Senate Bill 623

Sponsored by Senator LIEBER, Representative NOSSE (Presession 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.**

Requires Judicial Department, Department of Corrections, Oregon Public Guardian and Conservator and Oregon Health Authority to survey capacity of systems to provide required services to individuals and meet requirements related to hearing to determine fitness to proceed.

Requires coordination by all partners in providing community resources to assist defendants who lack fitness to proceed to engage in community restoration services and to assist persons who have been conditionally released by Psychiatric Security Review Board.

Requires Psychiatric Security Review Board to establish standardized end of jurisdiction planning which must begin 12 months prior to end of jurisdiction.

Makes Oregon Health Authority responsible for discharge planning and coordination of care for individuals committed to authority for treatment. Requires authority to implement tool for tracking placement and coordination of services for such individuals and for coordinating services for individuals in outpatient commitment.

Prescribes process for discharge of person from hospital to Oregon State Hospital.

Requires authority to conduct study of expenses and efficiency of services provided by third parties contracting with community mental health programs.

Requires authority to evaluate adequacy of funding to community mental health programs to collect data programs are required to collect.

Specifies that non-Medicaid caseload forecast made by authority for budget purposes must include forecast for individuals needing precommitment investigations and community restoration services.

Includes community restoration services as mandated services to be provided by community mental health programs subject to available funding.

Requires authority to provide feedback to community mental health programs on system-level performance measures.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to mental health services; creating new provisions; amending ORS 426.127, 430.630 and 430.640; and declaring an emergency.

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

SECTION 1. The Judicial Department, the Department of Corrections, the Oregon Public Guardian and Conservator and the Oregon Health Authority shall:

(1) Survey the capacity of:

(a) Local probation departments to participate in the hearings described in ORS 161.370 (2)(c) and to coordinate and provide supervision as ordered by a court in the hearings.

(b) County offices of public guardian and conservator to participate in the hearings described in ORS 161.370 (2)(c) and to coordinate and provide guardianship services as ordered by a court in the hearings.

(c) The authority to license and pay for enough secure residential treatment facilities for defendants committed to the custody of the superintendent of the Oregon State Hospital or the director of a facility designated by the authority under ORS 161.370 (3) or (4) to ensure the defendants' access to the services.

(d) Local community resources to ensure that community behavioral services are readily available for defendants who can safely participate in community restoration.

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.

(e) The community mental health programs to meet the requirements of ORS 426.070 and to participate in commitment hearings described in ORS 426.095.

(f) Judges and other court personnel to facilitate the hearings described in ORS 161.370 and have the opportunity to coordinate actions ordered by the court in the hearings.

(g) Public defense service providers to prepare and participate in hearings described in ORS 161.370.

(h) District attorneys to prepare for and participate in hearings described in ORS 161.370.

(2) Compile the findings of the survey and develop recommendations for funding or other resources needed to ensure the capacity needed.

(3) Submit a report of the findings and recommendations, in the manner prescribed by ORS 192.245, to the interim committees of the Legislative Assembly related to health and the judiciary no later than September 15, 2024.

SECTION 2. The Oregon Health Authority, the Department of Human Services, the Psychiatric Security Review Board, local courts, community mental health programs and other local mental health authorities and coordinated care organizations within this state shall collaborate to establish and coordinate community resources necessary to assist:

(1) Defendants who lack fitness to proceed and who have been ordered to engage in community restoration services under ORS 161.370; and

(2) Persons who are under the jurisdiction of the Psychiatric Security Review Board who have been conditionally released under ORS 161.315 to 161.351.

SECTION 3. Section 4 of this 2023 Act is added to and made a part of ORS 161.315 to 161.351.

SECTION 4. The Psychiatric Security Review Board shall establish a standardized end of jurisdiction planning process. Planning in each person's case must begin no earlier than 12 months before the end of the total period of commitment or conditional release described in ORS 161.327 (7) for the person or when there is a reasonable probability that the person will be discharged from commitment and conditional release with the next 12-month period.

SECTION 5. With respect to individuals who are committed to the Oregon Health Authority for treatment under ORS 426.130, the authority shall:

(1) Be responsible for discharge planning and coordination of care;

(2) Implement a process to screen the individuals and establish the eligibility of individuals for services at community mental health residential facilities so that the individuals do not have to be interviewed separately at each facility to which they apply for services;

(3) Implement a tool to track the placement and coordination of services for the individuals;

(4) Maintain a list of the number of individuals committed to the authority for treatment and adopt by rule criteria to prioritize the individuals for placement at the Oregon State Hospital or on a waiting list for the Oregon State Hospital; and

(5) If an individual is in a hospital and is to be transferred to the Oregon State Hospital, no less than one week before the transfer, meet with the hospital staff and the director of the community mental health program to discuss the goals of the individual's care and next steps.

