

House Bill 2105

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of 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 **as introduced**.

Prescribes standards for supported decision-making agreements. Provides scope of valid agreement. Limits liability of supporter acting under authority granted in written supported decision-making agreement. Limits liability of individuals relying on supporter's authority under written supported decision-making agreement.

Requires court to consider supported decision-making as less restrictive alternative to protective proceeding.

Directs school district to provide child with disability and child's parents with information regarding alternatives to protective proceedings, including supported decision-making.

A BILL FOR AN ACT

1
2 Relating to alternatives to protective proceedings; creating new provisions; and amending ORS
3 125.005, 125.055, 125.150, 125.325 and 343.181.

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

5 **SECTION 1. It is the policy of this state that the least restrictive alternative to the ap-**
6 **pointment of a fiduciary for a person with a disability is considered prior to the initiation**
7 **of a protective proceeding under ORS chapter 125. The purpose of section 2 of this 2021 Act**
8 **is to recognize supported decision-making agreements and to ensure that supported**
9 **decision-making agreements are considered as a less restrictive alternative to protective**
10 **proceedings under ORS chapter 125 for a person with a disability who needs assistance with**
11 **life decisions.**

12 **SECTION 2. (1) As used in this section and section 1 of this 2021 Act:**

13 (a) "Supported decision-making" has the meaning given that term in ORS 125.005.

14 (b) "Supporter" means an adult who enters into a supported decision-making agreement
15 with a person.

16 (2) A supported decision-making agreement may be an oral or written agreement and is
17 valid if:

18 (a) It is entered into voluntarily and without coercion;

19 (b) The parties have the capacity to understand the terms and scope of the agreement;
20 and

21 (c) The minor's parent or legal guardian or a person having legal custody of the minor
22 consents to the agreement, if the person to be supported is a minor.

23 (3) A person may enter into a supported decision-making agreement in which the person
24 authorizes a supporter to do any of the following:

25 (a) Provide supported decision-making to the supported person, including assistance with
26 understanding the options, responsibilities and consequences of the supported person's life
27 decisions, without making those decisions on behalf of the supported person.

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 **(b) Assist the supported person with accessing, collecting and obtaining information that**
2 **is relevant to a given life decision, including medical, psychological, financial, education or**
3 **treatment records, from any person.**

4 **(c) Assist the supported person with understanding the information described in para-**
5 **graph (b) of this subsection.**

6 **(d) Assist the supported person with communicating the supported person's decisions to**
7 **appropriate persons.**

8 **(4) A supporter may not, with or without the willful allowance of the supported person:**

9 **(a) Act as a surrogate decision maker for the supported person.**

10 **(b) Sign legal documents on behalf of the supported person.**

11 **(c) Assume or attempt to assume control of the supported person's finances, home,**
12 **property, medication, social interaction or ability to communicate.**

13 **(d) Bind the supported person to a legal document.**

14 **(e) Assist the supported person with making financial decisions that benefit the sup-**
15 **porter.**

16 **(5) A supported decision-making agreement is not an authorization to release identifying**
17 **or protected information, including protected health information. If an entity requires an**
18 **authorization to release information to the supporter, the supported person must authorize**
19 **the release of information in a document separate from the supported decision-making**
20 **agreement.**

21 **(6) Notwithstanding the existence of a supported decision-making agreement, a supported**
22 **person may at any time:**

23 **(a) Request and receive assistance from the supporter on any decision that is not covered**
24 **under the supported decision-making agreement.**

25 **(b) Receive assistance from another person who is not a supporter.**

26 **(7) Execution of a supported decision-making agreement may not be used as evidence**
27 **that the supported person is incapacitated, as defined in ORS 125.005, and does not preclude**
28 **the supported person from acting independently of the agreement.**

29 **(8) A supported decision-making agreement is terminated upon the occurrence of any of**
30 **the following:**

31 **(a) The supported person attaining 18 years of age.**

32 **(b) The supported person losing the capacity to understand the terms and scope of the**
33 **supported decision-making agreement.**

34 **(c) The termination of the supported decision-making agreement as provided in the terms**
35 **of the agreement.**

36 **(d) The supported person's termination of the supported decision-making agreement at**
37 **any time by:**

