

B-Engrossed Senate Bill 1521

Ordered by the Senate March 7
Including Senate Amendments dated February 19 and March 7

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)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires DHS to contract with at least one organization to provide a new type of service to people who hire personal support workers.

The Act makes changes to the statutes about agency with choice service providers. The Act requires DHS to contract with at least one agency providing agency with choice services by January 1, 2026.

The Act makes a place that houses and takes care of people who are elderly or who have disabilities use a certain tool. The tool makes sure that the place has enough staff to meet the needs of the people who live there. (Flesch Readability Score: 62.3).

[Digest: The Act requires DHS to contract with at least one organization to provide a new type of service to people who hire personal support workers.]

[The Act makes changes to the statutes about agency with choice service providers. Requires DHS to contract with at least one agency providing agency with choice services by January 1, 2026.]

[The Act changes the way that DHS makes a place that houses and takes care of people who are elderly or who have disabilities use a certain tool to make sure that the place has enough staff to meet the needs of the people who live there.]

[The Act requires that some people must be licensed to help children in DHS custody to stay out of temporary lodging. The Act says that those people do not have to be licensed until 1/1/25. (Flesch Readability Score: 60.4).]

Requires the Department of Human Services to contract with at least one organization by July 1, 2024, to provide enhanced supports to employers of personal support workers and describes the supports that must be provided by the organization.

Specifies the minimum requirements for agencies to be endorsed by the department to provide agency with choice services and requires the department to contract with at least one organization to provide agency with choice services by January 1, 2026.

Prohibits specified acts by agencies that employ staff to provide direct support professionals.

Requires the Oregon Health Authority to hire one additional position for the authority's Medicaid *[fraud]* **program integrity** unit.

Modifies the enforcement by the Department of Human Services of the requirements for residential care facilities to use acuity-based staffing tools to ensure sufficient staffing levels to meet residents' scheduled and unscheduled needs at all times.

[Requires that certain providers of placement safety or crisis supports for children in the custody of the department be licensed as child-caring agencies. Specifies that certain providers of care or services to children are not child-caring agencies. Delays licensing requirement for certain providers of placement safety or crisis supports to children until January 1, 2025. Permits the department until December 31, 2024, to continue contracting with certain providers of placement safety and supports even though they are unlicensed.]

Extends deadline from January 1, 2026, to January 1, 2027, for residential training homes and adult foster homes licensed before July 1, 2026, to install automatic sprinkler systems.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to care for vulnerable individuals; creating new provisions; amending ORS 427.181 and
3 443.889 and sections 3 and 9, chapter 91, Oregon Laws 2022, and section 2, chapter 568, Oregon
4 Laws 2023; and declaring an emergency.

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

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.

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**ENHANCED SUPPORTS TO EMPLOYERS OF
PERSONAL SUPPORT WORKERS**

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SECTION 1. (1) As used in this section:

(a) “Enhanced supports to employers of personal support workers” means support given to an individual in self-directing the individual’s services or in managing personal support workers who are providing in-home services and supports to the individual, using a person-centered approach to ensure that the individual is at the center of the decision-making process regarding what services are needed, including by providing:

(A) Training, coaching and other forms of support to the individual on:

(i) Self-direction; and

(ii) The roles and responsibilities of the individual and the personal support worker;

(B) Training, coaching and other forms of support to the individual in the overall management of personal support workers providing personal support services to the individual, including in the recruitment, hiring, scheduling and training of personal support workers, performance assessments of personal support workers and dismissal of personal support workers; and

(C) Other administrative and employment-related supports.

(b) “Individual” means a child or adult with an intellectual or developmental disability, or the representative of the child or adult, who receives in-home services and supports through the Department of Human Services.

(2) The department shall contract with one or more organizations to provide enhanced supports to employers of personal support workers.

(3) An organization contracting with the department under subsection (2) of this section shall be expected, at a minimum, to:

(a) Maximize an individual’s self-direction and autonomy by supporting the individual to direct the individual’s personal support workers and manage the day-to-day services of the individual’s personal support workers;

(b) Have a commitment to work with a broad coalition of stakeholders in an effort to understand the changing needs of the workforce and of individuals’ needs, rights and preferences; and

(c) Have the ability to meet the state’s interest in preventing or mitigating disruptions to individuals’ in-home services and supports.

