

Requested by SENATE COMMITTEE ON HUMAN SERVICES

**PROPOSED AMENDMENTS TO
SENATE BILL 20**

- 1 On page 1 of the printed bill, line 3, delete “427.163,”.
2 Delete lines 5 through 30 and delete pages 2 through 8 and insert:
3 **“SECTION 1.** ORS 427.101 is amended to read:
4 “427.101. As used in this section and ORS 427.115, **427.121**, 427.154 [*and*
5 *427.160*], **430.662 and 430.664**:
6 “[*(1) ‘Adult’ means an individual who is 18 years of age or older.*]
7 **“(1) ‘Community living setting’ means:**
8 **“(a) A residential setting;**
9 **“(b) An individual’s home or the home of the individual’s family;**
10 **or**
11 **“(c) Other nonresidential setting.**
12 “[*(2) ‘Community living and inclusion supports’*]
13 **“(2) ‘Developmental disability services’** means [*services that may or*
14 *may not be work-related and includes*] **the following services as provided**
15 **for individuals with intellectual or developmental disabilities:**
16 **“(a)** Services designed to develop or maintain the individual’s skills in the
17 following areas:
18 “[*(a)*] **(A)** Eating, bathing, dressing, personal hygiene, mobility and other
19 personal needs;
20 “[*(b)*] **(B)** Self-awareness and self-control, social responsiveness, social
21 amenities, interpersonal skills, interpersonal relationships and social con-

1 nections;

2 “[c)] (C) Community participation, recreation and the ability to use
3 available community services, facilities or businesses;

4 “[d)] (D) Expressive and receptive skills in verbal and nonverbal lan-
5 guage, the functional application of acquired reading and writing skills and
6 other communication needs; and

7 “[e)] (E) Planning and preparing meals, budgeting, laundering,
8 housecleaning and other personal environmental needs;

9 **“(b) Case management;**

10 **“(c) Services described in ORS 430.215;**

11 **“(d) Employment services;**

12 **“(e) Environmental accessibility adaptations;**

13 **“(f) Specialized supports; and**

14 **“(g) Specialized medical equipment and supplies.**

15 “[3) ‘Comprehensive services’ means a package of services, other than sup-
16 port services for adults, that is provided by or under the direction of a com-
17 munity developmental disabilities program and that includes at least one of the
18 following living arrangements licensed or regulated by the Department of Hu-
19 man Services:]

20 “[a) Twenty-four-hour residential care, including but not limited to a group
21 home, a foster home or a supported living program.]

22 “[b) Assistance provided to maintain an individual in the individual’s own
23 home or the home of the individual’s family and that costs more than an
24 amount specified by the department by rule.]

25 “[4)] (3) ‘Employment services’ means services provided to develop or
26 maintain the skills necessary for an individual to obtain and retain employ-
27 ment, including job assessment, job exploration, job development, job train-
28 ing, job coaching, work skills, and ongoing supports.

29 “[5)] (4) ‘Environmental accessibility adaptations’ means physical mod-
30 ifications to an individual’s home that are necessary to ensure the health,

1 welfare and safety of the individual in the home, or that enable the individ-
2 ual to function with greater independence in the home.

3 “[~~(6)~~] **(5)** ‘Individualized [*written*] service plan’ means a plan described in
4 ORS 427.107 (2)(i), (j) and (k) that identifies the resources, services and pur-
5 chases necessary for an individual with a developmental disability to achieve
6 identified personal goals and maximize self-determination.

7 “[~~(7)~~] **(6)** ‘Person-centered planning’ means an informal or formal process
8 for gathering and organizing information that helps an individual to:

9 “(a) Enhance self-determination by choosing personal goals and lifestyle
10 preferences;

11 “(b) Design strategies and networks of support to achieve personal goals
12 and a preferred lifestyle using individual strengths, relationships and re-
13 sources; and

14 “(c) Identify, use and strengthen naturally occurring opportunities for
15 support in the home and in the community.

