

HB 3234 -1 STAFF MEASURE SUMMARY

Senate Committee On Human Services

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Meeting Dates: 4/24, 5/1, 5/3

WHAT THE MEASURE DOES:

Prohibits a court to order an involuntary commitment of a minor child to the Department of Human Services (DHS) without the consent of the parent or legal guardian. Requires that individual be determined eligible for developmental disability services through DHS as condition of commitment based on intellectual disability, in addition to the person being dangerous to self or others or unable to provide for their basic personal needs and not receiving care as is necessary for their health, safety or habilitation. Removes requirement for a new diagnostic evaluation to determine continued commitment exceeding one year. Permits DHS to delegate the responsibility for assignment or transfer of persons with intellectual disabilities to suitable facilities to support services brokerages, in addition to community developmental disabilities programs. Declares emergency, effective on passage.

FISCAL: Minimal fiscal impact

REVENUE: No revenue impact

HOUSE VOTE: Ayes, 52; Nays, 1; Excused, 5; Excused for Business of the House, 2

ISSUES DISCUSSED:

- ORS 427 and ORS 426 provisions
- Definitions of guardian and options when a child is committed
- K-plan access to services and options for voluntary community placements

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Repeals ORS 179.478 (Examination for intellectual disability), 427.215(Need for commitment), 427.235(Notice to court of need for commitment), 427.245 (Hearing; citation to appear; notice; right to legal counsel), 427.255 (Detention prior to investigation or hearing; care and maintenance while under custody), 427.265 (Court to advise person of nature of proceeding and rights; appointment of legal counsel), 427.270 (Report of diagnostic evaluation; recommendations of examining facility; appointment of persons to conduct additional examination), 427.275 (Fees of persons appointed by court to perform diagnostic evaluations; payment by counties; witnesses; fees; costs), 427.280 (Treatment given after citation issued; notice to court), 427.285 (Witnesses required at hearing; cross-examination), 427.290 (Determination by court of need for commitment; discharge; conditional release; commitment; appointment of guardian or conservator), 427.293 (Disclosure of record of proceeding), 427.295 (Appeal of commitment order; appointment of legal counsel; costs), 427.300(Assignment to appropriate facility; notice of transfer or discharge; appeal; hearing), and 427.306 (Confinement of committed persons with intellectual disabilities in least restrictive setting; attendants required).

Removes reference of ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265, 427.270, 427.275, 427.280, 427.285, 427.290, 427.293, 427.295, 427.300 and 427.306 from statute.

Takes effect on July 1, 2024.

BACKGROUND:

Involuntary commitment or civil commitment is a legal process through which an individual who experiences an Intellectual Disability or has symptoms of severe mental illness or is court-ordered into the care and custody of the State of Oregon. Individuals with an intellectual disability may need to be civilly committed when they have demonstrated they are a danger to themselves or others or are unable to provide for their basic individual needs and are not receiving care as necessary. This includes care for the health, safety, or the habilitation of the individual. Oregon law (ORS 427.235 to 427.290) permits courts to find a person with intellectual or developmental disability in need of commitment for residential care, treatment, and training because they are either dangerous to self or others or are unable to provide for their personal needs and are not receiving care as is necessary for their health, safety, or habilitation. Civil commitments for individuals with intellectual disabilities may last up to 12 months and may be renewed annually as necessary. Certain civil commitment responsibilities are [delegated](#) to the Oregon Department of Human Services (ODHS), the Office of Developmental Disabilities Services (ODDS) and/or Community Developmental Disabilities Programs (CDDPs). Only CDDPs can complete a civil commitment investigation. The courts are tasked with hearing all of the evidence and reviewing the findings of the investigation and other examiners. If in the opinion of the court the person has, by clear and convincing evidence, an intellectual disability and is in need of commitment for residential care, treatment and training, the court may order the commitment of the person to the Department of Human Services (DHS) for care, treatment, or training. If in the opinion of the court the person may be incapacitated, the court may appoint a legal guardian or conservator. Currently, a person with an intellectual disability is in need of commitment for residential care, treatment, and training if the person is either: dangerous to self or others; or unable to provide for the person's basic personal needs and not receiving care as is necessary for the health, safety or habilitation of the person. Upon a person's commitment, DHS has the discretion to place the person in a facility of its choosing but may delegate that responsibility to a community developmental disabilities program. Currently, the law allows for a minor child to be committed, provided that the child's parent or guardian are notified at every step of the process.

House Bill 3234 prohibits a court from ordering involuntary commitment of a minor child without parental consent; requires person to have been determined eligible for developmental disability services as condition of commitment; and permits DHS to delegate the responsibility of placing the person in a facility to a support service brokerage as well as a community developmental disabilities program.