

A-Engrossed
Senate Bill 93

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services, Mental Health and Recovery)

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 Department of Human Services to study department's processes for delivering services to aging adults. Directs department to submit findings to interim committees of Legislative Assembly related to human services not later than September 15, 2024.]

[Sunsets January 2, 2025.]

Modifies juvenile court procedure to include Department of Human Services as party to proceedings if department has taken child or ward into protective custody.

Requires community-based structured housing facility that serves adults who are age 65 or older or who have disabilities to register with Department of Human Services. Authorizes department to adopt rules regarding facilities and to enter facilities to investigate complaints of abuse.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Department of Human Services; amending ORS 419B.875, 443.480, 443.485, 443.490
3 and 443.500; and declaring an emergency.

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

5 **SECTION 1.** ORS 419B.875 is amended to read:

6 419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500
7 are:

8 (A) The child or ward;

9 (B) The parents or guardian of the child or ward;

10 (C) A putative father of the child or ward who has demonstrated a direct and significant com-
11 mitment to the child or ward by assuming, or attempting to assume, responsibilities normally asso-
12 ciated with parenthood, including but not limited to:

13 (i) Residing with the child or ward;

14 (ii) Contributing to the financial support of the child or ward; or

15 (iii) Establishing psychological ties with the child or ward;

16 (D) The state;

17 (E) The juvenile department;

18 (F) A court appointed special advocate, if appointed;

19 (G) The Department of Human Services or other child-caring agency if the **department has**
20 **taken the child or ward into protective custody or if the department or** agency has temporary
21 custody of the child or ward; and

22 (H) If the child or ward is an Indian child:

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.

1 (i) The Indian child's tribe; and

2 (ii) The Indian child's Indian custodian.

3 (b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding
4 under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS
5 419B.500.

6 (c) If an Indian child is a member of or is eligible for membership in more than one tribe, the
7 court may, in its discretion, permit a tribe, in addition to the Indian child's tribe, to participate in
8 a proceeding under this chapter involving the Indian child in an advisory capacity or as a party.

9 (2) The rights of the parties include, but are not limited to:

10 (a) The right to notice of the proceeding and copies of the petitions, answers, motions and other
11 papers;

12 (b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this
13 section, to have counsel appointed as otherwise provided by law;

14 (c) The right to call witnesses, cross-examine witnesses and participate in hearings;

15 (d) The right of appeal; and

16 (e) The right to request a hearing.

17 (3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section shall
18 be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C, until
19 the court confirms his parentage or finds that he is not the legal or biological parent of the child
20 or ward.

21 (4) If no appeal from the judgment or order is pending, a putative father whom a court of com-
22 petent jurisdiction has found not to be the child or ward's legal or biological parent or who has filed
23 a petition for filiation that was dismissed is not a party under subsection (1) of this section.

24 (5)(a) A person granted rights of limited participation under ORS 419B.116 is not a party to a
25 proceeding under ORS 419B.100 or 419B.500 but has only those rights specified in the order granting
26 rights of limited participation.

27 (b) Persons moving for or granted rights of limited participation are not entitled to appointed
28 counsel but may appear with retained counsel.

29 (6) If a foster parent, preadoptive parent or relative is currently providing care for a child or
30 ward, the Department of Human Services shall give the foster parent, preadoptive parent or relative
31 notice of a proceeding concerning the child or ward. A foster parent, preadoptive parent or relative
32 providing care for a child or ward has the right to be heard at the proceeding. Except when allowed
33 to intervene, the foster parent, preadoptive parent or relative providing care for the child or ward
34 is not considered a party to the juvenile court proceeding solely because of notice and the right to
35 be heard at the proceeding.

36 (7)(a) The Department of Human Services shall make diligent efforts to identify and obtain
37 contact information for the grandparents of a child or ward committed to the department's custody.
38 Except as provided in paragraph (b) of this subsection, when the department knows the identity of
39 and has contact information for a grandparent, the department shall give the grandparent notice of
40 a hearing concerning the child or ward. Upon a showing of good cause, the court may relieve the
41 department of its responsibility to provide notice under this paragraph.

42 (b) If a grandparent of a child or ward is present at a hearing concerning the child or ward, and
43 the court informs the grandparent of the date and time of a future hearing, the department is not
44 required to give notice of the future hearing to the grandparent.

45 (c) If a grandparent is present at a hearing concerning a child or ward, the court shall give the

1 grandparent an opportunity to be heard.

2 (d) The court's orders or judgments entered in proceedings under ORS 419B.185, 419B.310,
3 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to whether the
4 grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard.

5 (e) Notwithstanding the provisions of this subsection, a grandparent is not a party to the juve-
6 nile court proceeding unless the grandparent has been granted rights of intervention under ORS
7 419B.116.

8 (f) As used in this subsection, "grandparent" means the legal parent of the child's or ward's le-
9 gal parent, regardless of whether the parental rights of the child's or ward's legal parent have been
10 terminated under ORS 419B.500 to 419B.524.

11 (8) Interpreters for parties and persons granted rights of limited participation shall be appointed
12 in the manner specified by ORS 45.275 and 45.285.