16 “**(7) ‘Residential setting’ means one of the following community
17 living settings licensed or regulated by the Department of Human
18 Services:**

19 “**(a) Residential facilities licensed under ORS 443.400 to 443.455;**

20 “**(b) Licensed adult foster homes, as defined in ORS 443.705;**

21 “**(c) Developmental disability child foster homes certified under
22 ORS 443.835;**

23 “**(d) Group homes; and**

24 “**(e) Supported living programs.**

25 “(8) ‘Self-determination’ means empowering individuals to:

26 “**(a) Make their own choices and decisions;**

27 “[~~(a)~~] **(b)** Select and plan, together with freely chosen family members and
28 friends, the [*support services for adults*] **developmental disability services**
29 that are necessary [*instead of purchasing a predefined program or package*
30 *of services*] **for an individual to live, work and recreate in the setting**

1 **that the individual chooses and in the community;**

2 “[*b*] (c) Control [*the expenditure of available financial assistance in order*
3 *to purchase support services for adults*], **or have input regarding, the**
4 **manner in which resources are used to obtain needed services and**
5 **supports**, with the help of a social support network if needed;

6 “[*c*] (d) Live an autonomous life in the community, rich in community
7 affiliations, through formal or informal arrangements of resources and per-
8 sonnel **and contribute to their community in the ways they choose;**
9 [*and*]

10 “[*d*] (e) Have a valued role in the community through competitive em-
11 ployment, organizational affiliations, personal development and general car-
12 ing for others in the community, and to be accountable for spending public
13 dollars in ways that are life-enhancing for the individual; **and**

14 **“(f) Speak or act on their own behalf or on behalf of others, in-**
15 **cluding participating in policy-making and legislative processes.**

16 “(9) ‘Service provider’ means any person who is paid a service rate by the
17 department to provide one or more of the services identified in the individ-
18 ualized [*written*] service plan of an [*adult with a*] **individual with an in-**
19 **tellectual or** developmental disability regardless of where the service is
20 provided.

21 “(10) ‘Service rate’ means the amount of reimbursement paid to a service
22 provider to care for an [*adult with a*] **individual with an intellectual or**
23 **developmental disability.**

24 “(11)(a) ‘Specialized medical equipment and supplies’ means:

25 “(A) Devices, aids, controls, supplies or appliances that enable individ-
26 uals:

27 “(i) To increase their ability to perform activities of daily living; or

28 “(ii) To perceive, control or communicate with the environment in which
29 they live;

30 “(B) Items necessary for life support, including ancillary supplies and

1 equipment necessary to the proper functioning of these items; and

2 “(C) Medical equipment not available in the medical assistance program.

3 “(b) ‘Specialized medical equipment and supplies’ does not include items
4 that have no direct medical or remedial benefit to the individual.

5 “(12) ‘Specialized supports’ means treatment, training, consultation or
6 other unique services that are not available through the medical assistance
7 program but are necessary to achieve the goals identified in the individual-
8 ized [*written*] service plan, or other [*support services for adults*] **develop-**
9 **mental disability services** prescribed by the department by rule.

10 “(13) ‘Support service brokerage’ means an entity that contracts with the
11 department to provide or to arrange for [*support services for adults*] **devel-**
12 **opmental disability services**.

13 “[*(14) ‘Support services for adults’ means the services for adults with de-*
14 *velopmental disabilities provided by a support service brokerage under ORS*
15 *427.154 and 427.160.*]

16 “(14) ‘Support services’ means the services for individuals with in-
17 **tellectual or developmental disabilities provided by a support service**
18 **brokerage under ORS 427.154 and 430.662.**

19 “**SECTION 2.** ORS 427.115 is amended to read:

20 “427.115. (1) The Department of Human Services or its designee shall as-
21 sess the support needs for each [*adult with a developmental disability who is*
22 *receiving comprehensive services that include 24-hour residential care*] **indi-**
23 **vidual with an intellectual or developmental disability who is receiving**
24 **developmental disability services in a residential setting** and shall de-
25 termine a service rate that is sufficient to meet the support needs of the
26 [*adult*] **individual**. If an assessment of support needs results in a change to
27 the service rate being paid to the service provider, the department or the
28 department’s designee shall provide to the [*adult receiving comprehensive*
29 *services and the adult’s service provider and, if appropriate, to the adult’s*
30 *service coordinator,*] **individual and the individual’s service provider and**

1 **case manager and, if appropriate, to the individual's** guardian, primary
2 caregiver or family members, a detailed accounting of the service rate paid
3 to the service provider and the factors and weighting of factors used to de-
4 termine the service rate.