(4) The department may not contract with an organization under subsection (2) of this section to provide enhanced supports to employers of personal support workers if the owner or an executive officer of the organization has been convicted of Medicaid fraud in any state within the 25-year period prior to entering into the contract.

SECTION 2. The Department of Human Services shall contract with at least one organization to provide enhanced supports to employers of personal support workers, as defined in section 1 of this 2024 Act, no later than July 1, 2024.

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AGENCY WITH CHOICE SERVICES

SECTION 3. ORS 427.181 is amended to read:

427.181. (1) As used in this section and section 5 of this 2024 Act:

1 (a) "Agency with choice services" means support given to an individual in self-directing the
2 individual's services or in managing staff who are providing in-home services and supports to the
3 individual, using a person-centered approach to ensure that the individual is at the center of the
4 decision-making process regarding what services are needed, including by providing:

5 (A) Training, coaching and other forms of support to the individual on:

6 (i) Self-direction; and

7 (ii) The roles and responsibilities of the individual and the agency with choice services provider;

8 (B) Training, coaching and other forms of support to the individual in the overall management
9 of staff providing direct support services to the individual, including in the recruitment, hiring,
10 scheduling and training of staff, performance assessments of staff and dismissal of staff; and

11 (C) Other administrative and employment-related supports.

12 (b) "Individual" means a child or adult with an intellectual or developmental disability[, or the
13 representative of the child or adult,] who receives in-home services and supports through the De-
14 partment of Human Services.

15 (2) The department shall contract with one or more **endorsed** organizations to deliver agency
16 with choice services as a community-based services option under ORS 427.007 (1)(d).

17 [(3) An organization contracting with the department under subsection (2) of this section shall be
18 expected, at a minimum, to:]

19 [(a) Maximize an individual's self-direction and autonomy by supporting the individual to direct
20 the individual's staff hired to provide direct support services to the individual and manage the day-to-
21 day services of the individual's staff hired to provide direct support services to the individual;]

22 [(b) Have a commitment to work with a broad coalition of stakeholders in an effort to understand
23 the changing needs of the workforce and of individuals' needs, rights and preferences; and]

24 [(c) Have the ability to meet the state's interest in preventing or mitigating disruptions to
25 individuals' in-home services and supports.]

26 [(4) The department may not contract with an organization under subsection (2) of this section to
27 provide agency with choice services if the owner of or an executive officer of the organization has been
28 convicted of Medicaid fraud in any state within the 25-year period prior to entering into the contract.]

29 **(3) The department shall adopt by rule minimum qualifications for agencies to be en-
30 dorsed by the department to deliver agency with choice services.**

31 **(4) Minimum qualifications for agencies endorsed to deliver agency with choice services
32 include, but are not limited to:**

33 **(a) The ability to provide support for individuals in directing the individual's direct sup-
34 port worker and the day-to-day services of the direct support worker;**

35 **(b) A commitment to work with a broad coalition of stakeholders in an effort to under-
36 stand the changing needs of the workforce and of individuals' needs, rights and preferences;
37 and**

38 **(c) The ability to meet the state's interest in preventing or mitigating disruptions to
39 individuals' in-home services and supports.**

40 **(5) The department may not endorse an agency to provide agency with choice services
41 if the owner of the agency or an executive officer of the agency has been convicted of
42 Medicaid fraud in any state within the 25-year period prior to the certification.**

43 **(6) For the purpose of monitoring and evaluating workforce capacity and trends, an
44 agency endorsed to provide agency with choice services must annually provide to the de-
45 partment in the manner and at intervals specified by the department by rule:**

1 (a) A list of direct support workers for which the agency billed the department for ser-
2 vices provided through the agency with choice model;

3 (b) The zip codes where the direct support workers provided services; and

4 (c) Verification of the completion of training required for each direct support worker.

5 **SECTION 4.** Section 2, chapter 568, Oregon Laws 2023, is amended to read:

6 **Sec. 2.** The Department of Human Services shall contract with *[an]* at least one organization
7 to deliver agency with choice services under *[section 1, chapter 91, Oregon Laws 2022,]* **ORS 427.181**
8 no later than *[July 1, 2024]* **January 1, 2026.**

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10 **AGENCIES THAT EMPLOY DIRECT SUPPORT WORKERS**

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12 **SECTION 5.** (1) As used in this section:

13 (a) “Assessed hours” means the number of hours of direct support services that the
14 Department of Human Services determines is needed by an individual in a month.

