

House Bill 4085

Sponsored by Representatives WRIGHT, MORGAN; Representatives GEORGE, LEVY, NOBLE, Senator ANDERSON
(Pre-session filed.)

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**.

Permits parent or guardian to admit child, with or without child's consent, to inpatient treatment facility or program licensed by Oregon Health Authority or Department of Human Services for certain mental, emotional, behavioral health or substance use disorder treatment. Requires initial assessment and periodic reviews supporting necessity of inpatient treatment. Prohibits facility or program from declining to admit child solely based on child's unwillingness to consent to admission. Provides process for child who is 14 years of age or older to request review of admission decision. Directs licensing agency to adopt rules for review of admission decision. Creates exceptions.

Directs department, in consultation with authority, to make written materials available regarding resources for families seeking mental, emotional or behavioral health treatment, or substance use disorder treatment, for minor children.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to treatment of minor children; and prescribing an effective date.

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

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

5 (a) **"Child" means an unmarried person under 18 years of age.**

6 (b) **"Ward" means a child within the jurisdiction of the juvenile court under ORS**
7 **419B.100.**

8 (2) **A parent or guardian of a child may admit the child, with or without the child's con-**
9 **sent, to an inpatient treatment facility or program licensed by the Oregon Health Authority**
10 **or the Department of Human Services for mental, emotional or behavioral health treatment**
11 **or for treatment for a substance use disorder, upon application to the facility or program**
12 **and after a careful diagnostic assessment is made by a neutral fact finder, consistent with**
13 **the requirements of this section.**

14 (3) **The neutral fact finder who conducts the assessment under this section:**

15 (a) **Must be a licensed clinician or other qualified professional, as described by the de-**
16 **partment by rule;**

17 (b) **Must be trained in the type of treatment for which the parent or guardian is admit-**
18 **ting the child;**

19 (c) **May not profit, financially or otherwise, from the child's admission; and**

20 (d) **May not be employed by the facility or program.**

21 (4) **The assessment under this section:**

22 (a) **May be conducted on the premises of the facility or program;**

23 (b) **Must include a private interview with the child, an interview with the child's parent**
24 **or guardian and an evaluation of the child's background and need for treatment; and**

25 (c) **Must culminate in a written report.**

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 (5)(a) The child may be admitted to the facility or program if the neutral fact finder de-
 2 termines that:

3 (A)(i) The child’s mental, emotional or behavioral health needs pose a risk of harm to the
 4 child or others; or

5 (ii) The child has a substance use disorder and, because of that disorder, poses a risk of
 6 harm to the child or others;

7 (B) The treatment or rehabilitation is in the child’s best interests; and

8 (C) There is no less restrictive alternative that would be equally as effective, from a
 9 clinical standpoint, as the facility or program.

10 (b) If the child is at least 14 years of age, in determining whether admission to the fa-
 11 cility or program is in the child’s best interests under this subsection, the neutral fact finder
 12 shall take into consideration the child’s reluctance or refusal to assent to treatment, the
 13 child’s maturity level and ability to understand the consequences of refusing treatment, and
 14 whether the treatment is essential to the child’s welfare or can be deferred without sub-
 15 stantial risk to the child’s welfare.

16 (c) A facility or program to which a child is admitted under this section shall conduct
 17 periodic reviews, at intervals not to exceed 30 days, to determine whether the criteria de-
 18 scribed in this subsection continue to exist.

19 (6) A facility or program may not decline to accept a child for admission under this sec-
 20 tion solely based on the child’s unwillingness to consent to the admission.

21 (7) If a child admitted to a facility or program under this section is at least 14 years of
 22 age, the child may request administrative review, as provided by the facility’s or program’s
 23 licensing agency by rule, of the appropriateness of the child’s admission under this section.

24 (8)(a) Upon admission of a child under this section, the facility or program shall notify
 25 the child’s parent or guardian and, if the child is at least 14 years of age, the child, both
 26 orally and in writing, in easily understandable language, of the process to request the child’s
 27 discharge from the facility or program, including the process for a child to request admin-
 28 istrative review of the admission decision under subsection (7) of this section.

29 (b) If the child attains 14 years of age while admitted to the facility or program, the fa-
 30 cility or program shall provide the child with the notice required under paragraph (a) of this
 31 subsection.

32 (9) A child admitted under this section shall be discharged no later than 72 hours after
 33 the earliest of the following:

34 (a) A facility or program receives a written request from the child’s parent or guardian
 35 requesting the child’s discharge from the facility or program;

36 (b) A facility or program makes a determination under subsection (5)(c) of this section
 37 that the child no longer meets the criteria for admission to the facility or program; or

38 (c) The child attains 18 years of age.

39 (10) This section does not apply to:

40 (a) The placement of a child or ward in an inpatient treatment facility or program by the
 41 Department of Human Services, the Oregon Youth Authority or a county juvenile depart-
 42 ment; or

43 (b) The voluntary admission of a child to a state hospital under ORS 426.220 or 426.650.

44 (11) The Oregon Health Authority or the Department of Human Services shall adopt any
 45 rules necessary for the implementation of this section.

1 **SECTION 2.** (1) As used in this section, “treatment” means mental, emotional or behav-
2 ioral health treatment or substance use disorder treatment.

3 (2) The Department of Human Services, in consultation with the Oregon Health Author-
4 ity, shall make the following written materials available on the department’s website:

5 (a) A description of public and private resources that are available to assist parents and
6 guardians who are seeking treatment in this state for minor children.

7 (b) A directory of inpatient and outpatient facilities and programs that are licensed by
8 the department or authority to provide treatment in this state to minor children.

9 (c) A directory of transportation services providers that are licensed by the department
10 or authority to transport minor children to facilities and programs described in paragraph

11 (b) of this subsection.

12 (d) A directory of individuals who are licensed by the department or authority to provide
13 in-home treatment in this state to minor children.

14 (e) Any other information the department determines relevant to assist parents and
15 guardians who seek treatment in this state for minor children.

16 (3) The department and authority, by rule, shall require each facility, program, service
17 provider or individual included in the directories described in subsection (2) of this section
18 to inform parents or guardians of patients or prospective patients about the availability of,
19 and how to access, the written materials described in subsection (2) of this section.

20 **SECTION 3.** (1) Sections 1 and 2 of this 2022 Act become operative on January 1, 2023.

21 (2) The Oregon Health Authority and the Department of Human Services may take any
22 action before the operative date set forth in subsection (1) of this section that is necessary
23 for the authority and the department to exercise, on and after the operative date set forth
24 in subsection (1) of this section, all of the duties, functions and powers conferred on the
25 authority and the department by sections 1 and 2 of this 2022 Act.

26 **SECTION 4.** This 2022 Act takes effect on the 91st day after the date on which the 2022
27 regular session of the Eighty-first Legislative Assembly adjourns sine die.

28