5 “(2) The department or the department’s designee shall assess the support
6 needs and determine the service rate, as described in subsection (1) of this
7 section, no later than 90 days after the [*adult receiving comprehensive services*
8 *or the adult's*] **individual or the individual's** service provider, [*service co-*
9 *ordinator*] **case manager**, guardian, primary caregiver, family member or
10 legal representative makes a request, based on significant changes to the
11 [*adult's*] **individual's** support needs, for a new assessment of support needs
12 and a redetermination of the service rate.

13 “(3) The department shall adopt by rule the procedures and criteria for
14 requesting and conducting an assessment of support needs and a determi-
15 nation of a service rate under this section, using an advisory committee ap-
16 pointed in accordance with ORS 183.333. The rules shall include a procedure
17 for contesting the denial of a request for assessment of support needs and
18 redetermination of a service rate or the failure of the department or the
19 department’s designee to respond to a request for assessment and redetermi-
20 nation within a reasonable period of time, as prescribed by the department
21 by rule.

22 **“SECTION 3.** ORS 427.121 is amended to read:

23 “427.121. [(1) *As used in this section:*]

24 “[*(a) ‘Adult’ means an adult with developmental disabilities who is eligible*
25 *to receive comprehensive services as defined in ORS 427.101.*]

26 “[*(b) ‘Residential setting’ means a living arrangement described in ORS*
27 *427.101 (3).*]

28 **“(1) As used in this section, ‘adult’ means an individual:**

29 **“(a) Who is at least 18 years of age;**

30 **“(b) Who has an intellectual or developmental disability; and**

1 **“(c) Who is eligible for, and who chooses to receive, developmental**
2 **disability services.**

3 *“[(2) An adult has the right to choose the adult’s placement setting. The*
4 *Department of Human Services or the department’s designee shall present to*
5 *an adult at least three appropriate placement setting options, including at least*
6 *two different types of residential settings, before:]*

7 *“[(a) Making an initial placement.]*

8 *“[(b) Transferring the adult from one placement setting to another place-*
9 *ment setting.]*

10 **“(2) An adult has the right to choose the adult’s community living**
11 **setting. The Department of Human Services or the department’s**
12 **designee shall present to an adult at least three types of community**
13 **living settings, including an option for services in the adult’s own or**
14 **family home:**

15 **“(a) Each year, prior to authorizing services in a community living**
16 **setting for the adult.**

17 **“(b) When an adult is moving from one community living setting**
18 **to another community living setting.**

19 *“(3) The department or the department’s designee may not [transfer an*
20 *adult from a placement] authorize services in a new type of community*
21 **living** *setting without first complying with subsection (2) of this section.*

22 *“(4) The department or the department’s designee is not required to pres-*
23 *ent the options under subsection (2) of this section if:*

24 *“[(a) The department or the department’s designee demonstrates that three*
25 *appropriate placement settings or two different types of residential settings are*
26 *not available within the geographic area where the adult wishes to reside;]*

27 *“[(b) The adult selects a placement setting option and waives the right to*
28 *be presented with the placement setting options described in subsection (2) of*
29 *this section; or]*

30 *“[(c)] (a) The adult is at imminent risk to health or safety in the adult’s*

1 current placement setting; or

2 “(b) The adult is moving from one nonresidential setting to another
3 nonresidential setting.