38 **(A) Canceling, defacing, obliterating, burning, tearing or otherwise destroying the sup-**
39 **ported decision-making agreement or directing another person to destroy the supported**
40 **decision-making agreement;**

41 **(B) Executing a statement, in writing, that is signed and dated by the supported person,**
42 **expressing the supported person's intent to revoke the supported decision-making agree-**
43 **ment; or**

44 **(C) Verbally expressing in the presence of two witnesses the supported person's intent**
45 **to revoke the supported decision-making agreement.**

1 (e) A supporter’s resignation as provided in the supported decision-making agreement or,
 2 if the supported decision-making agreement does not provide a method for the supporter’s
 3 resignation, at any time by giving notice, in writing, to the supported person.

4 (f) The Department of Human Services’ or a law enforcement agency’s substantiation of
 5 an allegation of neglect or abuse by the supporter under ORS 124.005 to 124.040, 124.050 to
 6 124.095, 124.100 to 124.140, 419B.005 to 419B.050, 430.735 to 430.765 or 441.630 to 441.680.

7 (g) A finding that the supporter is criminally liable for conduct described under para-
 8 graph (f) of this subsection.

9 (h) A court’s authorization of a restraining order against the supporter as described un-
 10 der ORS 124.005 to 124.040 or 124.100 to 124.140.

11 (9)(a) If a supported decision-making agreement is in writing, a person who reasonably
 12 relies in good faith on the authority of a supporter under the agreement is not liable to any
 13 other person based on that reliance.

14 (b) Paragraph (a) of this subsection does not apply if the person relying on the authority
 15 of the supporter has actual knowledge or notice that:

16 (A) The agreement has been terminated as described in subsection (8) of this section;

17 (B) The agreement is invalid; or

18 (C) The supporter has committed abuse under ORS 124.005 to 124.040, 124.050 to 124.095,
 19 124.100 to 124.140, 419B.005 to 419B.050, 430.735 to 430.765 or 441.630 to 441.680.

20 (10) A supporter acting under a supported decision-making agreement is immune from
 21 civil liability for the supporter’s acts or omissions in performing duties as the supporter if:

22 (a) The agreement is in writing; and

23 (b) The supporter performs the duties in good faith, in conformance with the supported
 24 decision-making agreement and with the care an ordinarily prudent person in a like position
 25 would exercise in the person’s own affairs.

26 (11)(a) The Department of Human Services shall adopt rules regarding supported
 27 decision-making and supported decision-making agreements. The rules must:

28 (A) Include standards for reporting conflicts of interest;

29 (B) Prioritize the use of unpaid supporters; and

30 (C) Describe the process for a parent, legal guardian or person who has legal custody of
 31 a minor to consent when a minor enters into a supported decision-making agreement.

32 (b) The department shall make available to the public training and information regarding
 33 the availability of supported decision-making agreements and the process for reporting sus-
 34 pected abuse of a person who has entered into a supported decision-making agreement.

35 **SECTION 3.** ORS 125.005 is amended to read:

36 125.005. As used in this chapter:

37 (1) “Conservator” means a person appointed as a conservator under the provisions of this
 38 chapter.

39 (2) “Fiduciary” means a guardian or conservator appointed under the provisions of this chapter
 40 or any other person appointed by a court to assume duties with respect to a protected person under
 41 the provisions of this chapter.

42 (3) “Financially incapable” means a condition in which a person is unable to manage financial
 43 resources of the person effectively for reasons including, but not limited to, mental illness, mental
 44 retardation, physical illness or disability, chronic use of drugs or controlled substances, chronic
 45 intoxication, confinement, detention by a foreign power or disappearance. “Manage financial re-

1 sources” means those actions necessary to obtain, administer and dispose of real and personal
 2 property, intangible property, business property, benefits and income.

3 (4) “Guardian” means a person appointed as a guardian under the provisions of this chapter.

4 (5) “Incapacitated” means a condition in which a person’s ability to receive and evaluate infor-
 5 mation effectively or to communicate decisions is impaired to such an extent that the person pres-
 6 ently lacks the capacity to meet the essential requirements for the person’s physical health or
 7 safety. “Meeting the essential requirements for physical health and safety” means those actions
 8 necessary to provide the health care, food, shelter, clothing, personal hygiene and other care with-
 9 out which serious physical injury or illness is likely to occur.

