A-Engrossed
House Bill 4004

Ordered by the House February 14
Including House Amendments dated February 14

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Behavioral Health for Representative Tawna Sanchez)

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.

Requires Oregon Health Authority to distribute grants to behavioral health [*treatment*] **care** providers for staff compensation and workforce retention and recruitment. Sunsets January 2, 2023.

Requires authority to contract with nurses and behavioral health professionals to provide care in residential behavioral health facilities**, opioid treatment programs, withdrawal management programs and sobering centers** to address shortage of staff caused by COVID-19 pandemic. Sunsets January 2, 2027.

Authorizes Oregon Youth Authority to provide grants to local government units, nonprofit organizations and individuals to meet treatment and care needs of individuals committed to custody of youth authority.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to financial resources available to provide care; creating new provisions; amending ORS 420A.010; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Behavioral health care" means services and supports for individuals with mental health or substance use disorders.

(b) "Provider" means:

(A) A mental health or substance use disorder crisis line provider;

(B) An Urban Indian Health Program in this state;

(C) A Tribal Behavioral Health Program grant recipient in this state; or

(D) An entity:

(i) That provides behavioral health care to adults or youth, of which at least 50 percent are uninsured, enrolled in the state medical assistance program or enrolled in Medicare;

(ii) That is not a hospital; and

(iii) That:

(I) Has been certified by the Oregon Health Authority to provide behavioral health care;

(II) Provides behavioral health care through a program contracting with or administered by the Oregon Youth Authority;

(III) Provides behavioral health rehabilitation services through a program contracting with or administered by the Department of Human Services;

(IV) Is a licensed opioid treatment program;

(V) Provides withdrawal management services; or

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.

(VI) Is a sobering center.

(2) The Oregon Health Authority shall administer a program to distribute grants to providers.

(3) A provider may use a grant under subsection (2) of this section to:

(a) Increase compensation for the provider's staff;

(b) Pay a retention bonus to an individual on the provider's staff if necessary to prevent the individual from leaving the provider's employ; or

(c) Hire new staff and provide a hiring bonus, if necessary to recruit new staff.

(4) A provider must use at least 75 percent of the grant on direct compensation to the provider's staff in the form of wages, benefits and bonuses. The remainder may be spent on programs or other noncompensatory means to increase workforce retention or recruitment.

(5) Notwithstanding the definition of "compensation" in ORS 652.210, a hiring or retention bonus paid under subsection (3) of this section is not a violation of ORS 652.220.

(6) Providers must report to the Oregon Health Authority, in the form and manner prescribed by the authority, on how the grants were spent and whether the expenditures resulted in improved compensation for staff.

(7) Each grant shall be a percentage of the funds available under section 5 of this 2022 Act that represents a provider's staffing costs, for both filled and vacant positions, relative to the staffing costs of all providers in this state. Applicants for grants must state in the application how the grant will be spent in accordance with subsection (3) of this section.

(8) Any portion of a grant that is not spent as provided in this section constitutes an overpayment that the Oregon Health Authority shall recover from a provider.

(9) The Oregon Health Authority shall adopt rules necessary to carry out the provisions of this section.

SECTION 2. (1) The Oregon Health Authority shall contract with nurses and behavioral health professionals to provide care in adult and child residential behavioral health treatment facilities, opioid treatment programs, withdrawal management programs and sobering centers in this state to address staffing shortages at such facilities caused by the COVID-19 pandemic.

(2) The authority shall seek any necessary approval from the Centers for Medicare and Medicaid Services to secure federal financial participation in the costs of contracts described in subsection (1) of this section if funding from the Federal Emergency Management Agency is unavailable.

SECTION 3. ORS 420A.010 is amended to read:

420A.010. (1) The Oregon Youth Authority is established. The youth authority shall:

(a) Supervise the management and administration of youth correction facilities, state parole and probation services, community out-of-home placement for adjudicated youths committed to its legal custody and other functions related to state programs for youth corrections;

(b) Provide capital improvements and capital construction necessary for the implementation of all youth correction facilities;

(c) Carry out dispositions of adjudicated youths committed to its legal custody;

(d) Exercise custody and supervision over those adjudicated youths committed to the youth authority by order of the juvenile court and persons placed in the physical custody of the youth authority under ORS 137.124 or other statute until the time that a lawful release authority authorizes release or terminates the commitment or placement;

(e) Provide adequate food, clothing, health and medical care, sanitation and security for confined adjudicated youths and others in youth authority custody;

(f) Provide adjudicated youths and others in youth authority custody with opportunities for self-improvement and work; and

(g) Conduct investigations and prepare reports for release authorities.