4 “**SECTION 4.** ORS 427.154 is amended to read:

5 “427.154. (1) [*Support services for adults are intended to meet the needs of*
6 *adults with developmental disabilities and to prevent or delay their need for*
7 *comprehensive services.*] **Developmental disability services are intended**
8 **to meet the needs of individuals with intellectual or developmental**
9 **disabilities.** The Department of Human Services shall establish by rule the
10 application and eligibility determination processes for [*support services for*
11 *adults*] **developmental disability services.**

12 “(2) [*Support services for adults*] **Developmental disability services** shall
13 be provided [*through a support service brokerage and*] pursuant to an indi-
14 vidualized [*written*] service plan that is developed and reassessed at least
15 annually using a person-centered planning process.

16 “(3) The department shall ensure that each individual receiving [*support*
17 *services for adults*] **developmental disability services and the individual’s**
18 **guardian or legal representative** has an active role in choosing the ser-
19 vices, activities and purchases that will best meet the individual’s needs and
20 preferences and to express those choices verbally, using sign language or by
21 other appropriate methods of communication.

22 “[4] *The services, activities and purchases available as support services for*
23 *adults include, but are not limited to:*]

24 “[a] *Community living and inclusion supports that facilitate independence*
25 *and promote community integration by supporting the individual to live as*
26 *independently as possible;*]

27 “[b] *Employment services;*]

28 “[c] *Environmental accessibility adaptations;*]

29 “[d] *Specialized supports; and*]

30 “[e] *Specialized medical equipment and supplies.*]

1 “[5] (4) [*Support services for adults*] **Developmental disability services**
2 must complement the existing formal and informal supports, services, activ-
3 ities and purchases available to [*an adult living in the adult’s own home or*
4 *the home of the adult’s family*] **an individual**.

5 “[6] (5) The department shall ensure that each individual **and the**
6 **individual’s guardian or legal representative** has the opportunity to con-
7 firm satisfaction with the [*support services for adults*] **developmental disa-**
8 **bility services** that the individual receives and to make changes in the
9 services as necessary.

10 “[7] (6) The department shall ensure that all [*adults with developmental*
11 *disabilities receiving comprehensive services*] **individuals receiving develop-**
12 **mental disability services** have an equal opportunity for job placements.
13 A provider of developmental disability services that offers job placements
14 may not give preference to an [*adult with disabilities*] **individual** who is a
15 resident of a facility owned or operated by the provider when determining
16 eligibility for a job placement. The residence of an [*adult with developmental*
17 *disabilities*] **individual** may not be the exclusive factor in determining el-
18 igibility for a job placement.

19 **“SECTION 5.** ORS 427.107 is amended to read:

20 “427.107. (1) As used in this section:

21 “(a) ‘Facility’ means any of the following that are licensed or certified
22 by the Department of Human Services or that contract with the department
23 for the provision of services:

24 “(A) A health care facility as defined in ORS 442.015;

25 “(B) A domiciliary care facility as defined in ORS 443.205;

26 “(C) A residential facility as defined in ORS 443.400; or

27 “(D) An adult foster home as defined in ORS 443.705.

28 “(b) ‘Person’ means an individual who has [*a*] **an intellectual or devel-**
29 **opmental disability** as defined in ORS 427.005 and receives services from a
30 program or facility.

1 “(c) ‘Program’ means a community developmental disabilities program as
2 described in ORS 430.662 and agencies with which the department or the
3 program contracts to provide services.

4 “(d) ‘Service’ means a community-based service described in ORS 427.007.

5 “(2) While receiving developmental disability services, every person shall
6 have the right to:

7 “(a) Be free from abuse or neglect and to report any incident of abuse or
8 neglect without being subject to retaliation.

9 “(b) Be free from seclusion or personal, chemical or mechanical restraints
10 unless an imminent risk of physical harm to the person or others exists and
11 only for as long as the imminent risk continues.

12 “(c) Not receive services without informed voluntary written consent ex-
13 cept in a medical emergency or as otherwise permitted by law.

14 “(d) Not participate in experimentation without informed voluntary writ-
15 ten consent.

