

# DRAFT

## SUMMARY

**Digest:** The Act requires the OHA to provide certain services to certain people who are under 21 years of age. The Act says that, if a court orders the OHA to provide certain services to a youth, the order does not commit the youth to the OHA or change the youth's guardian. (Flesch Readability Score: 64.8).

Requires the Oregon Health Authority to seek federal approval to obtain federal funding to provide services and supports to certain individuals who are under 21 years of age to enable the individuals to live at home. Specifies services and supports and requirements for eligibility determinations.

Requires the authority to improve the process for accessing the services and supports to make it easier for individuals to access the services and supports, including for individuals who are eligible for services from more than one agency or more than one division within an agency.

Prohibits the denial of services and supports to individuals who have intellectual or developmental disabilities.

Requires the authority to create and maintain a unit staffed with staff who are trained to coordinate the services and supports on behalf of the individuals receiving them.

Requires the authority to contract with community-based entities to provide assistance to individuals and their families in accessing and managing services and supports.

Requires the authority to adopt rules listing medical assistance services that may not be delayed due to prior authorization, medical necessity reviews or provider restrictions.

Requires the authority and the Department of Education to develop strategies and recommendations for leveraging federal funds to provide certain school-based services and submit a report to the Legislative Assembly by October 1, 2024.

Modifies provisions regarding the assessment of a youth's fitness to proceed in a juvenile delinquency proceeding. Clarifies that an order directing that a youth receive restorative services does not commit the youth to the custody of the Oregon Health Authority or alter the youth's guardianship. Limits when a youth may be removed from a current placement to a new

1 placement to receive restorative services.

2 Declares an emergency, effective on passage.

3 **A BILL FOR AN ACT**

4 Relating to services to individuals who are under 21 years of age; creating  
5 new provisions; amending ORS 419C.380, 419C.392, 419C.396 and 419C.398;  
6 and declaring an emergency.

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

8 **SECTION 1. (1) The Oregon Health Authority shall, using funding**  
9 **available through the Community First Choice option under 42 U.S.C.**  
10 **1396n(k), offer services and supports, listed in subsection (3) of this**  
11 **section, to individuals residing in this state who are under 21 years of**  
12 **age, qualify for medical assistance as defined in ORS 414.025 and meet**  
13 **the criteria established in subsection (2) of this section.**

14 **(2)(a) The authority shall establish by rule eligibility criteria for**  
15 **determining whether an individual, in the absence of home and**  
16 **community-based services and supports, would require the level of**  
17 **care furnished in an institution providing psychiatric services for in-**  
18 **dividuals under 21 years of age and shall establish an assessment tool**  
19 **to determine needed services and supports.**

20 **(b) Individuals eligible for services and supports under this section**  
21 **include, but are not limited to, an individual who:**

22 **(A) Has been hospitalized or has been in an out-of-home placement**  
23 **in the prior 24-month period;**

24 **(B) Has been diagnosed with a severe and persistent mental illness**  
25 **or behavioral disorder, serious emotional disturbance or trauma-**  
26 **related behavioral disorder;**

27 **(C) Came to an emergency room as a result of an attempted suicide,**  
28 **incident of self-harm or drug overdose;**

29 **(D) Needs home and community-based supports to ensure the**  
30 **individual's success living in noninstitutional placements and:**

31 **(i) Is being discharged from an inpatient hospital stay or leaving**

1 an out-of-home placement and wishes to receive services in the  
2 individual's own home or a foster care home; or

3 (ii) Is leaving a foster care home and wishes to receive services in  
4 the individual's own home; or

5 (E) Is at risk of being hospitalized or placed in an institutional  
6 setting as a result of behaviors related to the individual's mental ill-  
7 ness.

8 (c) An individual may not be denied eligibility for or access to ser-  
9 vices or supports under this subsection on the basis that the individual  
10 also has an intellectual or developmental disability.

11 (3) Services and supports provided under subsection (1) of this sec-  
12 tion must include, but are not limited to:

13 (a) Skills training;

14 (b) Home modifications;

15 (c) Assistive technology;

16 (d) Supervision;

17 (e) Attendant care services; and

18 (f) Nonmedical transportation.

