

House Bill 2664

Sponsored by Representative SANCHEZ, Senator PATTERSON; Representatives GRAYBER, HUDSON, LEVY B, NELSON, REYNOLDS, SMITH G, Senators CAMPOS, DEMBROW, GELSER BLOUIN, JAMA (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**.

Directs Department of Human Services to ensure provision of specified services to individuals receiving child welfare services who are deaf or hard of hearing. Directs department to employ statewide coordinator of child welfare services for individuals who are deaf or hard of hearing. Modifies requirements of Oregon Foster Children's Bill of Rights.

A BILL FOR AN ACT

1
2 Relating to child welfare; creating new provisions; and amending ORS 418.201.

3 Whereas individuals who are deaf or hard of hearing often require individualized child protec-
4 tive services and foster care services; and

5 Whereas research shows that individuals who are deaf or hard of hearing are subject to signif-
6 icantly more risks within the child welfare system than individuals who are able to hear due to
7 many factors including lack of communication access, lack of access to appropriate educational
8 services and lack of appropriate medical and mental health treatment services; and

9 Whereas some individuals who are deaf or hard of hearing may have secondary disabilities that
10 impact the type and manner of mental health services to be provided to such individuals; and

11 Whereas the ability to communicate with other human beings is one of the most basic of human
12 needs, which can be impacted by being deaf or hard of hearing; and

13 Whereas many individuals who are deaf or hard of hearing use sign language as their primary
14 language, while others express and receive language orally and aurally, with or without visual signs
15 or cues. Still others lack any significant language skills; and

16 Whereas it is essential for the mental health and well-being of individuals who are deaf or hard
17 of hearing that child protective services and foster care programs recognize the unique nature of
18 being deaf or hard of hearing, and ensure that all individuals who are deaf or hard of hearing have
19 appropriate and fully accessible services and therapeutic options; and

20 Whereas it is essential that individuals who are deaf or hard of hearing have foster care options
21 in which their unique communication mode is respected and utilized, and professional services are
22 provided fluently in the primary language mode of these individuals; and

23 Whereas it is essential that individuals who are deaf or hard of hearing have mental health
24 options in which psychiatrists, psychologists, therapists, counselors, social workers and other mental
25 health personnel understand the unique nature of being deaf or hard of hearing and are specifically
26 trained to work with individuals who are deaf or hard of hearing; and

27 Whereas it is essential that individuals who are deaf or hard of hearing have access to foster
28 care families and respite care who are familiar with their unique culture and needs; and

29 Whereas it is essential that a statewide coordinator of child protective services and foster care

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 services would be involved in every aspect of care as a representative of the state or system level
2 who understands deaf culture and the needs of children who are deaf or hard of hearing and their
3 family members; and

4 Whereas it is essential that individuals who are deaf or hard of hearing have programs in which
5 they have direct and appropriate access to a continuum of services, including appropriate early
6 intervention services as well as equal access to family preservation services, and be afforded prompt
7 access to all available state and federal programs; and

8 Whereas it is essential that individuals who are deaf or hard of hearing have access to spe-
9 cialized programs and services such as parenting classes, substance use programs and mental health
10 services; and

11 Whereas each individual who is deaf or hard of hearing should have a determination of the most
12 accessible foster care provider and services; and

13 Whereas, given their unique communication needs, individuals who are deaf or hard of hearing
14 would benefit from the development and implementation of state and regional programs for the
15 mental health needs of such individuals; and

16 Whereas children, including those who are deaf or hard of hearing, are to remain in the custody
17 of the child's parents or legal custodians, including those who are deaf or hard of hearing, unless
18 and until there has been a determination by a qualified person exercising competent professional
19 judgment in an accessible manner that removal is necessary to protect the child's physical, mental
20 or emotional health or safety; now, therefore,

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

22 **SECTION 1. Definitions. As used in this section and sections 2 and 3 of this 2023 Act:**

23 (1) **"Communication mode, style or language" means one or more of the following sys-**
24 **tems or methods of communication applicable to individuals who are deaf or hard of hearing:**