16 “(e) A humane environment that affords reasonable privacy and the abil-
17 ity to engage in private communications with people of the individual’s
18 choosing through personal visits, mail, telephone or electronic means.

19 “(f) Visit with family members, friends, advocates and legal and medical
20 professionals.

21 “(g) Participate regularly in the community and use community resources.

22 “(h) Not be required to perform labor, except personal housekeeping du-
23 ties, without reasonable and lawful compensation.

24 “(i) Seek a meaningful life by choosing from available services and en-
25 joying the benefits of community involvement and community integration in
26 a manner that is least restrictive to the person’s liberty considering the
27 person’s preferences and age.

28 “(j) An individualized [*written*] service plan, services based upon that plan
29 and periodic review and reassessment of service needs.

30 “(k) Ongoing participation in the planning of services, including the right

1 to participate in the development and periodic revision of the plan for ser-
2 vices, the right to be provided with an explanation of all service consider-
3 ations in a manner that ensures meaningful individual participation and the
4 right to invite others of the person's choosing to participate in the plan for
5 services.

6 "(L) Not be involuntarily terminated or transferred from services without
7 prior notice, notification of available sources of necessary continued services
8 and exercise of a grievance procedure.

9 "(m) Be informed at the start of services and annually thereafter of the
10 rights guaranteed by this section, the contact information for the protection
11 and advocacy system described in ORS 192.517 (1), and the procedures for
12 filing grievances, hearings or appeals if services have been or are proposed
13 to be reduced, eliminated or changed.

14 "(n) Be encouraged and assisted in exercising all legal rights.

15 "(o) Assert grievances with respect to infringement of the rights described
16 in this section, including the right to have such grievances considered in a
17 fair, timely and impartial grievance procedure without any form of retali-
18 ation or punishment.

19 "(p) Manage the person's own money and financial affairs unless that
20 right has been taken away by court order or other legal procedure.

21 "(q) Keep and use personal property and have a reasonable amount of
22 personal storage space.

23 "(3) The rights described in this section are in addition to, and do not
24 limit, all other statutory and constitutional rights that are afforded all citi-
25 zens including, but not limited to, the right to exercise religious freedom,
26 vote, marry, have or not have children, own and dispose of property, enter
27 into contracts and execute documents.

28 "(4) A person who is receiving developmental disability services has the
29 right under ORS 430.212 to be informed and to have the person's guardian
30 and any representative designated by the person be informed that a family

1 member has contacted the department to determine the location of the per-
2 son, and to be informed of the name and contact information, if known, of
3 the family member.

4 “(5) The rights described in this section may be asserted and exercised
5 by the person, the person’s guardian and any representative designated by
6 the person.

7 “(6) Nothing in this section may be construed to alter any legal rights
8 and responsibilities between parent and child.

9 “(7) The department shall adopt rules concerning the rights described in
10 this section that are consistent with the directives set forth in ORS 427.007.

11 **“SECTION 6.** ORS 430.662 is amended to read:

12 “430.662. (1) The Department of Human Services, in carrying out the leg-
13 islative policy declared in ORS **427.007 and** 430.610, subject to the avail-
14 ability of funds, shall:

15 **“(a) Use case management entities, including community develop-**
16 **mental disabilities programs and support service brokerages, to pro-**
17 **vide case management services, to ensure that:**

18 **“(A) Persons with intellectual or developmental disabilities have the**
19 **supports necessary to reside in the setting that they choose;**

20 **“(B) All persons with intellectual or developmental disabilities who**
21 **are eligible for developmental disability services have access to the**
22 **services; and**

23 **“(C) Case management entities providing or arranging develop-**
24 **mental disability services use appropriate planning processes and im-**
25 **plementation procedures.**

26 “[a] **(b)** Regulate and assist Oregon counties and groups of Oregon
27 counties in the establishment and financing of community developmental
28 disabilities programs operated or contracted for by one or more counties.

