

## SENATE AMENDMENTS TO SENATE BILL 1565

By COMMITTEE ON HEALTH CARE

February 15

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

2 On page 5, delete lines 1 through 7 and insert:

3 “**SECTION 1.** ORS 427.191 is amended to read:

4 “427.191. (1) As used in this section:

5 “(a) ‘Agency’ means an agency that hires, trains and supervises direct support professionals us-  
6 ing state funds received from the Department of Human Services **and includes providers of agency**  
7 **with choice services.**

8 “(b) ‘Attendant care services’ means services provided directly to an individual with a disability  
9 to assist with activities of daily living, instrumental activities of daily living and health-related  
10 tasks.

11 “(c) ‘**Authorized hours**’ means the number of hours approved in an individualized service  
12 **plan, as defined in ORS 427.101, for attendant care services.**

13 “[*(c)*] (d) ‘Child’ means an individual under 18 years of age who:

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

15 “(B) Meets the eligibility criteria to receive services under the Medically Fragile (Hospital)  
16 Model Waiver or the Medically Involved Children’s Waiver approved by the Centers for Medicare  
17 and Medicaid Services under 42 U.S.C. 1396n(c).

18 “[*(d)*] (e) ‘Client’ means an individual who receives attendant care services.

19 “[*(e)*] (f) ‘Client child’ means a child who receives attendant care services from the child’s par-  
20 ent.

21 “[*(f)*] (g) ‘Developmental disability services’ has the meaning given that term in ORS 427.101.

22 “[*(g)*] (h) ‘Direct support professional’ means an individual who is hired, employed, trained, paid  
23 and supervised by an agency to provide attendant care services to a client of the agency.

24 “[*(h)*] (i) ‘Nonparent caregiver’ means a direct support professional, personal support worker or  
25 similar provider who is paid to provide attendant care services to clients who are not the provider’s  
26 children.

27 “[*(i)*] (j) ‘Parent’ includes a:

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

29 “(B) Stepparent of a child; and

30 “(C) Legal guardian of a child.

31 “[*(j)*](A) (k)(A) ‘Parent provider’ means a parent who is paid to provide attendant care services  
32 to the parent’s minor child.

33 “(B) ‘Parent provider’ does not include a parent who is paid to provide attendant care services  
34 to [*a child*] **an individual, related to the parent**, who is 18 years of age or older.

35 “[*(k)*](A) (L)(A) ‘Personal support worker’ means an individual who is employed by a client or

1 the client’s representative and paid to provide attendant care services to the client.

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

3 “[L] (m) ‘State plan’ means Oregon’s state plan for medical assistance, described in 42 U.S.C.  
4 1396a, approved by the Centers for Medicare and Medicaid Services.

5 “[m] (n) ‘Very high behavioral needs’ means a minor child’s extraordinary needs for support  
6 due to the child’s behavioral condition as indicated by a federally approved functional needs as-  
7 sessment adopted by the department that assigns the child to the highest service level.

8 “[n] (o) ‘Very high medical needs’ means a minor child’s extraordinary needs for support due  
9 to the child’s medical condition as indicated by a federally approved functional needs assessment  
10 adopted by the department that assigns the child to the highest service level.

11 “(2) Subject to rules adopted under subsection [(8)] (11) of this section, to section 2, chapter 367,  
12 Oregon Laws 2023, and to available funding, the department shall administer a program to compen-  
13 sate parents to provide attendant care services to the parents’ children who have been assessed by  
14 the department to have very high medical or very high behavioral needs.

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

16 “(a)(A) A parent provider must be employed by an agency [*and not by the child or the other*  
17 *parent of the child*]; **and**

18 “[b] (B) The parent provider may not be paid to provide attendant care services to the client  
19 child by an agency that is owned by the parent, the child or any family member or for which the  
20 parent or other family member serves in any administrative or leadership capacity, including as a  
21 member of a board of directors; [*and*] **or**

22 **“(b)(A) Another parent, and not the parent provider, must be the employer of record for**  
23 **the client child; or**

24 **“(B) The parent provider must assign an alternative legal representative for the client**  
25 **child to make decisions about or manage the development and implementation of the client**  
26 **child’s individual support plan. The assignment must:**

27 **“(i) Be on a form prescribed by the department; and**

28 **“(ii) Clearly state that the assignment is limited to decisions regarding the development**  
29 **and implementation of the client child’s individual support plan and does not limit the au-**  
30 **thority of the parent provider to make decisions for the client child with respect to health**  
31 **care, education or religious training.**

32 “[c] (4) [*The*] **An** agency employing [*the*] **a** parent provider to provide attendant care services  
33 to [*the*] **a** client child:

34 “[A] (a) May not employ a parent provider as an independent contractor; **and**

35 “[B] (b) Shall pay parent providers overtime at the same rate and under the same circum-  
36 stances as direct support professionals who are not parent providers[;].