10 (6) “Minor” means any person who has not attained 18 years of age.

11 (7) “Protected person” means a person for whom a protective order has been entered.

12 (8) “Protective order” means an order of a court appointing a fiduciary or any other order of
 13 the court entered for the purpose of protecting the person or estate of a respondent or protected
 14 person.

15 (9) “Protective proceeding” means a proceeding under this chapter.

16 (10) “Respondent” means a person for whom entry of a protective order is sought in a petition
 17 filed under ORS 125.055.

18 (11) **“Supported decision-making” means supporting or accommodating a person to make**
 19 **life decisions without impeding the self-determination of the person. The support or accom-**
 20 **modation may include assisting the person to gather relevant information, assisting the**
 21 **person to evaluate the information to make a decision or assisting the person to communi-**
 22 **cate the person’s decision to others.**

23 [(11)] (12) “Visitor” means a person appointed by the court under ORS 125.150 for the purpose
 24 of interviewing and evaluating a respondent or protected person.

25 **SECTION 4.** ORS 125.055 is amended to read:

26 125.055. (1) A petition in a protective proceeding that seeks the appointment of a fiduciary must
 27 designate the type of fiduciary that the petitioner seeks to have appointed. If the petition does not
 28 request the appointment of a fiduciary, or if the petition requests both the appointment of a
 29 fiduciary and some other protective order, the petition must contain a statement of the nature of the
 30 protective order requested. The caption of the petition must reflect the type of fiduciary whose ap-
 31 pointment is requested or, if the appointment of a fiduciary is not requested, the nature of the pro-
 32 tective order requested. An original and duplicate copy of the petition must be filed with the court.

33 (2) A petition in a protective proceeding must contain the following information to the extent
 34 that the petitioner is aware of the information or to the extent that the petitioner is able to acquire
 35 the information with reasonable effort:

36 (a) The name, age, residence address and current location of the respondent.

37 (b) The interest of the petitioner.

38 (c) The name, age and address of the petitioner and any person nominated as fiduciary in the
 39 petition and the relationship of the person nominated to the respondent.

40 (d) A statement as to whether the person nominated as fiduciary:

41 (A) Has been convicted of a crime;

42 (B) Has filed for or received protection under the bankruptcy laws;

43 (C) Has caused any loss resulting in a surcharge under ORS 125.025 (3)(e) or a similar statute
 44 of another jurisdiction;

45 (D) Has been removed as a fiduciary under ORS 125.225; or

1 (E) Has had a license revoked or canceled that was required by the laws of any state for the
 2 practice of a profession or occupation.

3 (e) If an event listed in paragraph (d) of this subsection has occurred, a statement of the cir-
 4 cumstances surrounding the event.

5 (f) If the person nominated as fiduciary is not the petitioner, a statement indicating that the
 6 person nominated is willing and able to serve.

7 (g) The name and address of any fiduciary that has been appointed for the respondent by a court
 8 of any state, any trustee for a trust established by or for the respondent, any person appointed as
 9 a health care representative under the provisions of ORS 127.505 to 127.660 and any person acting
 10 as attorney-in-fact for the respondent under a power of attorney.

11 (h) The name and address of the respondent's treating physician and any other person who is
 12 providing care to the respondent.

13 (i) The factual information that supports the request for the appointment of a fiduciary or entry
 14 of other protective order, less restrictive alternatives to the appointment of a fiduciary that have
 15 been considered and why the alternatives are inadequate and the names and addresses of all persons
 16 who have information that would support a finding that an adult respondent is incapacitated or fi-
 17 nancially incapable.

18 **(j) Information regarding how supported decision-making was explored and why a**
 19 **fiduciary is still necessary.**

20 [(j)] **(k)** A statement that indicates whether the person nominated as fiduciary intends to place
 21 the respondent in a mental health treatment facility, a nursing home or other residential facility.

22 [(k)] **(L)** A general description of the estate of the respondent and the respondent's sources of
 23 income and the amount of that income.

24 [(L)] **(m)** A statement indicating whether the person nominated as fiduciary is a public or pri-
 25 vate agency or organization that provides services to the respondent or an employee of a public or
 26 private agency or organization that provides services to the respondent.

