

Requested by Senator HAYDEN

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2395**

1 On page 7 of the printed A-engrossed bill, line 7, delete “may” and insert
2 “shall”.

3 After line 12, insert:

4 “(c) A policy adopted under this subsection must specify whether the
5 school district intends to allow the administration of short-acting opioid
6 antagonists to a student on school premises.

7 “(d) A procedure adopted under this subsection must, prior to the begin-
8 ning of each academic year:

9 “(A) Require that a school district board provide to the parent or legal
10 guardian of each minor student enrolled in a school in the school district a
11 copy of the policy regarding administration of short-acting opioid antag-
12 onists; and

13 “(B)(i) If the policy allows for the administration of a short-acting opioid
14 antagonist, allow a parent or legal guardian to opt out of allowing the ad-
15 ministration of a short-acting opioid antagonist to the minor student of the
16 parent or legal guardian; and

17 “(ii) Specify that a parent or legal guardian who opts out as described in
18 this subparagraph may not bring an action for civil liability against the
19 school district board if the minor student of the parent or guardian experi-
20 ences harm related to an opioid, or other substance, overdose that occurs on
21 a school premises, unless the school district knew, or reasonably should have

1 known, of the minor student’s substance use and the school district did not
2 inform the parent or legal guardian of the minor student’s substance use.

3 “(e) Notwithstanding ORS 30.800, 339.870 and 339.871, a school district
4 board that complies with the requirements of this subsection, and any school
5 administrator, teacher or other school employee of a school in the school
6 district, is not liable for civil damages as a result of the administration of,
7 or failure to administer, a short-acting opioid antagonist.”.

8 On page 9, lines 31 through 33, delete the boldfaced material.

9 In line 34, delete “(b)”.

10 In line 35, restore the bracketed material and delete “chemical depend-
11 ency” and insert “substance use disorder”.

12 In line 36, restore “ing methadone maintenance.”.

13 On page 11, after line 17, insert:

14 **“SECTION 19a. Sections 19b and 19c of this 2023 Act are added to
15 and made a part of ORS 109.675 to 109.695.**

16 **“SECTION 19b. A mental health care provider that provides outpa-
17 tient substance use disorder treatment to a minor pursuant to ORS
18 109.675 may not treat the minor for an underlying condition or disease
19 unless the minor is otherwise legally capable of providing consent to
20 the treatment of the underlying condition or disease or has consent
21 for treatment from another person legally authorized to provide con-
22 sent on behalf of the minor.**

23 **“SECTION 19c. (1) A mental health care provider may not provide
24 outpatient substance use disorder diagnosis or treatment to a minor
25 under 14 years of age without first obtaining the written consent of
26 the minor’s parent or legal guardian, except as otherwise authorized
27 pursuant to a court order.**

28 **“(2) If a parent or legal guardian is unable or unwilling to provide
29 consent under subsection (1) of this section, the minor may petition
30 the probate court pursuant to section 19e of this 2023 Act for a waiver**

1 of the consent requirement.

2 “(3) Unless otherwise prohibited by court order, upon request of the
3 parent or legal guardian of a minor who is receiving diagnosis or
4 treatment described in subsection (1) of this section, the mental health
5 care provider that is providing the diagnosis or treatment described in
6 subsection (1) of this section shall provide information to the minor’s
7 parent or guardian about the services provided to the minor, including
8 the types of treatments, services and medications, if any, being used
9 to diagnose or treat the minor’s substance use disorder. Unless oth-
10 erwise prohibited by federal law, the mental health care provider is
11 not required to obtain the consent of the minor before disclosing the
12 information described in this subsection.

13 “(4)(a) A mental health care provider who diagnoses or treats a
14 minor under 14 years of age for a substance use disorder shall imme-
15 diately report the minor’s substance use to the Department of Human
16 Services in the same manner as required for mandatory reports of
17 child abuse under ORS 419B.010.

18 “(b) Upon receiving a report under paragraph (a) of this subsection,
19 the department shall immediately cause an investigation to be made
20 to determine whether:

21 “(A) The minor’s substance use is evidence of child abuse, as de-
22 fined in ORS 419B.005; or

23 “(B) The minor’s parent or legal guardian has been negligent in
24 securing substance use disorder diagnosis or treatment for the minor.

25 “(c) If the department has reasonable cause to believe that the
26 parent has been negligent in securing substance use disorder diagnosis
27 or treatment for the minor under paragraph (b)(B) of this subsection,
28 the department may move the juvenile court to direct that the minor
29 be examined or treated as provided under ORS 419B.352.