19 (4) The authority shall seek a waiver or other federal authority  
20 necessary to:

21 (a) Disregard the income of a parent of an individual who is under  
22 18 years of age when determining the individual's eligibility for med-  
23 ical assistance if the individual:

24 (A) Has a severe and persistent mental illness, substance use dis-  
25 order or behavioral disorder that requires a hospital, nursing home or  
26 inpatient psychiatric level of care and puts the individual at risk of  
27 an institutional placement in the absence of home and community-  
28 based supports and services; or

29 (B) Has a physical disability or chronic medical needs that require  
30 a hospital or nursing home level of care and that put the individual  
31 at risk of institutional placement in the absence of home and

1 **community-based supports and services; and**

2 **(b) Provide flexibility for providing innovative services and supports**  
3 **needed to allow individuals receiving services and supports under**  
4 **subsection (1) of this section to be successful living with family or in**  
5 **other home and community-based settings, including but not limited**  
6 **to:**

7 **(A) Specialized respite care;**

8 **(B) Job coaching and employment supports;**

9 **(C) Family counseling;**

10 **(D) Person-centered planning;**

11 **(E) Specialized peer support for individuals under 21 years of age**  
12 **and their parents, guardians, personal representatives or families; and**

13 **(F) Specialized training and support for parents, guardians, per-**  
14 **sonal representatives and family members of individuals under 21**  
15 **years of age.**

16 **(5) The Department of Human Services and the authority shall:**

17 **(a) Develop a process to ensure that individuals who are eligible for**  
18 **services and supports under both the Community First Choice option**  
19 **and any other type of federal waiver or authority under subsection (4)**  
20 **of this section have all of their assessed needs fully met while avoiding**  
21 **duplication of services and supports;**

22 **(b) Ensure that an individual is not denied access to services and**  
23 **supports from the authority or the department on the basis that the**  
24 **individual is also receiving services and supports from the other**  
25 **agency or another agency;**

26 **(c) Ensure that services and supports are accessible to individuals**  
27 **by minimizing the number of steps an individual must take to estab-**  
28 **lish eligibility for the services and supports, including by streamlining**  
29 **the application process for individuals who qualify for services and**  
30 **supports from both agencies or different divisions within an agency;**  
31 **and**

1 (d) Ensure that individuals who experience intellectual or develop-  
2 mental disabilities along with mental illness or substance use disorder  
3 are provided access to services and supports offered by each agency  
4 without delay.

5 (6) The authority shall create and maintain a unit within the  
6 authority's children's behavioral health program to support the coor-  
7 dination of the services and supports provided under this section to  
8 individuals, including those who are involved with multiple state  
9 agencies such as the authority, the department or the Oregon Youth  
10 Authority. The unit must coordinate with the Oregon Health Author-  
11 ity, the department and the Oregon Youth Authority to assist indi-  
12 viduals who are receiving services and supports under this section to  
13 remain in the community and avoid health crises, hospitalization or  
14 an out-of-home placement. The unit must focus on prevention, recov-  
15 ery and support, supporting individuals and their families in accessing  
16 the appropriate comprehensive, wrap-around home and community-  
17 based services and supports that prevent crises from happening or  
18 from reoccurring and that provide support and stabilization in the  
19 event of a crisis.

20 (7)(a) Subject to rules adopted by the Oregon Health Authority, an  
21 individual may be enrolled in a coordinated care organization to re-  
22 ceive services and supports under this section but must be given the  
23 choice to change to services and supports paid for on a fee-for-service  
24 basis if the individual needs services or supports that are not imme-  
25 diately accessible through the local coordinated care organization. The  
26 individual must be allowed to see providers outside of the coordinated  
27 care organization's provider network for evaluation, assessment,  
28 treatment, counseling, therapy or short-term residential care and  
29 must be ensured continuity in care with the individual's providers if  
30 the individual moves to a different geographical area.

31 (b) The authority, a community mental health program or a coor-

1 **minated care organization may not deny an individual access to mental**  
2 **health assessment, treatment or services on the basis that the indi-**  
3 **vidual also has an intellectual or developmental disability.**

4 **(8) An individual or the individual’s parents, guardian or legal rep-**  
5 **resentative must be given the opportunity to direct the services and**  
6 **supports under this section, to choose how to employ providers and to**  
7 **select the providers, including the option to recruit and supervise the**  
8 **providers obtained through the Home Care Commission registry or**  
9 **other entity that makes providers available.**

10 **(9) The authority shall contract with one or more community-based**  
11 **entities to develop person-centered services, assist individuals and**  
12 **their families in identifying and recruiting preferred providers of ser-**  
13 **vices and support staff, provide fiscal intermediary services and sup-**  
14 **port individuals and their families in directing the provision of services**  
15 **and supports. The contracts must ensure access to culturally and lin-**  
16 **guistically appropriate and person-centered care for individuals and**  
17 **their families throughout this state.**