15 (b) “Client” means an individual who enrolls with an agency that provides direct support
16 services to the individual.

17 (2) An agency that employs staff to provide direct support services may not:

18 (a) Offer bonus prizes or other forms of consideration to a potential client in exchange
19 for the client enrolling with the agency;

20 (b) Offer bonus payments, prizes, wage enhancements or other forms of consideration to
21 direct support staff in exchange for the direct support staff agreeing to work for the agency;

22 (c) Require a client to commit the majority of the client’s assessed hours to the agency
23 as a condition of enrollment;

24 (d) Limit services only to individuals who agree to bring the individual’s direct support
25 staff to the agency;

26 (e) Require direct support staff, as a condition of employment with the agency, to bring
27 to the agency the individuals to whom the direct support staff provide services;

28 (f) Enroll only clients who receive direct support services exclusively from family mem-
29 bers or close associates of the client; or

30 (g) Facilitate financial exploitation by engaging in targeted communications that en-
31 courage a health care provider to steer a client to the agency.

32 (3) It is solely the choice of an individual to select an agency to provide direct support
33 services.

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35 **PROGRAM INTEGRITY UNIT**

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37 **SECTION 6.** The Oregon Health Authority shall hire for one position in the authority’s
38 unit that is responsible for Medicaid program integrity and taking enforcement actions, in
39 addition to the positions in the unit on the effective date of this 2024 Act.

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41 **USE OF ACUITY-BASED STAFFING TOOL BY FACILITIES**

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43 **SECTION 7.** ORS 443.889 is amended to read:

44 443.889. (1) The Department of Human Services shall adopt rules:

45 (a) Establishing minimum requirements for an acuity-based staffing tool adopted by a facility and

1 the frequency with which a facility must reassess the facility's staffing patterns with the acuity-
2 based staffing tool.

3 (b) Establishing requirements for the design of an acuity-based staffing tool adopted by a facility
4 to ensure that the tool recommends staffing levels, intensity and qualifications necessary to meet the
5 scheduled and unscheduled needs of all residents 24 hours a day, seven days a week.

6 (c) For carrying out subsection [(4)] (5) of this section.

7 **(2) Before finalizing any changes to rules adopted under subsection (1)(a) or (b) of this**
8 **section, to promote quality care or sufficient staffing levels the department shall assess the**
9 **administrative and operational impact on facilities and on the safety of the residents and**
10 **staff of facilities.**

11 [(2)] (3) The department shall assess the staffing levels of a facility, at a minimum, each time the
12 department conducts a survey, license approval or renewal or an investigation into a complaint re-
13 garding:

- 14 (a) Abuse of a resident;
- 15 (b) Injury to a resident;
- 16 (c) Resident safety; or
- 17 (d) Staffing levels.

18 [(3)] (4) The assessment under subsection [(2)] (3) of this section must include a determination
19 of whether the facility is:

- 20 (a) Using an acuity-based staffing tool that meets the requirements of rules adopted under sub-
21 section (1) of this section;
- 22 (b) Recalculating the facility's staffing patterns using the acuity-based staffing tool with the
23 frequency required by rules adopted under subsection (1) of this section;
- 24 (c) Consistently staffing to the levels, intensity and qualifications indicated by the acuity-based
25 staffing tool; and
- 26 (d) Consistently meeting the scheduled and unscheduled needs of all residents 24 hours a day,
27 seven days a week.

28 [(4)] (5) If the department finds, during an assessment under subsection [(2)] (3) of this section,
29 that a facility is:

30 (a) Not using an acuity-based staffing tool, the department shall require the facility to adopt the
31 acuity-based staffing tool developed by the department **until the facility has in place the facility's**
32 **own acuity-based staffing tool.**

33 (b) **Using an acuity-based staffing tool but is** not meeting the scheduled and unscheduled
34 needs of all residents 24 hours a day, seven days a week, the department shall:

35 (A) Place a condition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F)
36 [*until the facility implements an acuity-based staffing tool and meets the minimum staffing levels iden-*
37 *tified by the department as necessary to meet the scheduled and unscheduled needs of all residents 24*
38 *hours a day, seven days a week; and*];

39 **(B) Establish staffing levels in a corrective action plan;**

40 [(B)] (C) Impose fines, penalties or conditions required by law or that the department deems
41 necessary to compel compliance; **and**