30 “(5) A mental health care provider who in good faith provides out-

1 patient substance use disorder diagnosis or treatment to a minor pur-
2 suant to a court order is not subject to any civil liability for providing
3 such diagnosis or treatment without the consent of the minor’s parent
4 or legal guardian.

5 **“SECTION 19d. Section 19e of this 2023 Act is added to and made a**
6 **part of ORS chapter 125.**

7 **“SECTION 19e. (1) A minor who is under 14 years of age may, in**
8 **accordance with ORCP 27 A, file a petition for waiver of the require-**
9 **ment that a parent or legal guardian consent to the minor’s outpatient**
10 **substance use disorder diagnosis or treatment under section 19c of this**
11 **2023 Act. The minor may file the petition in the probate court of the**
12 **county in which the minor resides. For purposes of this subsection, the**
13 **“county in which the minor resides” means the county in which the**
14 **minor’s residence is located or the county in which the minor is found.**

15 **“(2) The probate court shall, upon the court’s first contact with a**
16 **minor seeking a waiver of parental consent under this section, provide**
17 **the minor with notice of the minor’s right to all of the following:**

18 **“(a) Confidentiality of the proceedings.**

19 **“(b) Court appointment of an attorney or guardian ad litem.**

20 **“(c) Assistance with preparing and filing the petition.**

21 **“(3) At the request of the minor, the probate court shall provide the**
22 **minor with assistance in preparing and filing the petition for waiver**
23 **of parental consent.**

24 **“(4) Notwithstanding any other requirements under ORS 125.055 (2),**
25 **a petition for waiver of parental consent under this section must**
26 **contain the following information, to the extent known by the minor:**

27 **“(a) The name, age, residence address and current location of the**
28 **minor.**

29 **“(b) The interest of the petitioner, if other than the minor.**

30 **“(c) The name and address of any fiduciary that has been appointed**

1 for the minor by a court of any state.

2 “(d) The name and address of the minor’s parents.

3 “(e) The name and address of the minor’s treating physician and
4 any other person who is providing or is expected to provide treatment
5 to the minor.

6 “(f) The factual information that supports the petition for a waiver
7 of parental consent, including whether the minor’s parents are unable
8 or unwilling to provide consent and the minor’s reasons for seeking
9 substance use disorder treatment.

10 “(5)(a) Notwithstanding any other notice requirements under ORS
11 125.060, notice of a petition for waiver of parental consent under this
12 section must be provided to each of the following persons whose
13 identities and addresses can be ascertained in the exercise of reason-
14 able diligence by the minor:

15 “(A) The minor’s parents.

16 “(B) The person who has exercised principal responsibility for the
17 care and custody of the minor during the 60-day period before the fil-
18 ing of the petition.

19 “(C) If the minor has no living parents, any person nominated to
20 act as a fiduciary for the minor in a will or other written instrument
21 prepared by a parent of the minor.

22 “(D) Any other person that the court requires.

23 “(b) Unless otherwise provided by the court for good cause shown,
24 the notices required under this subsection may be personally served
25 or mailed to the last-known address of the person at least 15 days be-
26 fore the final date for the filing of objections to the petition. Proof of
27 the service or mailing of notice must be filed in the proceeding before
28 the court enters any order on the petition, other than an order de-
29 scribed in subsection (6) of this section.

30 “(c) The notice required by this subsection must contain the infor-

1 **mation described in ORS 125.070 (1) and (5).**

2 **“(d) Any person who is interested in the affairs or welfare of the**
3 **minor may present objections to the petition and the provisions of**
4 **ORS 125.075 apply to any objections presented.**

5 **“(6) When a minor files a petition under this section, the probate**
6 **court shall hold an ex parte hearing in person or by telephone on the**
7 **day the petition is filed or on the following judicial day. Upon showing**
8 **by a preponderance of the evidence that obtaining outpatient diagnosis**
9 **and treatment for a substance use disorder is in the minor’s best in-**
10 **terests, the court shall order:**

11 **“(a) That a mental health care provider, as defined in section 16 of**
12 **this 2023 Act, may provide outpatient diagnosis and treatment for the**
13 **substance use disorder to the minor without parental consent; and**

14 **“(b) Any other relief that the court considers necessary to protect**
15 **the well-being of the minor.**

16 **“(7)(a) The court shall schedule a hearing on the petition for waiver**
17 **of parental consent to occur within 15 days after notice of the petition**
18 **is served or mailed.**