27 [(m)] **(n)** A statement that indicates whether the petitioner is petitioning for plenary authority
 28 or specified limited authority for the person nominated as fiduciary.

29 (3) In addition to the requirements of subsection (2) of this section:

30 (a) If a petition seeks appointment of a guardian, the petition must contain a statement on
 31 whether the guardian will exercise any control over the estate of the respondent. If the guardian
 32 will exercise any control over the estate of the respondent, the petition must contain a statement
 33 of the monthly income of the respondent, the sources of the respondent's income, and the amount
 34 of any moneys that the guardian will be holding for the respondent at the time of the appointment.

35 (b) If the petition seeks the appointment of a guardian for an adult respondent, of a guardian for
 36 a minor respondent who is more than 16 years of age, in cases where the court determines there is
 37 the likelihood that a petition seeking appointment of a guardian for the respondent as an adult will
 38 be filed before the date that the respondent attains majority, in accordance with subsection (6) of
 39 this section, or as an adult, or of a temporary fiduciary who will exercise the powers of a guardian
 40 for an adult respondent, the petition must contain a statement notifying the court that a visitor must
 41 be appointed.

42 (4) In addition to the requirements of subsection (2) of this section, if a petition seeks appoint-
 43 ment of a conservator or a temporary fiduciary who will exercise the powers of a conservator or if
 44 a petition seeks a protective order relating to the estate of the respondent, the petition must contain
 45 the petitioner's estimate of the value of the estate.

1 (5) A petitioner may join parties in a petition in the manner provided by ORCP 28 for the joining
2 of defendants.

3 (6) A parent or guardian of a minor may file a petition that seeks the appointment of a guardian
4 for the minor as an adult, to become effective on the date that the minor attains majority, at any
5 time within 90 days before the date that the minor attains majority or at any other time determined
6 by the court to be necessary and appropriate to ensure the ongoing protection, safety and welfare
7 of the minor upon attaining majority.

8 (7) The court shall review a petition seeking appointment of a guardian and shall dismiss the
9 proceeding without prejudice, or require that the petition be amended, if the court determines that
10 the petition does not meet the requirements of this section.

11 **SECTION 5.** ORS 125.150 is amended to read:

12 125.150. (1)(a) The court shall appoint a visitor upon the filing of a petition in a protective
13 proceeding that seeks the appointment of:

14 (A) A guardian for an adult respondent;

15 (B) A guardian for a minor respondent who is more than 16 years of age, in cases where the
16 court determines there is the likelihood that a petition seeking appointment of a guardian for the
17 respondent as an adult will be filed before the date that the respondent attains majority, in ac-
18 cordance with ORS 125.055 (6), or as an adult; or

19 (C) A temporary fiduciary who will exercise the powers of a guardian for an adult respondent.

20 (b) The court may appoint a visitor in any other protective proceeding or in a proceeding under
21 ORS 109.329.

22 (2) A visitor may be an officer, employee or special appointee of the court. The person appointed
23 may not have any personal interest in the proceedings. The person appointed must have training or
24 expertise adequate to allow the person to appropriately evaluate the functional capacity and needs
25 of a respondent or protected person, or each petitioner and the person to be adopted under ORS
26 109.329. The court shall provide a copy of the petition and other filings in the proceedings that may
27 be of assistance to the visitor.

28 (3) A visitor appointed by the court under this section shall interview a person nominated or
29 appointed as fiduciary and the respondent or protected person, or each petitioner and the person to
30 be adopted under ORS 109.329, personally at the place where the respondent or protected person,
31 or each petitioner or the person to be adopted under ORS 109.329, is located.

32 (4) Subject to any law relating to confidentiality, the visitor may interview any physician,
33 naturopathic physician or psychologist who has examined the respondent or protected person, or
34 each petitioner under ORS 109.329, the person or officer of the institution having the care, custody
35 or control of the respondent or protected person, or each petitioner under ORS 109.329, and any
36 other person who may have relevant information.