SECTION 6. (1) The Oregon Health Authority shall conduct a study of the:

(a) Costs incurred by community mental health programs when the programs contract with third parties to provide services to clients of the programs, including indirect expenses

and administrative expenses; and

(b) Efficiency of providing services through third parties.

(2) The authority shall evaluate the adequacy of the funding provided to community mental health programs to collect and report the data as required by ORS 430.634.

(3) No later than January 1, 2024, the authority shall report the authority's findings under subsections (1) and (2) of this section, in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to health and to the Joint Interim Committee on Ways and Means Interim Subcommittee on Human Services.

SECTION 7. The agency request budget for the Oregon Health Authority filed under ORS 291.208 shall include, in the authority's non-Medicaid caseload forecast, a forecast of the number of individuals expected to need:

(1) Precommitment investigations; and

(2) Community restoration services, as defined in ORS 161.355.

SECTION 8. ORS 426.127 is amended to read:

426.127. The following provisions are applicable to outpatient commitment under ORS 426.130 as described:

(1) The Oregon Health Authority may only place a person in an outpatient commitment if an adequate treatment facility is available. **The authority is responsible for coordinating services for the person, including by identifying the acuity of the person's needs and coordinating the appropriate level of services.**

(2) At the time of the hearing under ORS 426.095, the community mental health program director, or a designee for the director, for the county in which the hearing takes place shall set the conditions for the outpatient commitment. The conditions shall include, but not be limited to, the following:

(a) Provision for outpatient care.

(b) A designation of a facility, service or other provider to provide care or treatment.

(3) A copy of the conditions shall be given to all of the individuals and entities described in ORS 426.278.

(4) Any outpatient commitment ordered under this section is subject to the provisions under ORS 426.275.

(5) The community mental health program director or designee, for the county where a person is on outpatient commitment, may modify the conditions for outpatient commitment when a modification is in the best interest of the person. The community mental health program director or designee shall send notification of such changes and the reasons for the changes to all those who received a copy of the original conditions under ORS 426.278.

SECTION 9. ORS 430.630 is amended to read:

430.630. (1) In addition to any other requirements that may be established by rule by the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide the following basic services to persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals;

(c) Training, case and program consultation and education for community agencies, related professions and the public;

(d) Guidance and assistance to other human service agencies for joint development of prevention

programs and activities to reduce factors causing alcohol abuse, alcoholism, drug abuse and drug dependence; and

(e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health program to ensure that, subject to the availability of funds, the following services for persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available when needed and approved by the Oregon Health Authority:

(a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention and prehospital screening examination;

(b) Care and treatment for a portion of the day or night, which may include day treatment centers, work activity centers and after-school programs;

(c) Residential care and treatment in facilities such as halfway houses, detoxification centers and other community living facilities;

(d) Continuity of care, such as that provided by service coordinators, community case development specialists and core staff of federally assisted community mental health centers;

(e) Inpatient treatment in community hospitals;

(f) Community restoration services, as defined in ORS 161.355; and

[*(f)*] **(g)** Other alternative services to state hospitalization as defined by the Oregon Health Authority.

(3) In addition to any other requirements that may be established by rule of the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide or ensure the provision of the following services to persons with mental or emotional disturbances:

(a) Screening and evaluation to determine the client's service needs;

(b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the authority for persons involved in involuntary commitment procedures;

(c) Vocational and social services that are appropriate for the client's age, designed to improve the client's vocational, social, educational and recreational functioning;

(d) Continuity of care to link the client to housing and appropriate and available health and social service needs;

(e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4) of this section;

(f) Residential services;

(g) Medication monitoring;

(h) Individual, family and group counseling and therapy;

(i) Public education and information;

(j) Prevention of mental or emotional disturbances and promotion of mental health;

(k) Consultation with other community agencies;

(L) Preventive mental health services for children and adolescents, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral and cognitive disorders in children. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for children at risk of later development of emotional disturb-

ances means programs and activities for children and their families that promote conditions, opportunities and experiences that encourage and develop emotional stability, self-sufficiency and increased personal competence; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop; and

(m) Preventive mental health services for older adults, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for older adults at risk of development of emotional disturbances means programs and activities for older adults and their families that promote conditions, opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.

(4) A community mental health program shall assume responsibility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) of this section, in the following circumstances:

(a) The person receiving care is a resident of the county served by the program. For purposes of this paragraph, "resident" means the resident of a county in which the person maintains a current mailing address or, if the person does not maintain a current mailing address within the state, the county in which the person is found, or the county in which a court-committed person with a mental illness has been conditionally released.

(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon State Hospital, or has been hospitalized as the result of a revocation of conditional release.