19 **“(b) Unless the minor is already represented by counsel or objects**
20 **to the appointment of counsel, the court shall appoint counsel for the**
21 **minor if:**

22 **“(A) The minor requests that counsel be appointed;**

23 **“(B) An objection is made or filed to the petition by any person; or**

24 **“(C) The court determines that the minor is in need of legal coun-**
25 **sel.**

26 **“(c) If the court appoints counsel under this subsection, the court**
27 **may determine that the minor is financially eligible for appointed**
28 **counsel at state expense and, if so, the compensation for legal counsel**
29 **and costs and expenses necessary for representation of the minor shall**
30 **be determined and paid by the public defense services executive direc-**

1 tor as provided under ORS 135.055.

2 “(8)(a) In a proceeding under this section, there is a presumption
3 that the parent or legal guardian acts in the best interest of the minor.

4 “(b) In an order granting relief under this section, the court shall
5 include findings of fact supporting the rebuttal of the presumption
6 described in paragraph (a) of this subsection.

7 “(c) The presumption described in paragraph (a) of this subsection
8 does not apply in a proceeding to modify an order granting relief under
9 this section.

10 “(9) If the court determines that the presumption described in sub-
11 section (8)(a) of this section has been rebutted by clear and convincing
12 evidence, the court shall enter an order authorizing the minor to ob-
13 tain, without parental consent, outpatient substance use disorder di-
14 agnosis and treatment as provided under section 19c of this 2023 Act.

15 “(10) In deciding whether the presumption described in subsection
16 (8)(a) has been rebutted and whether to allow the minor to obtain
17 outpatient substance use disorder diagnosis and treatment without
18 parental consent, the court may consider factors including, but not
19 limited to, the following, which may be shown by the evidence:

20 “(a) The parent or legal guardian is unable or unwilling to care
21 adequately for the minor;

22 “(b) Circumstances detrimental to the minor, as described in ORS
23 109.119 (10), exist if relief is denied;

24 “(c) Granting relief would not substantially interfere with the cus-
25 todial relationship; or

26 “(d) The parent or legal guardian has unreasonably denied the
27 minor’s access to clinically appropriate outpatient substance use dis-
28 order diagnosis and treatment.

29 “(11) In a proceeding under this section, the court may cause an
30 investigation, examination or evaluation to be made under ORS

1 **107.425.**

2 **“(12) This section does not apply to proceedings under ORS chapter**
3 **419B.**

4 **“(13) Nothing in this section permits a probate court to authorize**
5 **inpatient diagnosis and treatment of a substance use disorder for a**
6 **minor without parental consent.**

7 **“(14) Notwithstanding ORS 21.170, a probate court may not charge**
8 **or collect any fee for the filing of a petition under this section.”.**

9 In line 18, delete “Section 16” and insert “Sections 16, 19b, 19c and 19e”.

10 On page 12, after line 44, insert:

11 **“SECTION 21a. Section 21b of this 2023 Act is added to and made a**
12 **part of ORS 475.525 to 475.565.**

13 **“SECTION 21b. (1) As used in this section, ‘minor’ means a person**
14 **who has not arrived at the age of majority, as described in ORS**
15 **109.510.**

16 **“(2) Notwithstanding ORS 475.525 (3) and except as provided in**
17 **subsection (3) of this section, a minor may not possess hypodermic**
18 **syringes or needles, single-use drug test strips, drug testing tools or**
19 **any other item designed to prevent or reduce the potential harm as-**
20 **sociated with the use of controlled substances, including but not lim-**
21 **ited to items that reduce the transmission of infectious disease or**
22 **prevent injury, infection or overdose.**

23 **“(3) A minor may possess single-use drug test strips if the single-**
24 **use drug test strips are provided to the minor by a mental health care**
25 **provider, as defined in section 16 of this 2023 Act, as part of the**
26 **minor’s substance use disorder treatment and:**

27 **“(a) The minor’s parent or legal guardian consents to the minor’s**
28 **possession of single-use drug test strips; or**

29 **“(b) If the minor’s parent or legal guardian is unable or unwilling**
30 **to provide consent under paragraph (a) of this subsection, the minor**

1 **successfully petitions the probate court in the manner provided for**
2 **outpatient substance use disorder by section 19e of this 2023 Act for a**
3 **waiver of the consent requirement described in paragraph (a) of this**
4 **subsection.”.**

5 In line 45, after the period, insert “Section 21b of this 2023 Act and”.

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