

D R A F T

SUMMARY

Requires discharge plan for child receiving developmental disability or mental health services who is placed in intermediate care facility or skilled nursing facility. Requires assessment of eligibility for services for child residing in facility for six months or more if child is not receiving services. Requires child receiving services who resides in facility to have individualized written service plan revised weekly until child is discharged from facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to children in long term care facilities; amending ORS 430.205 and 430.210; and declaring an emergency.

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

SECTION 1. ORS 430.210 is amended to read:

430.210. (1) While receiving services, every person shall have *[the right to]* **all of the following rights:**

(a) **The right to** choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence.

(b) **The right to** an individualized written service plan, services based upon that plan and periodic review and reassessment of service needs. **A child who is placed in a long term care facility has the right to an individualized discharge plan at the time of admission.**

(c) **The right to** ongoing participation in planning of services in a man-

ner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations. **After six months, the individualized written service plan for a child placed in a long term care facility must be revised on a weekly basis until the child is discharged from the long term care facility.**

(d) **The right to** not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(e) **The right to** not participate in experimentation without informed voluntary written consent.

(f) **The right to** receive medication only for the person's individual clinical needs.

(g) **The right to** not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) **The right to** a humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors, except that such access may be limited when it would create significant risk of harm to the person or others.

(i) **The right to** be free from abuse or neglect and to report any incident of abuse without being subject to retaliation.

(j) **The right to** religious freedom.

(k) **The right to** not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(L) **The right to** visit with family members, friends, advocates and legal and medical professionals.

(m) **The right to** exercise all rights set forth in ORS 427.031 if the [individual] **person** is committed to the Department of Human Services.

(n) **The right to** exercise all rights set forth in ORS 426.385 if the [individual] **person** is committed to the Oregon Health Authority.

(o) **The right to** be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedures for reporting abuse, and to have these rights and procedures, including the name, address and telephone number of the system described in ORS 192.517 (1), prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person.

(p) **The right to** assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(q) **The right to** have access to and communicate privately with any public or private rights protection program or rights advocate.

(r) **The right to** exercise all rights described in this section without any form of reprisal or punishment.

(2) *[An individual]* **A person** who is receiving developmental disability services under ORS 430.664 has the right to be informed and have the *[individual's]* **person's** guardian and any representative designated by the *[individual]* **person** be informed that a family member has contacted the Department of Human Services to determine the location of the *[individual]* **person**, and to be informed of the name and contact information, if known, of the family member.

(3) If a child has resided in a long term care facility for six months or more and is not receiving developmental disability services, the department shall determine the child's eligibility for developmental disability services and shall reassess the child's eligibility for developmental disability services every six months thereafter until the child is determined to be eligible for developmental disability services.

[(3)] (4) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute

documents.

[(4)] (5) The rights described in this section may be asserted and exercised by the person, the person's guardian and any representative designated by the person.

[(5)] (6) Nothing in this section may be construed to alter any legal rights and responsibilities between parent and child.

SECTION 2. ORS 430.205 is amended to read:

430.205. As used in this section and ORS 430.210:

(1) **"Child" means a person under 18 years of age.**

[(1)] (2) "Facility" means any of the following that are licensed or certified by the Department of Human Services or the Oregon Health Authority or that contract with the department or authority for the provision of services:

(a) A health care facility as defined in ORS 442.015;

(b) A domiciliary care facility as defined in ORS 443.205;

(c) A residential facility as defined in ORS 443.400; or

(d) An adult foster home as defined in ORS 443.705.

(3) **"Long term care facility" has the meaning given that term in ORS 442.015.**

[(2)] (4) "Person" means an individual who has a mental illness or developmental disability and receives services from a program or facility.

[(3)] (5) "Program" means a community mental health program or a community developmental disabilities program as described in ORS 430.610 to 430.695 and agencies with which the program contracts to provide services.

[(4)] (6) "Services" means mental health services or developmental disabilities services provided under ORS 430.630 or 430.664.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.