13 **SECTION 2.** ORS 443.480 is amended to read:

14 443.480. As used in ORS 443.480 to 443.500:

15 (1) **"Activities of daily living" means:**

16 (a) **Bathing and personal hygiene;**

17 (b) **Dressing and grooming;**

18 (c) **Eating;**

19 (d) **Mobility;**

20 (e) **Bowel and bladder management; and**

21 (f) **Cognition.**

22 [(1)(a)] (2)(a) "Community-based structured housing" means congregate housing where services
23 and support are provided by the owner or operator of the facility or staff of the facility to assist
24 residents who have mental, emotional, behavioral or substance use disorders.

25 (b) "Community-based structured housing" does not include:

26 (A) Residential care as defined in ORS 443.400; or

27 (B) Publicly supported housing as defined in ORS 456.250.

28 [(2)] (3) "Congregate housing" means housing in which each adult resident has a private or
29 shared bedroom or living quarters and shares with other adult residents a dining room, recreational
30 room and other common areas.

31 (4) **"Disability" means a physical or mental impairment that constitutes or results in a**
32 **functional limitation on one or more activities of daily living.**

33 (5) **"Elderly" means an individual who is 65 years of age or older.**

34 [(3)] (6) "Services and support" means living accommodations and services, [other than
35 treatment,] such as housekeeping, laundry, medication monitoring, transportation or recreational
36 opportunities, **excluding treatment and assistance with activities of daily living.**

37 [(4)] (7) "Treatment" has the meaning given that term in ORS 443.400.

38 **SECTION 3.** ORS 443.485 is amended to read:

39 443.485. (1) Subject to ORS 443.490, a person that owns or operates a community-based struc-
40 tured housing facility offered to the general public **that is not licensed or registered under any**
41 **other law of this state or under a city or county ordinance or regulation** shall register [with
42 the Oregon Health Authority] the name and address of the owner or operator if the facility **with:**

43 (a) **The Oregon Health Authority if the facility** provides services and support to two or more
44 adult residents, not related to the person by blood or marriage, who have mental, emotional, be-
45 havioral or substance use disorders; [and] **or**

1 (b) *[Is not licensed or registered under any other law of this state or city or county ordinance or*
2 *regulation]* **The Department of Human Services if the facility provides services and support**
3 **to two or more adult residents, not related to the resident by blood or marriage, who are**
4 **elderly or who have disabilities.**

5 (2) The registration fee is \$20 annually.

6 (3) The authority **or the department** shall establish by rule reasonable and appropriate stan-
7 dards for the operation of facilities subject to ORS 443.480 to 443.500 **that fall within their re-**
8 **spective jurisdictions.** The standards must be consistent with the residential nature of the facilities
9 and must address, at a minimum, the:

10 (a) Physical properties of a facility;

11 (b) Storage, preparation and serving of food at a facility that provides prepared meals;

12 (c) Storage, preparation and dispensing of medications and the assistance provided by staff to
13 adult residents in taking medications; and

14 (d) Number, experience and training of the staff of a facility.

15 (4) The authority **or the department** shall provide evidence of the registration to the person.
16 The evidence shall be posted in a facility.

17 (5) The authority **or the department** may impose a civil penalty not to exceed \$5,000 for:

18 (a) Operating without registration as required under this section; or

19 (b) A violation of ORS 443.880 or 443.881.

20 (6) The authority **or the department** may suspend or revoke registration or deny the issuance
21 of registration for violation of any statute, rule, ordinance or regulation relating to the facility.

22 (7) Rules adopted under subsection (3) of this section must avoid imposing on facilities regulated
23 by federal agencies any reporting requirements or review processes that duplicate the reporting
24 requirements or review processes imposed by the federal agency.

25 **(8) A facility is not required to register with both the authority and the department un-**
26 **der this section. If a facility is subject to registration by both the authority and the depart-**
27 **ment, the Director of the Oregon Health Authority and the Director of Human Services shall**
28 **jointly determine with which agency the facility must register.**

29 **SECTION 4.** ORS 443.490 is amended to read:

30 443.490. If the Oregon Health Authority **or the Department of Human Services** finds that
31 another governmental entity's standards for the operation of a facility subject to ORS 443.480 to
32 443.500 are substantially similar or superior to those under ORS 443.485 (3), the authority **or the**
33 **department** may waive the requirements of ORS 443.485.

34 **SECTION 5.** ORS 443.500 is amended to read:

35 443.500. (1) The **staff of the** Oregon Health Authority *[staff]* **or the Department of Human**
36 **Services** shall be permitted access to enter and investigate complaints of abuse in all facilities
37 registered under ORS 443.480 to 443.500 and to ascertain a facility's compliance with applicable
38 rules, statutes, ordinances and regulations. If the authority has reasonable cause to believe any fa-
39 cility is operating without registration or is in violation of ORS 443.480 to 443.500, the authority
40 **or the department** may apply to the circuit court for a search warrant.

41 (2) Upon complaint of any person:

42 (a) The state or local fire inspectors shall be permitted access to enter and inspect facilities
43 registered under ORS 443.480 to 443.500 regarding fire safety.

44 (b) The state or local health officers shall be permitted access to enter and inspect facilities
45 registered under ORS 443.480 to 443.500 regarding health and sanitation.

1 (3) The owner or operator of a facility may not retaliate against any individual who files a
2 complaint or any witness or employee of a facility interviewed about the complaint, including but
3 not limited to retaliation by restriction of a resident's otherwise lawful access to the facility and,
4 with respect to an employee, retaliation by dismissal or harassment.

5 **SECTION 6. This 2023 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
7 **on its passage.**

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