

Requested by Senator KNOPP

**PROPOSED AMENDMENTS TO
SENATE BILL 91**

1 On page 1 of the printed bill, delete lines 4 through 25 and delete pages
2 2 through 5 and insert:

3 **“SECTION 1. (1) As used in this section:**

4 **“(a) ‘Agency’ means an agency that hires, trains and supervises**
5 **direct support professionals using state funds received from the De-**
6 **partment of Human Services.**

7 **“(b) ‘Attendant care services’ means services provided directly to**
8 **an individual with a disability to assist with activities of daily living,**
9 **instrumental activities of daily living and health-related tasks, as de-**
10 **fin ed by the department by rule.**

11 **“(c) ‘Client’ means an individual who receives attendant care ser-**
12 **vices.**

13 **“(d) ‘Client child’ means a child under 18 years of age who:**

14 **“(A) Has a intellectual or developmental disability; and**

15 **“(B) Receives attendant care services from the child’s parent.**

16 **“(e) ‘Developmental disability services’ has the meaning given that**
17 **term in ORS 427.101.**

18 **“(f) ‘Direct support professional’ means an individual who is hired,**
19 **employed, trained, paid and supervised by an agency to provide at-**
20 **tendant care services to a client of the agency.**

21 **“(g) ‘Nonparent caregiver’ means a direct support professional,**

1 **personal support worker or similar provider who is paid to provide**
2 **attendant care services to clients who are not the provider’s children.**

3 **“(h) ‘Parent’ includes a:**

4 **“(A) Natural or adoptive parent of a child;**

5 **“(B) Stepparent of a child; and**

6 **“(C) Legal guardian of a child.**

7 **“(i)(A) ‘Parent provider’ means a parent who is paid to provide at-**
8 **tendant care services to the parent’s minor child.**

9 **“(B) ‘Parent provider’ does not include a parent who is paid to**
10 **provide attendant care services to a child who is 18 years of age or**
11 **older.**

12 **“(j)(A) ‘Personal support worker’ has the meaning given that term**
13 **in ORS 410.600.**

14 **“(B) ‘Personal support worker’ does not include a direct support**
15 **professional.**

16 **“(k) ‘State plan’ means Oregon’s state plan for medical assistance,**
17 **described in 42 U.S.C. 1396a, approved by the Centers for Medicare and**
18 **Medicaid Services.**

19 **“(L) ‘Very high support needs’ means a minor child’s extraordinary**
20 **needs for support due to the child’s disability as indicated by a feder-**
21 **ally approved functional needs assessment adopted by the department**
22 **that assigns the child to the highest service level.**

23 **“(2) Subject to rules adopted under subsection (8) of this section and**
24 **to available funding, the department shall administer a program to**
25 **compensate parents to provide attendant care services to the parents’**
26 **children if:**

27 **“(a) The client child has been assessed by the department to have**
28 **very high support needs; or**

29 **“(b) The client child is not assessed as having very high support**
30 **needs but the department grants an exception for the client child**

1 through a process established by the department based on the deter-
2 mination of the child’s health care provider that the client child needs
3 a parent provider due to the client child’s extraordinary physical,
4 mental or emotional needs.

5 **“(3) To be eligible for the program described in this section:**

6 **“(a) A parent provider must be employed by an agency and not by**
7 **the child or the other parent of the child;**

8 **“(b) The parent provider may not be paid to provide attendant care**
9 **services to the client child by an agency that is owned by the parent,**
10 **the child or any family member or for which the parent or other**
11 **family member serves in any administrative or leadership capacity,**
12 **including as a member of a board of directors; and**

13 **“(c) The agency employing the parent provider to provide attendant**
14 **care services to the client child:**

15 **“(A) May not employ a parent provider as an independent contrac-**
16 **tor;**

17 **“(B) Shall pay parent providers at the same rate and under the**
18 **same circumstances as direct support professionals who are not parent**
19 **providers;**

20 **“(C) Except as authorized by the department by rule, may not pay**
21 **providers of attendant care services, including parent providers, to**
22 **provide services to a minor child during school hours unless the minor**
23 **child is temporarily at home recovering from surgery or illness and**
24 **the temporary absence from school is recommended by the child’s**
25 **health care provider; and**

26 **“(D) May not pay providers of attendant care services, including**
27 **parent providers, to provide services to a minor child during school**
28 **hours due to the determination of a school district or due to the choice**
29 **of a parent of the client child to:**

30 **“(i) Have the child regularly attend school less than the number of**

1 school hours attended by students without disabilities who are in the
2 same grade and the same school district as the client child;

3 “(ii) Homeschool the client child; or

4 “(iii) Enroll the client child in a private school that offers fewer
5 school hours than the school hours offered by the local public school
6 to the majority of students in the same grade as the client child.