29 **“(c) Contract with support service brokerages to deliver develop-**
30 **mental disability services in a manner that features regional consol-**

1 **idation, administrative efficiency, cost-effectiveness and strong**
2 **consumer and family oversight.**

3 **“(d) Contract with each community developmental disabilities pro-**
4 **gram and support service brokerage to provide or arrange for the**
5 **provision of the following basic services to persons with intellectual**
6 **or developmental disabilities:**

7 **“(A) Access to developmental disability services in the person’s**
8 **home, work sites or other locations.**

9 **“(B) Case management services.**

10 **“(C) Protective services.**

11 **“(D) Planning and coordination of activities with other agencies or**
12 **organizations to ensure effective and efficient delivery of services and**
13 **use of resources.**

14 **“(E) Establishing and administering a process for filing and re-**
15 **sponding to complaints and grievances.**

16 **“(F) Other requirements or services as prescribed by the depart-**
17 **ment by rule.**

18 **“(e) Contract with each community developmental disabilities pro-**
19 **gram to provide or arrange for the provision of the following services**
20 **to persons with intellectual or development disabilities:**

21 **“(A) Eligibility determination for developmental disability services.**

22 **“(B) Abuse investigations.**

23 **“[(b)] (f) If a county declines to operate or contract for a community de-**
24 **velopmental disabilities program, contract with another public agency or**
25 **private corporation to provide the program. The county must be provided**
26 **with an opportunity to review and comment.**

27 **“[(c)] (g) When no community developmental disabilities program is op-**
28 **erating within a county, operate the program or service.**

29 **“[(d)] (h) At the request of the tribal council of a federally recognized**
30 **tribe of Native Americans, contract with the tribal council for the estab-**

1 lishment and operation of a community developmental disabilities program
2 in the same manner in which the department contracts with a county court
3 or board of county commissioners.

4 “[e] (i) If necessary to carry out the legislative policy declared in ORS
5 430.610, contract with a public agency or private corporation, in cooperation
6 with the county, for some or all developmental [*disabilities*] **disability** ser-
7 vices.

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

17 “[g] (j) Make all necessary and proper rules to regulate the establish-
18 ment and operation of [*community developmental disabilities programs*] **de-**
19 **velopmental disability services.**

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

23 **“SECTION 7.** ORS 430.664 is amended to read:

24 “430.664. [(1) *In addition to any other requirements that may be established*
25 *by rule by the Department of Human Services, each community developmental*
26 *disabilities program may contract with the department to provide or arrange*
27 *for the provision of the following basic services to persons with developmental*
28 *disabilities:]*

29 “[a] *Eligibility determination for developmental disability services.]*

30 “[b] *Access to developmental disability services in homes, work sites or*

1 *other locations that promote independence, productivity and integration into*
2 *the community.]*

3 “[*(c) Case management services.*]

4 “[*(d) Abuse investigation and protective services.*]

5 “[*(e) Planning and coordination of activities with other agencies or organ-*
6 *izations to ensure the effective and efficient service delivery and use of re-*
7 *sources.*]

8 “[*(f) Establishing and implementing a process to respond to complaints and*
9 *grievances.*]

10 “[*(g) Other alternative services as prescribed by the department by rule.*]

11 “[*(2)*] **(1) Each community developmental disabilities program and sup-**
12 **port service brokerage shall have:**

13 **“(a) A written management plan that governs the program’s operating**
14 **structure, goals and activities; and**

15 **“(b) A developmental disability advisory committee.**

16 “[*(3) Each community developmental disabilities program shall have a de-*
17 *velopmental disability advisory committee.*]

18 “[*(4)*] **(2) Subject to the review and approval of the Department of Human**
19 **Services, a community developmental disabilities program may initiate ad-**
20 **ditional services after the services described in this section are provided.**

21 **“(3) A person with a developmental disability who is served by a**
22 **support service brokerage, and the person’s family members, shall**
23 **have an opportunity for a formal, significant, continuing role in ad-**
24 **vising the support service brokerage regarding the design, implemen-**
25 **tation and quality assurance of the support service brokerage.**

26 **“SECTION 8. ORS 427.160 is repealed.”.**

27