42 **(D) Continuously monitor the facility for compliance with the staffing levels indicated by**
43 **the acuity-based staffing tool for six months or until the department removes the condition**
44 **placed under subparagraph (A) of this paragraph.**

45 (c) Using an acuity-based staffing tool but [*is not consistently staffing to the levels, intensity and*

1 *qualifications indicated by the tool or is not recalculating the facility's staffing patterns with the tool*
2 *at the frequency required by rule] the tool does not meet the requirements of the rules adopted*
3 **under subsection (1)(a) and (b) of this section or the facility is not using the tool to review**
4 **its staffing levels at the frequency required by the rules, the department shall:**

5 (A) Assess whether the facility is meeting the scheduled and unscheduled needs of all residents
6 24 hours a day, seven days a week; **and**

7 (B) *[Place a condition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F)*
8 *until the facility implements an acuity-based staffing tool and demonstrates the facility's ability to meet*
9 *the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week; and]* **Impose**
10 **finances, penalties or conditions on the facility's license that are required by law or that the**
11 **department deems necessary to compel compliance.**

12 *[(C) Continuously monitor the facility, for at least six months, for compliance with the staffing*
13 *levels, intensity and qualifications indicated by the acuity-based staffing tool.]*

14 *[(d) Not meeting the scheduled and unscheduled needs of all residents 24 hours a day, seven days*
15 *a week, the department shall establish staffing standards in a corrective action plan and place a con-*
16 *dition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F) until the facility*
17 *complies with the corrective action plan.]*

18 **AUTOMATIC SPRINKLER SYSTEMS**

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21 **SECTION 8.** Section 3, chapter 91, Oregon Laws 2022, is amended to read:

22 **Sec. 3.** Notwithstanding any provision of the state building code, as defined in ORS 455.010, a
23 single-family detached dwelling that is used to operate a residential training home, as defined in
24 ORS 443.400, or an adult foster home, as defined in ORS 443.705, is not required to have installed
25 an automatic sprinkler system if:

26 (1) The dwelling has been operated as a residential training home or an adult foster home pur-
27 suant to a license issued prior to July 1, [2024] **2026**;

28 (2) The operator is licensed to serve five or fewer individuals in the dwelling; and

29 (3) The operator and the dwelling meet all other fire, life and safety requirements established
30 by the Department of Human Services or the Oregon Health Authority by rule.

31 **SECTION 9.** Section 9, chapter 91, Oregon Laws 2022, is amended to read:

32 **Sec. 9.** [(1)] Section 3, **chapter 91, Oregon Laws 2022**, [of this 2022 Act] is repealed on January
33 2, [2026] **2027**.

34 [(2) Sections 4, 5 and 6 of this 2022 Act are repealed on January 2, 2023.]

35 **APPROPRIATIONS AND EXPENDITURE LIMITATIONS**

37
38 **SECTION 10.** Notwithstanding any other provision of law, the General Fund appropriation
39 made to the Department of Human Services by section 1 (7), chapter 610, Oregon Laws 2023,
40 for the biennium ending June 30, 2025, for intellectual/developmental disabilities programs,
41 is increased by \$78,216 for carrying out the provisions of sections 1 and 2 of this 2024 Act and
42 the amendments to ORS 427.181 and 443.889 and section 2, chapter 568, Oregon Laws 2023,
43 by sections 3, 4 and 7 of this 2024 Act.

44 **SECTION 11.** Notwithstanding any other law limiting expenditures, the limitation on
45 expenditures established by section 3 (7), chapter 610, Oregon Laws 2023, for the biennium

1 ending June 30, 2025, as the maximum limits for payment of expenses from federal funds,
2 excluding federal funds not described in section 2, chapter 610, Oregon Laws 2023, collected
3 or received by the Department of Human Services, for intellectual/developmental disabilities
4 programs, is increased by \$78,216 for carrying out the provisions of sections 1 and 2 of this
5 2024 Act and the amendments to ORS 427.181 and 443.889 and section 2, chapter 568, Oregon
6 Laws 2023, by sections 3, 4 and 7 of this 2024 Act.