7 “(4) Subsection (3)(c)(D) of this section does not prohibit a school
8 district or other entity from compensating parents of students with
9 disabilities for providing support for educational activities that would
10 otherwise be the responsibility of the school district.

11 “(5) A parent provider, during the hours that the parent provider
12 is paid to provide one-on-one attendant care services to the client
13 child:

14 “(a) May not be responsible for a vulnerable adult who requires
15 physical care and monitoring;

16 “(b) May not be responsible for the care of a child, other than the
17 client child, who is under 10 years of age and shall have another
18 caregiver immediately available at all times to attend to the needs of
19 the child; and

20 “(c) May not, unless the tasks are included as a goal or service in
21 the child’s individual support plan and related to the child’s
22 disability-related support needs, perform tasks that are not for the
23 primary benefit of the client child, including but not limited to:

24 “(A) Grocery shopping for the household;

25 “(B) Housekeeping not required for the disability-related support
26 needs of the client child;

27 “(C) Remote work or operation of a home business; or

28 “(D) Transporting individuals other than the client child to or from
29 activities or appointments.

30 “(6) If required by the Centers for Medicare and Medicaid Services,

1 the department may require a parent provider to assign an alternative
2 representative for the client child to make decisions about or manage
3 the development and implementation of the client child’s individual
4 support plan. The assignment:

5 “(a) Must be on a form prescribed by the department; and

6 “(b) Must clearly state that the assignment is limited to decisions
7 regarding the development and implementation of the child’s individ-
8 ual support plan and does not limit the authority of the parent pro-
9 vider to make decisions for the client child with respect to health care,
10 education or religious training.

11 “(7) A parent provider is subject to the requirements of mandatory
12 reporting of abuse under ORS 124.060 and 419B.010, 24 hours per day,
13 seven days per week.

14 “(8) The department shall adopt rules for the program described in
15 this section using an advisory committee appointed under ORS 183.333
16 that represents the interests of parents, children with intellectual or
17 developmental disabilities, adults with disabilities, agencies, organiza-
18 tions of direct support professionals and personal support workers and
19 organizations that advocate for persons with disabilities. The rules
20 must include all of the following:

21 “(a) Strategies to safeguard nonparent caregivers and avoid the
22 displacement of nonparent caregivers by parent providers;

23 “(b) Requirements for agencies to demonstrate consistent efforts to
24 recruit, train and retain nonparent caregivers;

25 “(c) Training requirements for:

26 “(A) Parent providers regarding federal and state administrative
27 rules regulating home-based and community-based services, including
28 the impact of the rules on parent-child relationships with respect to
29 discipline, supervision, physical intervention and self-determination
30 of client children during the hours that the parent provider is being

1 **paid to provide attendant care services;**

2 **“(B) Client children to learn to advocate for themselves with re-**
3 **spect to choosing and managing direct support professionals before**
4 **and after reaching 18 years of age; and**

5 **“(C) Community developmental disability programs related to the**
6 **employment of parent providers, including on how to support families**
7 **to manage issues concerning conflicts of interest, provider recruit-**
8 **ment and retention and the empowerment of the client child to have**
9 **a meaningful voice in the selection of the client child’s direct support**
10 **professionals;**

11 **“(d) A process for a client child to object to the hiring of any**
12 **caregiver, including the child’s parent, or to raise concerns about a**
13 **provider’s caregiving;**

14 **“(e) Procedures to ensure that the program described in this section**
15 **is implemented consistently and equitably throughout this state;**

16 **“(f) A requirement that any appeal related to the implementation**
17 **of a waiver granted by the Centers for Medicare and Medicaid Services**
18 **is the sole responsibility of the central office staff of the department;**
19 **and**

