

## SB 91 A STAFF MEASURE SUMMARY

### Senate Committee On Human Services

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**Action Date:** 04/03/23

**Action:** Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

**Vote:** 5-0-0-0

**Yeas:** 5 - Gelser Blouin, Manning Jr, Prozanski, Robinson, Weber

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

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**Meeting Dates:** 2/6, 3/29, 4/3

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#### WHAT THE MEASURE DOES:

Directs the Department of Human Services (DHS) to administer a program (program) to compensate parents to provide attendant care services to the parents' minor children who have been assessed by the department to have very high medical or behavioral needs. Requires that parent providers be employed by an agency and not by the child or the other parent of the child. Prohibits parent providers to be paid by an agency that is owned by the parent, the child, or any family member or for which the parent or other family member serves in any administrative or leadership capacity, including as a member of a board of directors. Prohibits agencies to employ a parent provider as an independent contractor. Requires agencies to pay parent providers overtime at the same rate and under the same circumstances as direct support professionals. Prohibits agencies to pay providers of attendant care services for providing services to a minor child during school hours unless the minor child is temporarily at home recovering from surgery or illness and the temporary absence from school is recommended by the child's health care provider. Prohibits agencies to pay parent providers for care if client's child is homeschooled, is enrolled in private school with fewer school hours, or regularly attends school less than the number of school hours attended by students without disabilities due to a school district determination or parent choice. Permits school districts or other entities to compensate parents for providing support for educational activities that would otherwise be the responsibility of the school district. Prohibits parent providers to engage in specific activities during the hours paid to provide one-on-one attendant care services to the client's child. Permits DHS to require a parent provider to assign an alternative legal representative for the client child to manage the development and implementation of the child's individual support plan. Specifies requirements of the assignment. Makes parent providers mandatory reporters. Requires DHS to use an advisory committee to adopt rules for program safeguard strategies, agency requirements, training requirements, objection to hires, consistent and equitable implementation, appeal requirements, and any other requirements. Permits DHS to manage the cost, size, and growth rate of the program to protect the eligibility for and levels of services. Requires DHS to report to the Legislative Assembly annually, specifies reporting requirements. Prohibits DHS to administer the program without approval of a new waiver, without other federal financial participation in the costs of the program, or using General Fund moneys that are not matched by federal funds. Directs DHS to initiate an application for approval of a new waiver on or before the earlier of August 1, 2023, or 30 days after the effective date of the measure. Directs DHS to continue paying parent providers by applying for federal funds until parent provider program is approved. Appropriates \$3,000,000 to DHS for administering the program and applying for matching federal funds. Declares emergency, effective on passage.

#### ISSUES DISCUSSED:

- Workforce crisis impacts on supports for children with disabilities
- Adding costs to the K plan concerns
- Attendant care hours during school hours
- Agency cap on hours and overall workforce retention

**EFFECT OF AMENDMENT:**

Replaces the measure.

**BACKGROUND:**

Federal and state governments fund services for people with intellectual and developmental disabilities. Federal funds come through the Centers for Medicare and Medicaid Services (CMS). CMS regulates overarching requirements all states must follow. The Office of Developmental Disabilities Services (ODDS) and the Oregon Health Authority work together to ensure compliance with CMS regulations. Oregon law permits the Governor to declare a state of public health emergency upon the occurrence of a public health emergency to protect the public health (ORS 433.441 to ORS 433.452). During the COVID-19 public health emergency (PHE), the federal government extended health care coverage, long term services and supports, and provided extra food benefits. These temporary changes will end after the PHE ends on May 11, 2023. In January 2021, ODDS implemented processes to allow parents of minor children to be paid caregivers. Under normal circumstances, parents of minor children in Oregon are considered the child's representative as part of their parenting role. CMS approved an 1135 waiver of 42 CFR § 441.505 to temporarily allow payment for attendant services and supports rendered by an individual's representative provided that the state makes a reasonable assessment that the caregiver is capable of rendering such services.

Senate Bill 91 A directs the Department of Human Services to compensate parents for providing attendant care services to minor children who have very high medical or behavioral needs.