

## SB 1521 A STAFF MEASURE SUMMARY

### Senate Committee On Human Services

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**Action Date:** 02/14/24

**Action:** Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

**Vote:** 4-1-0-0

**Yeas:** 4 - Gelser Blouin, Manning Jr, Prozanski, Weber

**Nays:** 1 - Robinson

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Iva Sokolovska, LPRO Analyst

**Meeting Dates:** 2/7, 2/12, 2/14

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#### WHAT THE MEASURE DOES:

The measure sets up a new initiative to provide better assistance to employers of personal support workers. The measure mandates that by January 1, 2026, the Department of Human Services (ODHS) must have at least one organization in place to deliver agency with choice services. Additionally, there are regulations in place to prevent agencies from offering incentives for enrollment or employment. Before making any changes to acuity-based staffing tools used by facilities, ODHS must evaluate the potential impact on administrative processes, as well as the safety of residents and staff. The measure directs ODHS to contract with licensed child-caring agencies for the provision of placement safety or crisis support. The measure delays requirements for installing automatic sprinkler systems in certain residential facilities.

#### Detailed Summary:

##### **Enhanced supports to employers of personal support workers**

- Defines enhanced support to employers of personal support workers.
- Directs ODHS to contract with one or more organizations to provide enhanced supports to employers of personal support workers by July 1, 2024.
- Defines requirements for contracted organizations.

##### **Agency with Choice**

- Clarifies that ODHS can contract only with endorsed organizations to deliver agency with choice services to individuals with intellectual or developmental disabilities.
- Directs ODHS to adopt rules to determine the minimum qualifications for agencies endorsed to deliver agency with choice services and specifies qualifications and reporting requirements for agencies.
- Delays requirement for ODHS to contract with at least one organization to deliver agency with choice services to January 1, 2026.
- Prohibits agencies from offering bonus prizes in exchange for enrollment or agreement to work for the agency; requiring clients to commit the majority of their assessed hours or limit services to individuals who bring their direct support staff to the agency; requiring staff to bring the agency their clients; and encouraging health providers to steer clients to an agency.
- Directs the Oregon Health Authority to hire one position responsible only for the investigation of Medicaid fraud or abuse.

##### **Acuity-based staffing tool**

- Directs ODHS to assess the administrative and operational impact on facilities and resident and staff safety before enacting any changes to the minimum requirements or design of acuity-based staffing tools adopted by certain residential care facilities.

## **SB 1521 A STAFF MEASURE SUMMARY**

- Modifies acuity-based staffing tool requirements for facilities, assessment of facility staffing levels, and enforcement of requirements by ODHS.

### **Placement safety, crisis supports, and temporary lodging**

- Defines "placement safety or crisis supports" and "temporary lodging."
- Modifies the definition of "child-caring agency" to include providers of placement safety or crisis supports and exempt certain other types of service providers.
- Permits ODHS to enter into a contract only with a licensed child-caring agency for placement safety or crisis supports.
- Permits private schools, private agencies, private organizations, and county programs that are child-caring agencies solely because they provide placement safety or crisis supports to continue to provide said services without a license through December 31, 2024, in certain situations.
- Delays requirements for residential training homes and an adult foster homes to have installed an automatic sprinkler system if their license was issued prior to July 1, 2026.

Declares an emergency, effective on passage.

### **ISSUES DISCUSSED:**

- Temporary lodging providers
- Licensing procedures
- Abuse of individuals with disabilities in care investigations
- Requirements of child-caring agencies

### **EFFECT OF AMENDMENT:**

The amendment sets up new provisions to provide better assistance to employers of personal support workers. The amendment mandates that by January 1, 2026, the Department of Human Services (ODHS) must have at least one organization in place to deliver agency with choice services. The amendment also requires ODHS to evaluate the potential impact on administrative processes, as well as the safety of residents and staff before making any changes to acuity-based staffing tools used by facilities. The amendment directs ODHS to contract with licensed child-caring agencies for the provision of placement safety or crisis support. The amendment also modifies requirements for installing automatic sprinkler systems in certain residential facilities. Finally, the amendment declares an emergency and makes the measure effective on its passage.