25 (a) **American Sign Language, English-based manual or sign systems or other sign lan-**
26 **guages;**

27 (b) **Protactile language;**

28 (c) **Minimal sign language system to communicate with those who use home-based signs,**
29 **idiosyncratic signs or other forms of gestures; and**

30 (d) **Oral, aural or speech-based systems.**

31 (2) **"Deaf" means a hearing loss which is so severe that it inhibits an individual's ability**
32 **to process linguistic information through hearing, with or without amplification or other**
33 **assistive technology.**

34 (3) **"Hard of hearing" means a hearing loss, whether permanent or fluctuating, which**
35 **may be corrected by amplification or other assistive technology or means.**

36 **SECTION 2. Child welfare services for individuals who are deaf or hard of hearing. (1)**
37 **The Department of Human Services shall:**

38 (a) **Determine the preferred communication mode, style or language of each individual**
39 **receiving child welfare services in this state who is deaf or hard of hearing by conducting**
40 **an appropriate language assessment, administered by providers who are proficient in the**
41 **communication mode, style or language being assessed.**

42 (b) **Ensure the provision of culturally and linguistically affirmative child welfare services**
43 **to individuals who are deaf or hard of hearing and develop, train and maintain a sufficient**
44 **number of professionals skilled in the provision of culturally and linguistically affirmative**
45 **child welfare services to individuals who are deaf or hard of hearing. Services are culturally**

1 and linguistically affirmative if they represent the full continuum of services to an individual
2 who is deaf or hard of hearing through appropriately licensed professionals who are fluent
3 in the individual's preferred communication mode, style or language, as well as the cultural
4 needs of the individual.

5 (c) Develop, train and maintain sufficient resources and professionals to ensure the pro-
6 vision of appropriately accessible child welfare services to individuals who are deaf or hard
7 of hearing, including qualified interpreters certified or otherwise able to render effective
8 communication in the child welfare setting, certified deaf interpreters, foreign sign language
9 interpreters, occupational therapists who are familiar with the unique needs of individuals
10 who are deaf or hard of hearing, prevention specialists, chemical dependency counselors and
11 social workers.

12 (d) Monitor all child welfare service programs to ensure that individuals who are deaf or
13 hard of hearing are adequately counted, tracked and serviced, including children in need of
14 various services in school, private therapy or hospitals, parents needing services to qualify
15 for restoration of child custody, adults needing the full continuum of services, chemical de-
16 pendency services for children and family members, prevention and psychoeducational pro-
17 grams for children and family members.

18 (e) Ensure adequate funding for the provision of appropriate child welfare services to
19 individuals who are deaf or hard of hearing.

20 (2) In geographical areas of this state where there are an insufficient number of child
21 welfare professionals who are trained to provide adequate services to individuals who are
22 deaf or hard of hearing, the department shall develop and implement strategies and plans to
23 address the insufficiencies, including:

24 (a) Authorizing the provision of child welfare services, including foster care and mental
25 health services, by professionals who are licensed by another state to individuals in this state
26 who are deaf or hard of hearing; and

27 (b) Ensuring that individuals who are deaf or hard of hearing have sufficient access to
28 child welfare services through remote technologies, including videophones or telemedicine.

29 (3) The department may not deny an individual who is deaf or hard of hearing access to
30 appropriate child welfare services solely based on the individual's residual hearing ability,
31 whether assisted or not, or the individual's prior experience with an alternative communi-
32 cation mode, style or language.

33 (4) Nothing in this section precludes the provision of child welfare services in more than
34 one communication mode, style or language for a particular individual.

35 (5) The department shall assign each family that is receiving child welfare services an
36 appropriately qualified social worker if at least one member of the family is an individual
37 who is deaf or hard of hearing.