18 **(10)(a) The authority shall adopt rules for entities that supply pro-**  
19 **viders of services and supports under this section to ensure the safety**  
20 **and quality of care. The rules must allow for both self-managed mod-**  
21 **els of service and agency-delivered models of service, as selected by the**  
22 **individual receiving services and supports or the individual’s parent,**  
23 **guardian or legal representative.**

24 **(b) As used in this subsection:**

25 **(A) “Agency-delivered model of service” means a public or private**  
26 **community agency or organization authorized by the authority to take**  
27 **direct responsibility for managing services and supports, including the**  
28 **hiring, training and supervision of support staff, in a manner that**  
29 **promotes the personal choices and values of an individual who is re-**  
30 **ceiving the services and supports.**

31 **(B) “Self-managed model of service” means that an individual, or**

1 a legal or designated representative of the individual, takes direct re-  
2 sponsibility for managing the services and supports provided to the  
3 individual with the assistance of a support system that promotes per-  
4 sonal choice and control over the delivery of the services and supports.

5 (11) Rules adopted by the authority under subsection (10) of this  
6 section:

7 (a) Must require that any services described as treatment are pro-  
8 vided only by licensed medical providers.

9 (b) May not require that attendant care services, supervision, re-  
10 spite or other nontreatment services be provided by licensed medical  
11 professionals or qualified mental health professionals.

12 SECTION 2. Section 3 of this 2024 Act is added to and made a part  
13 of ORS chapter 414.

14 SECTION 3. (1) The Oregon Health Authority shall adopt by rule a  
15 list of services to be provided to individuals who are under 21 years  
16 of age and eligible for medical assistance without any:

17 (a) Requirement for prior authorization;

18 (b) Review for medical necessity or appropriateness; or

19 (c) Requirement that the service be provided only by a provider who  
20 is in a coordinated care organization's network of providers.

21 (2) The services on the list described in subsection (1) of this section  
22 must include, but are not limited to:

23 (a) Assessments or evaluations necessary to establish eligibility for  
24 services provided in the medical assistance program or by the De-  
25 partment of Human Services, the Department of Education or a public  
26 education program;

27 (b) Any other treatment or service covered by the medical assist-  
28 ance program that is necessary to prevent individuals who are under  
29 21 years of age from needing an out-of-home placement or a higher  
30 level of care; and

31 (c) Services that are necessary for the continuity of care, treatment

1 and uninterrupted access to counseling, prescription medication and  
2 medical equipment or supplies for individuals under 21 years of age  
3 who are in out-of-home placements and move from one coordinated  
4 care organization to another coordinated care organization.

5 **SECTION 4. (1) The Oregon Health Authority and the Department**  
6 **of Education shall develop strategies and recommendations to leverage**  
7 **federal Medicaid or Children’s Health Insurance Program funds to**  
8 **support the inclusion, academic success and well-being of all Oregon**  
9 **students under 21 years of age who are eligible for medical assistance,**  
10 **including students with severe emotional disturbances and students**  
11 **who need school-based nursing services.**

12 **(2) No later than October 1, 2024, the authority and the department**  
13 **shall report to the Legislative Assembly, in the manner provided in**  
14 **ORS 192.245, on the strategies and recommendations developed. The**  
15 **report must include, at a minimum:**

16 **(a) Strategies to simplify medical assistance billing for school dis-**  
17 **tricts;**

18 **(b) Recommendations for any needed investments in infrastructure,**  
19 **including staff and technology, to ensure low-barrier access to services**  
20 **in the medical assistance program for eligible students; and**

21 **(c) Specific recommendations related to leveraging federal funds to**  
22 **increase access to school-based services including, but not limited to:**

23 **(A) Nursing services for medically fragile and medically involved**  
24 **students;**

25 **(B) Access to school-based mental health care, including screening,**  
26 **assessment, counseling, treatment and therapy from licensed provid-**  
27 **ers;**

28 **(C) Access to school-based direct services in speech, physical and**  
29 **occupational therapy, nutrition, respiratory therapy, functional be-**  
30 **havioral assessment and behavior support services;**

31 **(D) Personal care and noneducational attendant care services at**



1 **school to improve access to inclusive settings for high school students**  
2 **with high needs; and**

3 **(E) Enhanced specialized transportation services.**

4 **(3) As used in this section, “medical assistance” has the meaning**  
5 **given that term in ORS 414.025.**

6 **SECTION 5.** ORS 419C.380 is amended to read:

7 419C.380. (1) An evaluation ordered under ORS 419C.378 must be con-  
8 ducted by a psychiatrist, a licensed psychologist or a regulated social  
9 worker. If an evaluation is requested, the party at whose request the evalu-  
10 ation was ordered shall notify the court and other parties of the date, time  
11 and location of the evaluation and the name of the evaluator chosen by the  
12 party. A party or the court may submit written information to the evaluator  
13 for consideration. When written information that has not been provided to  
14 the court or an opposing party is submitted to the evaluator, the party sub-  
15 mitting the written information to the evaluator shall provide the written  
16 information to the court and the opposing party.