37 (5) If requested by a visitor under subsection (4) of this section, a physician, naturopathic phy-
38 sician or psychologist who has examined the respondent or protected person, or each petitioner
39 under ORS 109.329, may, with patient authorization or, in the case of a minor respondent, with the
40 authorization of the minor's parent or the person having custody of the minor, or in response to a
41 court order in accordance with ORCP 44 or a subpoena under ORCP 55, provide any relevant in-
42 formation the physician, naturopathic physician or psychologist has regarding the respondent or
43 protected person, or each petitioner under ORS 109.329.

44 (6) A visitor shall determine whether it appears that the respondent or protected person, or each
45 petitioner or the person to be adopted under ORS 109.329, is able to attend the hearing and, if able

1 to attend, whether the respondent or protected person, or each petitioner or the person to be
 2 adopted under ORS 109.329, is willing to attend the hearing.

3 (7) If a petition is filed seeking the appointment of a guardian for an adult respondent, a visitor
 4 shall investigate the following matters:

5 (a) The inability of the respondent to provide for the needs of the respondent with respect to
 6 physical health, food, clothing and shelter;

7 (b) The location of the respondent's residence and the ability of the respondent to live in the
 8 residence while under guardianship;

9 (c) Alternatives to guardianship considered **and explored** by the petitioner, **including sup-**
 10 **ported decision-making**, and reasons why those alternatives are not available;

11 (d) Health or social services provided to the respondent during the year preceding the filing of
 12 the petition, when the petitioner has information as to those services;

13 (e) The inability of the respondent to resist fraud or undue influence; and

14 (f) Whether the respondent's inability to provide for the needs of the respondent is an isolated
 15 incident of negligence or improvidence, or whether a pattern exists.

16 (8) If a petition is filed seeking the appointment of a fiduciary, a visitor shall determine whether
 17 the respondent objects to:

18 (a) The appointment of a fiduciary; and

19 (b) The nominated fiduciary or prefers another person to act as fiduciary.

20 (9) If a petition is filed seeking the appointment of a conservator in addition to the appointment
 21 of a guardian, a visitor shall investigate whether the respondent is financially incapable. The visitor
 22 shall interview the person nominated to act as conservator and shall interview the respondent per-
 23 sonally at the place where the respondent is located.

24 (10) A visitor shall determine whether the respondent or protected person, or each petitioner
 25 or the person to be adopted under ORS 109.329, wishes to be represented by counsel and, if so,
 26 whether the respondent or protected person, or each petitioner or the person to be adopted under
 27 ORS 109.329, has retained counsel and, if not, the name of an attorney the respondent or protected
 28 person, or each petitioner or the person to be adopted under ORS 109.329, wishes to retain.

29 (11) If the respondent or protected person, or each petitioner or the person to be adopted under
 30 ORS 109.329, has not retained counsel, a visitor shall determine whether the respondent or protected
 31 person, or each petitioner or the person to be adopted under ORS 109.329, desires the court to ap-
 32 point counsel.

33 (12) If the respondent or protected person, or each petitioner or the person to be adopted under
 34 ORS 109.329, does not plan to retain counsel and has not requested the appointment of counsel by
 35 the court, a visitor shall determine whether the appointment of counsel would help to resolve the
 36 matter and whether appointment of counsel is necessary to protect the interests of the respondent
 37 or protected person, or each petitioner or the person to be adopted under ORS 109.329.

38 **SECTION 6.** ORS 125.325 is amended to read:

39 125.325. (1) Not later than 30 days following each anniversary of appointment, a guardian for
 40 an adult protected person shall file with the court a written report. The report must include a dec-
 41 laration under penalty of perjury in the form required by ORCP 1 E, or an unsworn declaration
 42 under ORS 194.800 to 194.835, if the declarant is physically outside the boundaries of the United
 43 States. Copies of the guardian's report must be given to those persons specified in ORS 125.060 (3).
 44 The report shall be in substantially the following form:

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IN THE _____ COURT _____ COUNTY,
STATE OF OREGON
DEPARTMENT OF PROBATE

In the Matter of the) No. _____
Guardianship of)
_____,)
(Name of protected)
person))
A Protected)
Person.)