38 (6) The department shall by rule establish procedures to ensure that individuals receiving
39 child welfare services who are deaf or hard of hearing are provided culturally and linguis-
40 tically appropriate access to services, including:

41 (a) Establishing guidelines for determining when a service provider is appropriately
42 qualified to provide services to a given individual who is deaf or hard of hearing, including
43 how to measure the service provider's fluency in the individual's preferred communication
44 mode, style or language;

45 (b) Ensuring that when appropriately qualified service providers are not available, the

1 individual is assigned a qualified interpreter who meets the department's standards for child
2 welfare service interpreters;

3 (c) Establishing guidelines for the use of remote interpreter services when in-person in-
4 terpreter services are unavailable;

5 (d) Establishing a procedure, and appropriate documentation, for when an individual who
6 is deaf or hard of hearing declines interpreter services; and

7 (e) Prohibiting the use of a family member of an individual who is deaf or hard of hearing
8 as the individual's interpreter.

9 (7) The department shall ensure that any diagnostic testing of individuals who are deaf
10 or hard of hearing and receiving child welfare services is conducted by professionals who are
11 appropriately qualified to provide services to individuals who are deaf or hard of hearing or
12 who are assisted by an appropriately qualified interpreter.

13 (8) The department, in consultation with the statewide coordinator described in section
14 3 of this section and the Oregon Deaf and Hard-of-Hearing Services Program described in
15 ORS 410.740, shall adopt rules for the implementation of this section.

16 **SECTION 3.** (1) The Department of Human Services shall employ at least one statewide
17 coordinator of child welfare services for individuals who are deaf or hard of hearing to en-
18 sure that the department complies with the requirements of section 2 of this 2023 Act.

19 (2) The statewide coordinator shall provide centralized coordination of resources, infor-
20 mation, referral, training and advocacy relating to child welfare services provided to indi-
21 viduals who are deaf or hard of hearing.

22 (3) The statewide coordinate shall establish and maintain a database for tracking and
23 collecting data on the individuals who are deaf or hard of hearing who receive child welfare
24 services.

25 (4) The statewide coordinator must, at a minimum:

26 (a) Be fluent in American Sign Language;

27 (b) Possess a thorough understanding of deaf culture;

28 (c) Possess a master's degree in child development, sociology, psychology, behavioral
29 health or a related field;

30 (d) Be knowledgeable and demonstrate an understanding of federal and state laws and
31 regulations regarding child welfare services and accommodations for people with disabilities;

32 (e) Be experienced or demonstrate the capability of creating or integrating programs
33 within the child welfare system; and

34 (f) Demonstrate aptitude to adapt and develop policies and procedures based on actual
35 service needs of individuals receiving child welfare services.

36 (5) The statewide coordinator shall:

37 (a) Ensure the provision of appropriate consultation, training and technical assistance
38 to child welfare service providers in various settings, including home visits, investigations,
39 judicial proceedings, foster care placement, respite services, educational placement and any
40 other providers of services to individuals receiving child welfare services who are deaf or
41 hard of hearing;

42 (b) Serve as a liaison between the department and other public bodies, as defined in ORS
43 174.109, for the collaboration necessary to maximize the use of state resources and joint
44 planning in the provision of child welfare services to individuals who are deaf or hard of
45 hearing;

1 (c) **Develop, coordinate, train and oversee the statewide delivery of child welfare services**
2 **for individuals who are deaf or hard of hearing;**

3 (d) **Establish statewide foster care standards of care for individuals receiving child wel-**
4 **fare services who are deaf or hard of hearing;**

5 (e) **Establish and administer a program to provide grants to public and private providers**
6 **of services to individuals receiving child welfare services who are deaf or hard of hearing to**
7 **achieve optimum service delivery within the child welfare system; and**

8 (f) **Collect and evaluate clinical and programmatic outcomes data from each provider of**
9 **services to individuals receiving child welfare services who are deaf or hard of hearing.**

10 **SECTION 4.** ORS 418.201 is amended to read:

11 418.201. It is the intent of the Legislative Assembly that each foster child have certain essential
12 rights, including but not limited to the following:

13 (1) To have the ability to make oral and written complaints about care, placement or services
14 that are unsatisfactory or inappropriate, and to be provided with information about a formal process
15 for making complaints without fear of retaliation, harassment or punishment.