(2) To meet the individual circumstances of each person committed to its custody, the youth authority shall:

(a) Develop a flexible fee-for-service provider system that can respond quickly to each person's identified and changing circumstances; and

(b) Develop a process for joint state and county review of contracts entered into under subsection (6)(b) of this section and paragraph (a) of this subsection based on:

(A) Measurable outcomes, which must include in dominant part the reduction of future criminal or antisocial conduct and which also must include:

(i) Academic progress;

(ii) Social adjustments;

(iii) Behavioral improvements;

(iv) Rearrests; and

(v) Other measurements as determined by the youth authority;

(B) Performance measurements including:

(i) Fiscal accountability;

(ii) Compliance with state and federal regulations;

(iii) Record keeping, including data collection and management; and

(iv) Reporting; and

(C) Provision of services identified under the reformation plan.

(3) In order to measure performance as required in subsection (2) of this section, the youth authority shall require parties to the contracts to compile, manage and exchange data to the extent of available information systems resources to facilitate the measurement of outcomes including, but not limited to, reduction in future criminal or antisocial conduct.

(4) The youth authority may administer a program of state assistance to counties for the construction and operation of local youth detention facilities or to purchase detention services.

(5) The youth authority shall accept and exercise legal or physical custody of adjudicated youths and others 12 years of age and over and under 25 years of age who are committed to, or placed with, the youth authority pursuant to:

(a) A juvenile court adjudication and disposition under ORS chapter 419C; or

(b) ORS 137.124.

(6)(a) The youth authority shall cooperate with and assist county governments and juvenile departments in carrying out the principles and purposes of the juvenile justice system as provided in ORS 419C.001.

(b) The youth authority is authorized to contract with counties, groups of counties or private providers to administer juvenile corrections programs and services as provided in ORS 420.017, 420.019, 420A.145 and 420A.155 (1) to (4).

(c) The youth authority may provide consultation services related to the juvenile justice system to local or statewide public or private agencies, groups and individuals or may initiate such consultation services. Consultation services include, but are not limited to, conducting studies and surveys, sponsoring or participating in educational programs and providing advice and assistance.

Nothing in ORS 419C.001 and 420A.005 to 420A.155 is intended to diminish the state's efforts to plan, evaluate and deliver effective human services programs to adjudicated youths, either in a youth correction facility or on probation or parole. Therefore, the Oregon Youth Authority and the Department of Human Services shall jointly develop and implement needed social and rehabilitative services.

(7) The youth authority is the recipient of all federal funds paid or to be paid to the state to enable the state to provide youth correction programs and services assigned to the Department of Human Services prior to January 1, 1996.

(8) The youth authority shall report its progress in implementing the provisions of chapter 422, Oregon Laws 1995, to the Legislative Assembly at each odd-numbered year regular session.

(9) The equal access provisions of ORS 417.270 apply to the youth authority's development and administration of youth correction facilities, programs and services, including the development and implementation of the diversion plan described in ORS 420.017.

(10) The youth authority shall:

(a) Be cognizant of and sensitive to the issue of overrepresentation of minority adjudicated youths in youth correction facilities;

(b) Endeavor to develop and operate, and require its subcontractors to develop and operate, culturally appropriate programs for adjudicated youths; and

(c) Keep data reflecting the ethnicity and gender of all adjudicated youths committed to its care.

(11) The youth authority may make financial grants to local units of government, nonprofit organizations and individuals from funds appropriated to the youth authority by the Legislative Assembly to meet the treatment and care needs of adjudicated youths committed to the custody of the youth authority to be able to respond quickly to each adjudicated youth's identified and changing circumstances.

[*(11)*] **(12)** The youth authority is a designated agency as defined in ORS 181A.010.

SECTION 4. The Oregon Health Authority shall distribute the grants described in section 1 of this 2022 Act no later than May 31, 2022.

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium ending June 30, 2023, out of the General Fund, the amount of $_____, which may be expended for carrying out section 1 of this 2022 Act.

SECTION 6. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium ending June 30, 2023, out of the General Fund, the amount of $_____, which may be expended for carrying out section 2 of this 2022 Act.

SECTION 7. (1) Section 1 of this 2022 Act is repealed on January 2, 2023.

(2) Section 2 of this 2022 Act is repealed on January 2, 2027.

SECTION 8. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.