

Requested by SENATE COMMITTEE ON HUMAN SERVICES

**PROPOSED AMENDMENTS TO
SENATE BILL 19**

1 On page 11 of the printed bill, delete lines 28 through 45 and delete pages
2 12 and 13.

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

4 **SECTION 7.** ORS 427.005 is amended to read:

5 “427.005. As used in this chapter:

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

9 “(2) ‘Care’ means:

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

12 “(b) Supervision;

13 “(c) Protection; and

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

16 “(3) ‘Community developmental disabilities program director’ means the
17 director of an entity that provides services described in ORS 430.664 to per-
18 sons with intellectual disabilities or other developmental disabilities.

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

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

3 “[(b) Originates in and directly affects the brain] and is expected to con-
4 tinue indefinitely;

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

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

11 “[(e)] (d) Requires [training and support] **supports** similar to [that] **those**
12 required by an individual with an intellectual disability.

13 “(5) ‘Director of the facility’ means the person in charge of care, treat-
14 ment and training programs at a facility.

15 “(6) ‘Facility’ means a group home, activity center, community mental
16 health clinic or other facility or program that the Department of Human
17 Services approves to provide necessary services to persons with intellectual
18 disabilities or other developmental disabilities.

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

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

26 “(9) ‘Integration’ means:

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

30 “(b) Participation by persons with intellectual disabilities or other devel-

1 opmental disabilities in the same community activities in which persons
2 without disabilities participate, together with regular contact with persons
3 without disabilities; and

4 “(c) Residence by persons with intellectual disabilities or other develop-
5 mental disabilities in homes or in home-like settings that are in proximity
6 to community resources, together with regular contact with persons without
7 disabilities in their community.

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

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

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

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

20 “[*(11) ‘Intellectual functioning’ means functioning as assessed by one or*
21 *more of the individually administered general intelligence tests developed for*
22 *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
25 ORS 685.010.

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

28 “[*(15)*] **(14)** ‘Productivity’ means regular engagement in income-producing
29 work, [*preferable*] **preferably** competitive employment with supports and ac-
30 commodations to the extent necessary, by a person with an intellectual dis-

1 ability or another developmental disability which is measured through
2 improvements in income level, employment status or job advancement or
3 engagement by a person with an intellectual disability or another develop-
4 mental disability in work contributing to a household or community.

5 “[~~(16)~~] (15) ‘Service coordination’ means person-centered planning, case
6 management, procuring, coordinating and monitoring of services under an
7 individualized support plan to establish desired outcomes, determine needs
8 and identify resources for a person with developmental disabilities and ad-
9 vocating for the person.

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

13 “[~~(18)~~] (16) ‘Training’ means:

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

16 “(b) The planned sequence of systematic interactions, activities, struc-
17 tured learning situations or education designed to meet each person’s speci-
18 fied needs in the areas of physical, emotional, intellectual and social growth.

19 “[~~(19)~~] (17) ‘Treatment’ means the provision of specific physical, mental,
20 social interventions and therapies that halt, control or reverse processes that
21 cause, aggravate or complicate malfunctions or dysfunctions.

22

23 **“AUTHORITY OF DEPARTMENT OF HUMAN SERVICES**

24 **TO IMPOSE CIVIL PENALTIES**

25

26 **“SECTION 8. (1) The Department of Human Services shall adopt by**
27 **rule civil penalties to be imposed, in accordance with ORS 183.745, on**
28 **any provider contracting with the department to provide intellectual**
29 **or developmental disability services for a violation of a statutory re-**
30 **quirement or a rule adopted by the department applicable to the pro-**

1 **vision of services described in ORS 409.010 (2).**

2 **“(2) This section may not be construed to supersede ORS 418.992 or**
3 **441.710 or any other statute that prescribes criteria for or limitations**
4 **on the imposition of a civil penalty.**

5 **“(3) Moneys collected by the department pursuant to rules adopted**
6 **under this section shall be transferred to the State Treasury for de-**
7 **posit to the Department of Human Services Account established under**
8 **ORS 409.060 and may be used by the division of the department that**
9 **provides developmental disabilities services for system improvements**
10 **and the implementation of policies.**

11
12 **“DEPARTMENT OF HUMAN SERVICES**
13 **DONATED FUND ACCOUNT**

14
15 **“SECTION 9. ORS 409.365 is amended to read:**

16 **“409.365. (1) The Department of Human Services [*Volunteer Program*]**
17 **Donated Fund Account is established separate and distinct from the General**
18 **Fund. Interest earned, if any, shall inure to the benefit of the account. The**
19 **moneys in the account are appropriated continuously to the Department of**
20 **Human Services.**

21 **“(2) The Department of Human Services [*Volunteer Program*] shall keep**
22 **a record of all moneys credited to and deposited in the Department of Human**
23 **Services [*Volunteer Program*] Donated Fund Account. The record shall indi-**
24 **cate the source from which the moneys are derived and the activity or pro-**
25 **gram against which each withdrawal is charged.**

26 **“(3) All private donations or contributions made for the use or benefit of**
27 **the Department of Human Services [*Volunteer Program*] shall be deposited**
28 **in the Department of Human Services [*Volunteer Program*] Donated Fund**
29 **Account. All funds deposited in that account shall be used [*for direct pro-***
30 ***gram expenditures for the Department of Human Services Volunteer Program***

1 *and shall not be used for direct or indirect administrative expenditures] to*
2 **support activities that align with the mission of the Department of**
3 **Human Services.”.**

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