16 (2) To be notified of, and provided with transportation to, court hearings and reviews by local
17 citizen review boards pertaining to the foster child's case when the matters to be considered or
18 decided upon at the hearings and reviews are appropriate for the foster child, taking into account
19 the age and developmental stage of the foster child.

20 (3) To be provided with written contact information of specific individuals whom the foster child
21 may contact regarding complaints, concerns or violations of rights, that is updated as necessary and
22 kept current.

23 (4) When a foster child is 14 years of age or older, to be provided with written information
24 within 60 days of the date of any placement or any change in placement, regarding:

25 (a) How to establish a bank account in the foster child's name as allowed under state law;

26 (b) How to acquire a driver license as allowed under state law;

27 (c) How to remain in foster care after reaching 18 years of age;

28 (d) The availability of a tuition and fee waiver for a current or former foster child under ORS
29 350.300;

30 (e) How to obtain a copy of the foster child's credit report, if any;

31 (f) How to obtain medical, dental, vision, mental health services or other treatment, including
32 services and treatments available without parental consent under state law; and

33 (g) A transition toolkit, including a comprehensive transition plan.

34 (5) With respect to a foster child's rights under the federal and state constitutions, laws, in-
35 cluding case law, rules and regulations:

36 (a) To receive a document setting forth such rights that is age-appropriate and developmentally
37 appropriate within 60 days of the date of any placement or any change in placement;

38 (b) To have a document setting forth such rights that is age-appropriate and developmentally
39 appropriate posted at the residences of all foster parents, child-caring agencies and independent
40 resident facilities;

41 (c) To have an annual review of such rights that is age-appropriate and developmentally appro-
42 priate while the foster child is in substitute care; and

43 (d) When the foster child is 14 years of age or older:

44 (A) To receive a document setting forth such rights that is age-appropriate and developmentally
45 appropriate; and

1 (B) To acknowledge in writing receipt of the document and that the rights contained in the
2 document were explained in an age-appropriate manner.

3 (6) To be provided with current and updated contact information for adults who are responsible
4 for the care of the foster child and who are involved in the foster child's case, including but not
5 limited to caseworkers, caseworker supervisors, attorneys, foster youth advocates and supporters,
6 court appointed special advocates, local citizen review boards and employees of the Department of
7 Human Services that provide certification of foster parents, child-caring agencies and independent
8 resident facilities.

9 (7) To have a hotline phone number that is available to the foster child at all times for the
10 purposes of enabling the foster child to make complaints and assert grievances regarding the foster
11 child's care, safety or well-being.

12 **(8) To be free from physical, verbal and emotional abuse and inhumane treatment, in-**
13 **cluding lack of communication or access to appropriate language services.**

14 **(9) To have the rights described and notices required in this section fully explained in the**
15 **foster child's preferred language.**

16 **(10) To enjoy individual dignity, liberty, pursuit of happiness and the protection of the**
17 **foster child's civil and legal rights as a person in the custody of the state.**

18 **(11) To have the foster child's privacy protected, the foster child's personal belongings**
19 **secure and transported with the foster child and, unless otherwise ordered by the court, to**
20 **have uncensored communication, including receiving and sending unopened communications**
21 **and having access to a telephone, videophone or electronic mail.**

22 **(12) To have a clean and safe living environment, free of infestations and contaminants,**
23 **and the ability to enter the foster child's housing at any time during the foster child's**
24 **placement.**

25 **(13) To be placed away from other children known to pose a threat of harm to the foster**
26 **child, either because of the foster child's own risk factors or those of the other child.**

27 **(14) To be placed in a home where the foster caregiver is aware of and understands the**
28 **foster child's history, communication and language needs and risk factors.**

29 **(15) To be the subject of a plan developed by the agency and the foster caregiver to ad-**
30 **dress identified behaviors and communication or language needs that may present risks to**
31 **the foster child or others.**

32 **(16) To have the foster child's position represented to the court at all review hearings.**

33 **SECTION 5. The section captions used in this 2023 Act are provided only for the con-**
34 **venience of the reader and do not become part of the statutory law of this state or express**
35 **any legislative intent in the enactment of this 2023 Act.**

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