### Detailed Summary:

- Modifies acuity-based staffing tool requirements for facilities.
- Modifies requirements for residential training homes and an adult foster homes to have installed an automatic sprinkler system if their license was issued prior to July 1, 2026.
- Requires the Oregon Department of Human Services to contract with one or more organizations to provide enhanced supports to employers of personal support workers by July 1, 2024.
- Specifies organization qualifications and tasks. Directs ODHS to adopt by rule minimum qualifications for agencies to be endorsed by the department to deliver agency with choice services.
- Specifies requirements of agencies that employ staff to provide direct support services. Requires the Oregon Health Authority to hire for one position in the department's unit that is responsible for investigating Medicaid fraud or abuse and taking enforcement actions.
- Defines "placement safety or crisis supports" and "temporary lodging."
- Modifies the definition of "child-caring agency."
- Directs the Department of Human Services to enter into a contract with a licensed child-caring agency for placement safety or crisis supports.
- Permits private schools, private agencies, private organizations and county programs that are child-caring agencies solely because they provide placement safety or crisis supports to continue to provide said services without a license through December 31, 2024 in certain situations.

## SB 1521 A STAFF MEASURE SUMMARY

- Declares an emergency, effective on passage.

### BACKGROUND:

An acuity-based staffing tool (ABST) is a software or system used in healthcare facilities to determine appropriate staffing levels based on the acuity (severity) of patients' conditions. These tools help ensure that the right number of nurses with the appropriate skills are available to provide safe and effective care to patients. The tool collects data on various factors, including patient census (the number of patients), patient acuity (the severity of their conditions), required nursing interventions, nurse-patient ratios, skill mix of available staff, and unit-specific characteristics. Using algorithms or predefined criteria, the tool analyzes the collected data to calculate the staffing requirements for each unit or department within the healthcare facility. This calculation takes into account the level of care needed by patients, which can vary widely depending on factors such as diagnosis, treatment plans, and medical interventions. Based on the calculated staffing requirements, the tool provides recommendations or guidelines for nurse staffing levels. These recommendations help nurse managers and administrators make informed decisions when scheduling and assigning staff to different units or shifts. Some advanced acuity-based staffing tools can continuously monitor patient acuity levels and staffing levels in real-time. This allows for dynamic adjustments to staffing assignments based on changing patient needs throughout the day or shift. Acuity-based staffing tools may integrate with electronic health records (EHRs), workforce management systems, and other hospital systems to access relevant patient data, staff schedules, and organizational policies. This integration streamlines the staffing process and ensures compliance with regulatory requirements. In [House Bill 3359 \(2017\)](#), the Oregon Legislature directed ODHS to develop a technology-based ABST to assess residential care staffing needs. In 2021, these requirements were refined by [Senate Bill 714](#) by directing all residential care, assisted living facilities, and endorsed memory care communities in Oregon to adopt an ABST. Assisted living and residential care facilities may choose to use the ABST provided by ODHS or another ABST. The ODHS ABST became available online on January 3, 2022. All Oregon Community-Based Care facilities were required to adopt a technology-based ABST by February 1, 2022.

Agency with Choice is a service delivery option for in-home care in which individuals can select and direct their worker without being the formal employer of record. An employer of record can verify worker qualifications, coordinate the schedules and responsibilities for each worker, as well as manage withholding, filing and paying income and employment-related taxes, including workers' compensation premiums and unemployment taxes. [Senate Bill 570 \(2023\)](#) directed ODHS to contract with up to two consumer-directed employers to provide agency with choice services and specifies requirements for consumer-directed employers.

Temporary lodging is a practice used when no placement can be found for a youth, and they stay overnight in a hotel with ODHS Child Welfare workers, while the team works to resolve the placement crisis. Under ODHS rules, licensed child-caring agencies must follow a [long list of requirements](#). Current Oregon law allows unlicensed providers to supervise children in temporary lodging. In 2016, a lawsuit was filed against ODHS on behalf of two children by Youth, Rights & Justice (nonprofit law firm dedicated exclusively to children and families) and CASA of Multnomah County to end the practice of temporary lodging. In February [2018](#), ODHS entered into a settlement agreement to resolve the lawsuit. In 2019, the court found ODHS was not in compliance with the settlement and ODHS was required to comply with new standards. In July 2023, U.S. District Court Judge Michael McShane appointed Marty Beyer, a child welfare expert and Oregon psychologist, to make specific recommendations to the court for terminating the practice of temporary lodging. The Senate Interim Committee on Human Services received [the special master's report](#) and [heard recommendations from the special master](#) on January 11, 2024.