37 “[C] (5) Except as authorized by the department by rule, [*may not pay providers of attendant*  
38 *care services, including parent providers,*] **a parent provider may not be paid:**

39 **“(a) To provide services to a minor child during school hours unless the minor child is tempo-**  
40 **rarily at home recovering from surgery or illness and the temporary absence from school is recom-**  
41 **mended by the child’s health care provider; [*and*] **or****

42 **“(D) (b) [*May not pay providers of attendant care services, including parent providers,*] To pro-**  
43 **vide services to a minor child during school hours due to the determination of a school district or**  
44 **due to the choice of a parent of the client child to:**

45 **“(i) (A) Have the child regularly attend school less than the number of school hours attended**

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

3 “[(ii)] **(B)** Homeschool the client child; or

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

7 “[(4)] **(6)** Subsection [(3)(c)(D)] **(5)(b)** of this section does not prohibit a school district or other  
8 entity from compensating parents of students with disabilities for providing support for educational  
9 activities that would otherwise be the responsibility of the school district.

10 “[(5)] **(7)** A parent provider, during the hours that the parent provider is paid to provide one-  
11 on-one attendant care services to the client child:

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

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

16 “(c) Unless they are included as a goal or service in the child’s individual support plan and re-  
17 lated to the child’s disability-related support needs, may not perform tasks that are not for the pri-  
18 mary benefit of the client child, including but not limited to:

19 “(A) Grocery shopping for the household;

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

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

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

23 “[(6) *If required by the Centers for Medicare and Medicaid Services, the department may require*  
24 *a parent provider to assign an alternative legal representative for the client child to make decisions*  
25 *about or manage the development and implementation of the client child’s individual support plan. The*  
26 *assignment:]*

27 “[(a) *Must be on a form prescribed by the department; and]*

28 “[(b) *Must clearly state that the assignment is limited to decisions regarding the development and*  
29 *implementation of the child’s individual support plan and does not limit the authority of the parent*  
30 *provider to make decisions for the client child with respect to health care, education or religious*  
31 *training.]*

32 “**(8) The number of authorized hours that a parent provider may be paid to provide at-**  
33 **tendant care services under the program described in this section may not be limited except**  
34 **by:**

35 “(a) **The choice of the parent provider or the parent provider’s inability to provide the**  
36 **care;**

37 “(b) **The agency that employs the parent provider;**

38 “(c) **Any applicable collective bargaining agreement; or**

39 “(d) **The client child.**

40 “**(9) A nonparent caregiver may be paid using funding available through the state’s**  
41 **Community First Choice Option under 42 U.S.C. 1396n(k).**

42 “[(7)] **(10)** A parent provider is subject to the requirements of mandatory reporting of abuse  
43 under ORS 124.060 and 419B.010, 24 hours per day, seven days per week.

44 “[(8)] **(11)** The department shall adopt rules for the program described in this section using an  
45 advisory committee appointed under ORS 183.333 that represents the interests of parents, children

1 with developmental or intellectual disabilities, adults with disabilities, agencies, organizations of  
2 direct support professionals and personal support workers and organizations that advocate for per-  
3 sons with disabilities. The rules must include all of the following:

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

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

8 “(c) Training requirements for:

9 “(A) Parent providers regarding federal and state administrative rules regulating home-based  
10 and community-based services, including the impact of the rules on parent-child relationships with  
11 respect to discipline, supervision, physical intervention and self-determination of client children  
12 during the hours that the parent provider is being paid to provide attendant care services;

13 “(B) Client children to learn to advocate for themselves with respect to choosing and managing  
14 direct support professionals before and after reaching 18 years of age; and

15 “(C) Community developmental disability programs related to the employment of parent provid-  
16 ers, including on how to support families to manage issues concerning conflicts of interest, provider  
17 recruitment and retention and the empowerment of the client child to have a meaningful voice in  
18 the selection of the client child’s direct support professionals;

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

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

23 “(f) A requirement that any appeal related to the requirements of or benefits under the program  
24 is the sole responsibility of the central office staff of the department; and

25 “(g) Other requirements that the department deems necessary to carry out the provisions of this  
26 section.

27 “[9] (12) The department may adopt rules necessary to manage the cost, size and growth rate  
28 of the program described in this section that are necessary to protect the eligibility for and levels  
29 of services under programs serving individuals receiving developmental disability services provided  
30 for in the state plan, *[including the development of]* **except by developing** criteria to limit the num-  
31 ber of children eligible to participate in the program.

32 “[10] (13) Annually, the department shall report to the interim committees of the Legislative  
33 Assembly related to human services or, if the Legislative Assembly is in session, to the committees  
34 of the Legislative Assembly related to human services, in the manner provided in ORS 192.245, up-  
35 dates on the program described in this section, including:

36 “(a) The number of client children receiving attendant care services, the number of children  
37 receiving the services from parent providers and the number of children receiving the services from  
38 nonparent caregivers;

39 “(b) The number of hours of attendant care services provided by parent providers and number  
40 of hours of attendant care services provided by nonparent caregivers;

41 “(c) A comparison of the cost per child of providing attendant care services by parent providers  
42 under the program with the cost per child of providing attendant care services by nonparent  
43 caregivers; and

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

1           “(14) Any moneys appropriated to the department by the Legislative Assembly for the  
2           purpose of compensating parent providers or for the staffing necessary for compensating  
3           parent providers under this section may not be used by the department for any other pur-  
4           pose.”.

5           In line 14, delete “April 1, 2024” and insert “January 1, 2025”.

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