17 (2)(a) A county court or justice court shall order the county to pay the  
18 fees and costs described in subsection (3) of this section from funds available  
19 for that purpose.

20 (b) A circuit court shall order the executive director of the Oregon Public  
21 Defense Commission to pay the fees and costs described in subsection (3) of  
22 this section from funds available for that purpose.

23 (3) Pursuant to subsection (2) of this section, the county or the executive  
24 director of the Oregon Public Defense Commission shall pay:

25 (a) A reasonable fee to a psychiatrist, licensed psychologist or regulated  
26 social worker in private practice who conducts the evaluation; and

27 (b) All costs, including transportation of the youth, if the evaluation is  
28 conducted by a psychiatrist, licensed psychologist or regulated social worker  
29 employed by the Department of Human Services [*or is conducted by a com-*  
30 *munity mental health program or community developmental disabilities pro-*  
31 *gram established under ORS 430.610 to 430.695*].

1 (4) If an evaluation is ordered under ORS 419C.378, the county shall pay  
2 for the expense of the evaluation.

3 (5) After a motion is made by the court or the youth under ORS 419C.378  
4 (3), the state shall have the right to seek an independent evaluation at its  
5 own expense.

6 (6) A youth may not be removed from the youth's current placement for  
7 the purpose of an evaluation performed under this section unless:

8 (a) The youth has been placed in a detention facility as defined in ORS  
9 419A.004 or a youth correction facility as defined in ORS 420.005; **and**

10 **(b) The removal is for less than 14 days.**

11 **SECTION 6.** ORS 419C.392 is amended to read:

12 419C.392. (1) If the court finds that the youth is fit to proceed, the court  
13 shall vacate the stay under ORS 419C.378.

14 (2) If the court finds that the youth is unfit to proceed and that there is  
15 not a substantial probability that the youth will gain or regain fitness to  
16 proceed in the foreseeable future if provided restorative services under ORS  
17 419C.396, the court shall:

18 (a) Immediately enter a judgment that dismisses the petition alleging ju-  
19 risdiction under ORS 419C.005 without prejudice; or

20 (b) If necessary for planning or instituting an alternative proceeding, then  
21 not more than five days after the findings are made enter a judgment that  
22 dismisses the petition without prejudice.

23 (3)(a) If the court finds that the youth is unfit to proceed and that there  
24 is a substantial probability that the youth will gain or regain fitness to  
25 proceed in the foreseeable future if provided restorative services under ORS  
26 419C.396, the court shall continue the order under ORS 419C.378 staying the  
27 proceedings and order that the youth receive restorative services under ORS  
28 419C.396.

29 (b) The court shall forward the order for restorative services to the  
30 Oregon Health Authority.

31 **(c) Unless otherwise specifically ordered, the court's order for**

1 **restorative services does not commit the youth to the custody of the**  
2 **authority or alter the guardianship of the youth.**

3 **SECTION 7.** ORS 419C.396 is amended to read:

4 419C.396. (1) The Oregon Health Authority shall arrange for the provision  
5 of or begin providing restorative services within 30 days after receiving a  
6 court order under ORS 419C.392 (3). The authority shall send a report to the  
7 court, with copies to the parties to the proceeding initiated by a petition  
8 alleging jurisdiction under ORS 419C.005, no later than 90 days after receipt  
9 of the order. The report must describe the nature and duration of restorative  
10 services provided, indicate whether the youth is fit to proceed or presents a  
11 substantial probability of gaining or regaining fitness to proceed and re-  
12 commend whether restorative services should be continued and, if so, the  
13 type and duration of the services.

14 (2) Within 14 days after receiving a report under subsection (1) of this  
15 section, the court shall [*determine*] **issue a finding regarding** the youth's  
16 fitness to proceed.

17 (3) Upon the recommendation of the authority, the request of a party or  
18 the court's own motion, the court may hold a review hearing concerning the  
19 evaluation of the youth's fitness to proceed at any time during which  
20 restorative services are provided pursuant to an order under ORS 419C.392  
21 (3). After a review hearing, the court shall determine the youth's fitness to  
22 proceed.