GUARDIAN'S REPORT

I am the guardian for the person named above, and I make the following report to the court as required by law:

1. My name is _____.

2. My address and telephone number are:

Phone _____

3. The name, if applicable, and address of the place where the person now resides are:

4. The person is currently residing at the following type of facility or residence:

5. The person is currently engaged in the following programs and activities and receiving the following services (brief description):

6. I was paid for providing the following items of lodging, food or other services to the person:

7. The name of the person primarily responsible for the care of the person at the person's place of residence is:

8. The name and address of any hospital or other institution where the person is now admitted on a temporary or permanent basis are:

9. The person's physical condition is as follows (brief description):

10. The person's mental condition is as follows (brief description):

11. Facts that support the conclusion that the person is incapacitated include the following:

1 12. I made the following contacts with the person during the past year (brief description):

2 _____

3 13. I limited the person's association with _____ (Please specifically name any limitations and
4 briefly describe the limitation):

5 _____

6 14. I made the following major decisions on behalf of the person during the past year (brief de-
7 scription):

8 _____

9 **15. Supported decision-making was explored in the following ways:**

10 _____

11 **16. To grant more autonomy to the protected person, the authority of the guardian may**
12 **be safely limited as follows:**

13 _____

14 [15.] **17.** I believe the guardianship should or should not continue because:

15 _____

16 [16.] **18.** At the time of my last report, I held the following amount of money on behalf of the
17 person: \$_____. Since my last report, I received the following amount of money on behalf of the
18 person: \$_____. I spent the following amount of money on behalf of the person: \$_____. I
19 now hold the following amount of money on behalf of the person: \$_____.

20 [17.] **19.** A true copy of this report will be given to the person, any conservator for the person
21 and any other person who has requested notice.

22 [18.] **20.** Since my last report:

23 (a) I have been convicted of the following crimes (not including traffic violations):

24 _____

25 (b) I have filed for or received protection from creditors under the Federal Bankruptcy Code
26 (yes or no): _____.

27 (c) I have had a professional or occupational license revoked or suspended (yes or no):
28 _____.

29 (d) I have had my driver license revoked or suspended (yes or no): _____.

30 [19.] **21.** Since my last report, I have delegated the following powers over the protected person
31 for the following periods of time (provide name of person powers delegated to):

32 _____

33 I hereby declare that the above statement is true to the best of my knowledge and belief, and
34 that I understand it is made for use as evidence in court and is subject to penalty for perjury.

35 Dated this ____ day of _____, 2_____.

36 _____

37 Guardian

38 NOTICE: ANY PERSON INTERESTED IN THE AFFAIRS OR WELFARE OF THE PRO-
39 TECTED PERSON WHO IS THE SUBJECT OF THIS REPORT WHO HAS CONCERNS ABOUT
40 THIS REPORT OR THE GUARDIAN'S PERFORMANCE MAY CONTACT THE COURT AS FOL-
41 LOWS:

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(2) If the guardian indicates in the report under subsection (1) of this section that the guardianship should not continue or fails to provide adequate information in the report supporting the continuing need for the guardianship, the court shall order the guardian to supplement the report or file a motion to terminate the protective proceeding under ORS 125.090.

(3) Failure of the guardian to comply with an order under subsection (2) of this section before the 30th day following the date of the order is grounds for removal under ORS 125.225 (1).

(4) If the guardian fails to comply with an order issued under subsection (2) of this section, the court, on its own motion or on the petition of any other person, shall order the guardian to appear and show cause why the guardian should not be removed.

(5) The court shall serve a copy of any order issued under subsection (2) or (4) of this section and a copy of the report filed under subsection (1) of this section and supplemental materials, if any, upon those persons entitled to notice under ORS 125.060 (3).

SECTION 7. ORS 343.181 is amended to read:

343.181. (1) When a child with a disability reaches the age of majority as described in ORS 109.510 or 109.520 or is emancipated pursuant to ORS 419B.550 to 419B.558:

[(1)] (a) The rights accorded to the child’s parents under this chapter transfer to the child[;].

(b) The school district shall provide the child and the child’s parents with information regarding supported decision-making and other alternatives to guardianship as well as information regarding strategies to remain engaged in the child’s secondary education and post-school outcomes.

[(2)] (c) The school district shall provide any written notice required to both the child and the parents[; and].

[(3)] (d) The school district shall notify the child and the parents of the transfer of rights.

(2) The school district shall provide the information described in subsection (1)(b) of this section at each individualized education program meeting that includes discussion of post-secondary goals and transition services.