33 **Human Services [*Volunteer Program*] shall be deposited in the Department of Human Services [*Vol-***
34 **unteer Program] Donated Fund Account. All funds deposited in that account shall be used [*for direct***
35 ***program expenditures for the Department of Human Services Volunteer Program and shall not be used***
36 ***for direct or indirect administrative expenditures]* **to support activities that align with the mission**
37 **of the Department of Human Services.”.****