(c) Payment is made for the first 60 consecutive days of hospitalization.

(d) The hospital has collected all available patient payments and third-party reimbursements.

(e) In the case of a community hospital, the authority has approved the hospital for the care of persons with mental or emotional disturbances, the community mental health program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves voluntary or involuntary admissions to the hospital prior to admission.

(5) Subject to the review and approval of the Oregon Health Authority, a community mental health program may initiate additional services after the services defined in this section are provided.

(6) Each community mental health program and the state hospital serving the program's geographic area shall enter into a written agreement concerning the policies and procedures to be followed by the program and the hospital when a patient is admitted to, and discharged from, the hospital and during the period of hospitalization.

(7) Each community mental health program shall have a mental health advisory committee, appointed by the board of county commissioners or the county court or, if two or more counties have combined to provide mental health services, the boards or courts of the participating counties or, in the case of a Native American reservation, the tribal council.

(8) A community mental health program may request and the authority may grant a waiver regarding provision of one or more of the services described in subsection (3) of this section upon a showing by the county and a determination by the authority that persons with mental or emotional disturbances in that county would be better served and unnecessary institutionalization avoided.

(9)(a) As used in this subsection, "local mental health authority" means one of the following entities:

(A) The board of county commissioners of one or more counties that establishes or operates a community mental health program;

(B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(C) A regional local mental health authority comprising two or more boards of county commissioners.

(b) Each local mental health authority that provides mental health services shall determine the need for local mental health services and adopt a comprehensive local plan for the delivery of mental health services for children, families, adults and older adults that describes the methods by which the local mental health authority shall provide those services. The purpose of the local plan is to create a blueprint to provide mental health services that are directed by and responsive to the mental health needs of individuals in the community served by the local plan. A local mental health authority shall coordinate its local planning with the development of the community health improvement plan under ORS 414.575 by the coordinated care organization serving the area. The Oregon Health Authority may require a local mental health authority to review and revise the local plan periodically.

(c) The local plan shall identify ways to:

(A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this subsection;

(B) Maximize resources for consumers and minimize administrative expenses;

(C) Provide supported employment and other vocational opportunities for consumers;

(D) Determine the most appropriate service provider among a range of qualified providers;

(E) Ensure that appropriate mental health referrals are made;

(F) Address local housing needs for persons with mental health disorders;

(G) Develop a process for discharge from state and local psychiatric hospitals and transition planning between levels of care or components of the system of care;

(H) Provide peer support services, including but not limited to drop-in centers and paid peer support;

(I) Provide transportation supports; and

(J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile corrections systems and local mental health programs to ensure that persons with mental illness who come into contact with the justice and corrections systems receive needed care and to ensure continuity of services for adults and juveniles leaving the corrections system.

(d) When developing a local plan, a local mental health authority shall:

(A) Coordinate with the budgetary cycles of state and local governments that provide the local mental health authority with funding for mental health services;

(B) Involve consumers, advocates, families, service providers, schools and other interested parties in the planning process;

(C) Coordinate with the local public safety coordinating council to address the services de-

scribed in paragraph (c)(J) of this subsection;

(D) Conduct a population based needs assessment to determine the types of services needed locally;

(E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by the local plan;

(F) Describe the anticipated outcomes of services and the actions to be achieved in the local plan;

(G) Ensure that the local plan coordinates planning, funding and services with:

(i) The educational needs of children, adults and older adults;

(ii) Providers of social supports, including but not limited to housing, employment, transportation and education; and

(iii) Providers of physical health and medical services;

(H) Describe how funds, other than state resources, may be used to support and implement the local plan;

(I) Demonstrate ways to integrate local services and administrative functions in order to support integrated service delivery in the local plan; and

(J) Involve the local mental health advisory committees described in subsection (7) of this section.

(e) The local plan must describe how the local mental health authority will ensure the delivery of and be accountable for clinically appropriate services in a continuum of care based on consumer needs. The local plan shall include, but not be limited to, services providing the following levels of care:

(A) Twenty-four-hour crisis services;

(B) Secure and nonsecure extended psychiatric care;

(C) Secure and nonsecure acute psychiatric care;

(D) Twenty-four-hour supervised structured treatment;

(E) Psychiatric day treatment;

(F) Treatments that maximize client independence;

(G) Family and peer support and self-help services;

(H) Support services;

(I) Prevention and early intervention services;

(J) Transition assistance between levels of care;

(K) Dual diagnosis services;

(L) Access to placement in state-funded psychiatric hospital beds;

(M) Precommitment and civil commitment in accordance with ORS chapter 426; and

(N) Outreach to older adults at locations appropriate for making contact with older adults, including senior centers, long term care facilities and personal residences.

