

House Bill 3128

Sponsored by Representative NOBLE (at the request of Lesli Lucier)

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**.

Requires long term care facilities and residential facilities to permit resident of facility to have support person to provide emotional and physical support and supplemental care.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to congregate care facilities; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 441.**

5 **SECTION 2. (1) As used in this section, "support person" means a family member,**
6 **guardian, personal care assistant or other paid or unpaid attendant selected by a resident**
7 **to provide emotional or physical support or supplemental services such as ensuring a clean**
8 **room and clean clothes, adequate food and hydration and assisting with general hygiene of**
9 **the resident.**

10 **(2) A long term care facility licensed in this state must allow a resident to designate at**
11 **least three support persons, and to allow at least one support person to be present with the**
12 **resident at all times to provide emotional and physical support and supplemental care to the**
13 **resident inside or outside of the resident's room and facility.**

14 **(3) A long term care facility may impose conditions regarding support persons to ensure**
15 **the safety of the resident, support person and staff such as:**

16 **(a) Requiring a support person to:**

17 **(A) Wear personal protective equipment provided by the facility and follow hand washing**
18 **and other protocols for preventing the potential spread of infection;**

19 **(B) Be free of any symptoms of viruses or contagious diseases; and**

20 **(C) Submit to screenings for viruses or contagious diseases upon entering and exiting the**
21 **facility;**

22 **(b) Limiting the number of support persons allowed to be present with the resident at a**
23 **time; and**

24 **(c) Limiting the total number of support persons allowed to be present during the course**
25 **of a day.**

26 **(4) A long term care facility must inform a resident, at the time of admission, of the**
27 **resident's right to support persons under this section and must post the facility's policy and**
28 **requirements for support persons at entry points to the facility and on the facility's website.**

29 **(5) This section does not affect a long term care facility's obligation to:**

30 **(a) Provide residents with effective communication supports or other reasonable accom-**
31 **modations in accordance with federal and state laws; or**

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) Make exceptions to the facility’s visitor policy, including exceptions to the number
2 of support persons allowed access to the resident, as a reasonable accommodation under the
3 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

4 **SECTION 3.** (1) In addition to any other penalty or remedy provided by law, the Oregon
5 Health Authority may impose a civil penalty of up to \$10,000 for each violation of section 2
6 of this 2021 Act.

7 (2) Moneys received under this section shall be paid into the General Fund.

8 (3) Civil penalties shall be imposed as provided in ORS 183.745.

9 **SECTION 4.** Section 5 of this 2021 Act is added to and made a part of ORS 443.400 to
10 443.455.

11 **SECTION 5.** (1) As used in this section, “support person” means a family member,
12 guardian, personal care assistant or other paid or unpaid attendant selected by a resident
13 to provide emotional or physical support or supplemental services such as ensuring a clean
14 room and clean clothes, adequate food and hydration and assisting with general hygiene of
15 the resident.

16 (2) A residential facility licensed in this state must allow a resident to designate at least
17 three support persons, and to allow at least one support person to be present with the resi-
18 dent at all times to provide emotional and physical support and supplemental care to the
19 resident inside or outside of the resident’s room and facility.

20 (3) A residential facility may impose conditions regarding support persons to ensure the
21 safety of the resident, support person and staff such as:

22 (a) Requiring a support person to:

23 (A) Wear personal protective equipment provided by the facility and follow hand washing
24 and other protocols for preventing the potential spread of infection;

25 (B) Be free of any symptoms of viruses or contagious diseases; and

26 (C) Submit to screenings for viruses or contagious diseases upon entering and exiting the
27 facility;

28 (b) Limiting the number of support persons allowed to be present with the resident at a
29 time; and

30 (c) Limiting the total number of support persons allowed to be present during the course
31 of a day.

32 (4) A residential facility must inform a resident, at the time of admission, of the
33 resident’s right to support persons under this section and must post the facility’s policy and
34 requirements for support persons at entry points to the facility and on the facility’s website.

35 (5) This section does not affect a residential facility’s obligation to:

36 (a) Provide residents with effective communication supports or other reasonable accom-
37 modations in accordance with federal and state laws; or

38 (b) Make exceptions to the facility’s visitor policy, including exceptions to the number
39 of support persons allowed access to the resident, as a reasonable accommodation under the
40 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

41 **SECTION 6.** (1) In addition to any other penalty or remedy provided by law, the Oregon
42 Health Authority may impose a civil penalty of up to \$10,000 for each violation of section 5
43 of this 2021 Act.

44 (2) Moneys received under this section shall be paid into the General Fund.

45 (3) Civil penalties shall be imposed as provided in ORS 183.745.

1 **SECTION 7.** A long term care facility and a residential facility must implement protocols
2 to inform residents of their rights under sections 2 and 5 of this 2021 Act and post the
3 facility's policies as required by sections 2 (4) and 5 (4) of this 2021 Act no later than August
4 1, 2021.

5 **SECTION 8.** This 2021 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
7 on its passage.

8