7 **SECTION 12.** Notwithstanding any other provision of law, the General Fund appropriation
8 made to the Department of Human Services by section 1 (2), chapter 610, Oregon Laws 2023,
9 for the biennium ending June 30, 2025, for state assessments and enterprise-wide costs, is
10 increased by \$8,331 for carrying out the provisions of sections 1 and 2 of this 2024 Act and
11 the amendments to ORS 427.181 and 443.889 and section 2, chapter 568, Oregon Laws 2023,
12 by sections 3, 4 and 7 of this 2024 Act.

13 **SECTION 13.** Notwithstanding any other law limiting expenditures, the limitation on
14 expenditures established by section 3 (2), chapter 610, Oregon Laws 2023, for the biennium
15 ending June 30, 2025, as the maximum limits for payment of expenses from federal funds,
16 excluding federal funds not described in section 2, chapter 610, Oregon Laws 2023, collected
17 or received by the Department of Human Services, for state assessments and enterprise-wide
18 costs, is increased by \$8,331 for carrying out the provisions of sections 1 and 2 of this 2024
19 Act and the amendments to ORS 427.181 and 443.889 and section 2, chapter 568, Oregon Laws
20 2023, by sections 3, 4 and 7 of this 2024 Act.

21 **SECTION 14.** Notwithstanding any other provision of law, the General Fund appropriation
22 made to the Department of Human Services by section 1 (1), chapter 610, Oregon Laws 2023,
23 for the biennium ending June 30, 2025, for central services, is increased by \$888 for carrying
24 out the provisions of sections 1 and 2 of this 2024 Act and the amendments to ORS 427.181
25 and 443.889 and section 2, chapter 568, Oregon Laws 2023, by sections 3, 4 and 7 of this 2024
26 Act.

27 **SECTION 15.** Notwithstanding any other law limiting expenditures, the limitation on
28 expenditures established by section 3 (1), chapter 610, Oregon Laws 2023, for the biennium
29 ending June 30, 2025, as the maximum limits for payment of expenses from federal funds,
30 excluding federal funds not described in section 2, chapter 610, Oregon Laws 2023, collected
31 or received by the Department of Human Services, for central services, is increased by \$888
32 for carrying out the provisions of sections 1 and 2 of this 2024 Act and the amendments to
33 ORS 427.181 and 443.889 and section 2, chapter 568, Oregon Laws 2023, by sections 3, 4 and 7
34 of this 2024 Act.

35 **SECTION 16.** Notwithstanding any other provision of law, the General Fund appropriation
36 made to the Oregon Health Authority by section 1 (1), chapter 591, Oregon Laws 2023, for the
37 biennium ending June 30, 2025, for Health Systems Division -Administration, is increased by
38 \$62,208, for carrying out the provisions of section 6 of this 2024 Act.

39 **SECTION 17.** Notwithstanding any other law limiting expenditures, the limitation on
40 expenditures established by section 5 (1), chapter 591, Oregon Laws 2023, for the biennium
41 ending June 30, 2025, as the maximum limit for payment of expenses from federal funds,
42 excluding federal funds described in section 2, chapter 591, Oregon Laws 2023, collected or
43 received by the Oregon Health Authority, for Health Services Division - Administration, is
44 increased by \$62,208, for carrying out the provisions of section 6 of this 2024 Act.

45 **SECTION 18.** Notwithstanding any other provision of law, the General Fund appropriation

1 made to the Oregon Health Authority by section 1 (7), chapter 591, Oregon Laws 2023, for the
2 biennium ending June 30, 2025, for state assessments and enterprise-wide costs, is increased
3 by \$3,516, for carrying out the provisions of section 6 of this 2024 Act.

4 **SECTION 19.** Notwithstanding any other law limiting expenditures, the limitation on
5 expenditures established by section 5 (7), chapter 591, Oregon Laws 2023, for the biennium
6 ending June 30, 2025, as the maximum limit for payment of expenses from federal funds,
7 excluding federal funds described in section 2, chapter 591, Oregon Laws 2023, collected or
8 received by the Oregon Health Authority, for state assessments and enterprise-wide costs,
9 is increased by \$3,516, for carrying out the provisions of section 6 of this 2024 Act.

10
11 **CAPTIONS**

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13 **SECTION 20.** The unit captions used in this 2024 Act are provided only for the conven-
14 ience of the reader and do not become part of the statutory law of this state or express any
15 legislative intent in the enactment of this 2024 Act.

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17 **EMERGENCY CLAUSE**

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19 **SECTION 21.** This 2024 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect
21 on its passage.

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