23 (4) If the court finds that a youth is fit to proceed, the court shall vacate  
24 the stay under ORS 419C.378.

25 (5) If the court finds that the youth remains unfit to proceed and that  
26 there is not a substantial probability that the youth will gain or regain fit-  
27 ness to proceed in the foreseeable future, the court shall:

28 (a) Immediately enter a judgment that dismisses the petition alleging ju-  
29 risdiction under ORS 419C.005 without prejudice; or

30 (b) If necessary for planning or instituting an alternative proceeding, then  
31 not more than five days after the findings are made enter a judgment that

1 dismisses the petition without prejudice.

2 (6) If the court finds under subsection (2) or (3) of this section that the  
3 youth remains unfit to proceed, but that the youth presents a substantial  
4 probability of gaining or regaining fitness to proceed, the court shall order  
5 that restorative services be continued. The court shall order the authority  
6 to send a report to the court, with copies to the parties, within a specified  
7 time, not to exceed 90 days from the time the order is filed.

8 (7) If the court finds under subsection (2) or (3) of this section that a  
9 youth remains unfit to proceed, the youth shall be discharged within a period  
10 of time that is reasonable for making a determination whether the youth  
11 presents a substantial probability of gaining or regaining fitness to proceed.  
12 Regardless of the number of acts the petition alleging jurisdiction under ORS  
13 419C.005 alleges that the youth committed, the youth may not be continued  
14 in restorative services for longer than whichever of the following, measured  
15 from the date the petition is filed, is shorter:

16 (a) Three years; or

17 (b) The period of time that is equal to the maximum commitment the  
18 court could have imposed if the petition had been adjudicated.

19 (8)(a) If the court orders placement for restorative services, the court may  
20 specify the type of care, supervision, security or services to be provided by  
21 the authority to any youth placed in the custody of the Department of Hu-  
22 man Services and to the parents or guardians of the youth.

23 (b) The authority, in coordination with the Department of Human Ser-  
24 vices, the local juvenile department and the youth's family, may place the  
25 youth in any facility authorized to accept the youth and provide the neces-  
26 sary services and care that are most appropriate for the youth.

27 (c) The authority shall continue to provide restorative services wherever  
28 the youth is placed.

29 **SECTION 8.** ORS 419C.398 is amended to read:

30 419C.398. (1) A youth may not be removed from the youth's current  
31 placement solely for the purpose of receiving restorative services pursuant

1 to a court order under ORS 419C.392 unless the court finds:

2 (a) That removal is necessary to provide restorative services under ORS  
3 419C.396;

4 (b) That removal is in the best interest of the youth; *[and]*

5 **(c) That the youth meets the medical necessity criteria for the**  
6 **restorative services placement; and**

7 *[(c)]* **(d)** If the Department of Human Services has custody of the youth,  
8 that:

9 (A) The department made reasonable efforts to prevent or eliminate the  
10 need for removal and make it possible for the youth to safely return to the  
11 youth's current placement; or

12 (B) Reasonable efforts have not been made by the department but rea-  
13 sonable efforts would not have eliminated the need for removal under para-  
14 graphs (a) *[and (b)]* **to (c)** of this subsection.

15 (2) If a youth is removed for the purpose of receiving restorative services,  
16 the youth shall be returned to the youth's current placement immediately  
17 upon conclusion of the provision of the restorative services unless the youth  
18 has been placed in a detention facility as defined in ORS 419A.004 or a youth  
19 correction facility as defined in ORS 420.005.

20 **SECTION 9. No later than December 1, 2024, the Oregon Health**  
21 **Authority must submit to the Centers for Medicare and Medicaid**  
22 **Services an application for a waiver to disregard parental income un-**  
23 **der section 1 (4)(a) of this 2024 Act.**

24 **SECTION 10. (1) The Oregon Health Authority shall adopt eligibility**  
25 **criteria under section 1 (2) of this 2024 Act no later than January 1,**  
26 **2025.**

27 **(2) No later than July 1, 2025, the authority shall begin making el-**  
28 **igibility determinations:**

29 **(a) For the home and community-based services and supports de-**  
30 **scribed in section 1 (3) of this 2024 Act; and**

31 **(b) Under the terms of the waiver described in section 1 (4) of this**

1 **2024 Act.**

2 **SECTION 11. Section 4 of this 2024 Act is repealed on January 2,**  
3 **2025.**

4 **SECTION 12. This 2024 Act being necessary for the immediate**  
5 **preservation of the public peace, health and safety, an emergency is**  
6 **declared to exist, and this 2024 Act takes effect on its passage.**

7

---