(f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the local mental health authority shall collaborate with the local public safety coordinating council to address the following:

(A) Training for all law enforcement officers on ways to recognize and interact with persons with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

(B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative to custodial arrests;

(C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and

the identity of persons of concern and offering mental health services to those in custody;

(D) Developing a voluntary diversion program to provide an alternative for persons with mental illness in the criminal and juvenile justice systems; and

(E) Developing mental health services, including housing, for persons with mental illness prior to and upon release from custody.

(g) Services described in the local plan shall:

(A) Address the vision, values and guiding principles described in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001;

(B) Be provided to children, older adults and families as close to their homes as possible;

(C) Be culturally appropriate and competent;

(D) Be, for children, older adults and adults with mental health needs, from providers appropriate to deliver those services;

(E) Be delivered in an integrated service delivery system with integrated service sites or processes, and with the use of integrated service teams;

(F) Ensure consumer choice among a range of qualified providers in the community;

(G) Be distributed geographically;

(H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

(I) Maximize early identification and early intervention;

(J) Ensure appropriate transition planning between providers and service delivery systems, with an emphasis on transition between children and adult mental health services;

(K) Be based on the ability of a client to pay;

(L) Be delivered collaboratively;

(M) Use age-appropriate, research-based quality indicators;

(N) Use best-practice innovations; and

(O) Be delivered using a community-based, multisystem approach.

(h) A local mental health authority shall submit to the Oregon Health Authority a copy of the local plan and revisions adopted under paragraph (b) of this subsection at time intervals established by the Oregon Health Authority.

SECTION 10. ORS 430.640 is amended to read:

430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community mental health programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community mental health program is operating within a county or when a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis.

(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community mental health program in the same manner in which the authority contracts with a county court or board of county commissioners.

(e) If a county agrees, contract with a public agency or private corporation for all services within one or more of the following program areas:

(A) Mental or emotional disturbances.

(B) Drug abuse.

(C) Alcohol abuse and alcoholism.

(f) Approve or disapprove the local plan and budget information for the establishment and operation of each community mental health program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 may not be placed in effect without prior approval of the authority. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with mental or emotional disturbances or within the portion for persons with alcohol or drug dependence may be made without authority approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community mental health programs, including adopting rules defining the range and nature of the services which shall or may be provided under ORS 430.630.

(h) Collect data and evaluate services in the state hospitals in accordance with the same methods prescribed for community mental health programs under ORS 430.634.

(i) Develop guidelines that include, for the development of comprehensive local plans in consultation with local mental health authorities:

(A) The use of integrated services;

(B) The outcomes expected from services and programs provided;

(C) Incentives to reduce the use of state hospitals;

(D) Mechanisms for local sharing of risk for state hospitalization;

(E) The provision of clinically appropriate levels of care based on an assessment of the mental health needs of consumers;

(F) The transition of consumers between levels of care; and

(G) The development, maintenance and continuation of older adult mental health programs with mental health professionals trained in geriatrics.

(j) Work with local mental health authorities to provide incentives for community-based care whenever appropriate while simultaneously ensuring adequate statewide capacity.

(k) Provide technical assistance and information regarding state and federal requirements to local mental health authorities throughout the local planning process required under ORS 430.630 (9).

(L) Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

(m)**(A)** Develop or adopt nationally recognized system-level performance measures, linked to the Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children, adults and older adults, including but not limited to quality and appropriateness of services, outcomes from services, structure and management of local plans, prevention of mental health disorders and integration of mental health services with other needed supports**; and**

(B) Review data collected from community mental health programs against the benchmarks in subparagraph (A) of this paragraph and provide feedback to community mental health programs on their progress in meeting the benchmarks and on any needed improvements.

(n) Develop standardized criteria for each level of care described in ORS 430.630 (9), including protocols for implementation of local plans, strength-based mental health assessment and case plan-

ning.

(o) Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children, adults and older adults that is derived from the needs identified in local plans, is consistent with the vision, values and guiding principles in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the need for and the role of state hospitals.

(p) Report biennially to the Governor and the Legislative Assembly on the progress of the local planning process and the implementation of the local plans adopted under ORS 430.630 (9)(b) and the state planning process described in paragraph (o) of this subsection, and on the performance measures and performance data available under paragraph (m) of this subsection.

(q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate prevalence and demand for mental health services using the most current nationally recognized models and data.

(r) Encourage the development of regional local mental health authorities comprised of two or more boards of county commissioners that establish or operate a community mental health program.

(2) The Oregon Health Authority may provide technical assistance and other incentives to assist in the planning, development and implementation of regional local mental health authorities whenever the Oregon Health Authority determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 (9).

(3) The enumeration of duties and functions in subsections (1) and (2) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in the authority by other provisions of law.

SECTION 11. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.