20 **“(g) Other requirements that the department deems necessary to**
21 **carry out the provisions of this section.**

22 **“(9) The department may adopt rules necessary to manage the cost,**
23 **size and growth rate of the program described in this section that are**
24 **necessary to protect the eligibility for and levels of services under**
25 **programs serving individuals receiving developmental disability ser-**
26 **vices provided for in the state plan, including the development of cri-**
27 **teria to limit the number of children eligible to participate in the**
28 **program.**

29 **“(10) Annually, the department shall report to the interim com-**
30 **mittees of the Legislative Assembly related to human services or, if**

1 the Legislative Assembly is in session, to the committees of the Leg-
2 islative Assembly related to human services, in the manner provided
3 in ORS 192.245, updates on the program described in this section, in-
4 cluding:

5 “(a) The number of client children receiving attendant care ser-
6 vices, the number of children receiving the services from parent pro-
7 viders and other relatives and the number of children receiving the
8 services from nonparent caregivers;

9 “(b) The number of hours of attendant care services provided by
10 parent providers and other relatives and number of hours of attendant
11 care services provided by nonparent caregivers;

12 “(c) A comparison of the cost per child of providing attendant care
13 services by parent providers and other relatives under the program
14 with the cost per child of providing attendant care services by non-
15 parent caregivers;

16 “(d) A report on the adequacy of the direct care workforce in this
17 state to provide services to all children with developmental disability
18 services who are eligible for attendant care services;

19 “(e) The results of a voluntary annual survey of parent providers
20 about the benefits and shortcomings of the program described in this
21 section; and

22 “(f) A comparison of the expenditures and impact on the direct care
23 workforce of the program versus other expenditures designed to in-
24 crease the direct care workforce.

25 “(11)(a) Notwithstanding subsection (9) of this section, the depart-
26 ment may increase the growth of the program or the service levels
27 provided in the program as described in paragraph (b) of this sub-
28 section based on:

29 “(A) Increases in federal funding;

30 “(B) Changes to policy or guidance from by the Centers for Medi-

1 care and Medicaid Services;

2 “(C) Cost reductions achieved in other programs administered by
3 the department; and

4 “(D) A determination by the department that the program has in-
5 creased the direct care workforce or that actual costs of the program
6 are less than predicted.

7 “(b) The department may increase the growth of or service levels
8 provided in the program by:

9 “(A) Increasing the limit on hours that parent providers may be
10 compensated for providing attendant care services to the parent’s
11 child; or

12 “(B) Increasing the number of new client children that may par-
13 ticipate in the program.

14 **“SECTION 2. (1) Except as provided in section 4 of this 2023 Act, the**
15 **Department of Human Services may not administer the program de-**
16 **scribed in section 1 of this 2023 Act without the Centers for Medicare**
17 **and Medicaid Services’ approval of a new waiver or without other ar-**
18 **rangements with the Centers for Medicare and Medicaid Services to**
19 **receive federal financial participation in the costs of the program**
20 **during a state of emergency or a public health emergency.**

21 **“(2) The department may not administer a program that pays a**
22 **parent to provide attendant care or personal care services to the**
23 **parent’s minor child, including but not limited to the program de-**
24 **scribed in section 1 of this 2023 Act, using General Fund moneys that**
25 **are not matched by federal Medicaid funds.**

26 **“SECTION 3. On or before the earlier of August 1, 2023, or 30 days**
27 **after the effective date of this 2023 Act, the Department of Human**
28 **Services shall initiate the process, including consulting with tribes and**
29 **requesting public comments, to apply to the Centers for Medicare and**
30 **Medicaid Services for approval of a new waiver as described in section**

1 4 of this 2023 Act.

2 **“SECTION 4.** The Department of Human Services shall apply for
3 any federal funding available, including but not limited to funds from
4 the American Rescue Plan Act of 2021 (P.L. 117-2), to continue to
5 compensate parent providers, as defined in section 1 of this 2023 Act,
6 who were parent providers as of May 10, 2023, until the implementation
7 of section 1 of this 2023 Act.

8 **“SECTION 5.** (1) Section 3 of this 2023 Act is repealed on January
9 2, 2025.

10 (2) Section 4 of this 2023 Act is repealed on June 30, 2025.

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

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