

# Senate Bill 1557

Sponsored by Senator GELSER BLOUIN; Senator PATTERSON, Representatives GAMBA, GOMBERG, MANNIX (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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires the OHA to provide certain services to certain people who are under 21 years of age. The Act says that, if a court orders the OHA to provide certain services to a youth, the order does not commit the youth to the OHA or change the youth's guardian. (Flesch Readability Score: 64.8).

Requires the Oregon Health Authority to seek federal approval to obtain federal funding to provide services and supports to certain individuals who are under 21 years of age to enable the individuals to live at home. Specifies services and supports and requirements for eligibility determinations.

Requires the authority to improve the process for accessing the services and supports to make it easier for individuals to access the services and supports, including for individuals who are eligible for services from more than one agency or more than one division within an agency.

Prohibits the denial of services and supports to individuals who have intellectual or developmental disabilities.

Requires the authority to create and maintain a unit staffed with staff who are trained to coordinate the services and supports on behalf of the individuals receiving them.

Requires the authority to contract with community-based entities to provide assistance to individuals and their families in accessing and managing services and supports.

Requires the authority to adopt rules listing medical assistance services that may not be delayed due to prior authorization, medical necessity reviews or provider restrictions.

Requires the authority and the Department of Education to develop strategies and recommendations for leveraging federal funds to provide certain school-based services and submit a report to the Legislative Assembly by October 1, 2024.

Modifies provisions regarding the assessment of a youth's fitness to proceed in a juvenile delinquency proceeding. Clarifies that an order directing that a youth receive restorative services does not commit the youth to the custody of the Oregon Health Authority or alter the youth's guardianship. Limits when a youth may be removed from a current placement to a new placement to receive restorative services.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

Relating to services to individuals who are under 21 years of age; creating new provisions; amending ORS 419C.380, 419C.392, 419C.396 and 419C.398; and declaring an emergency.

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

**SECTION 1. (1) The Oregon Health Authority shall, using funding available through the Community First Choice option under 42 U.S.C. 1396n(k), offer services and supports, listed in subsection (3) of this section, to individuals residing in this state who are under 21 years of age, qualify for medical assistance as defined in ORS 414.025 and meet the criteria established in subsection (2) of this section.**

**(2)(a) The authority shall establish by rule eligibility criteria for determining whether an individual, in the absence of home and community-based services and supports, would require the level of care furnished in an institution providing psychiatric services for individuals under 21 years of age and shall establish an assessment tool to determine needed services and supports.**

**(b) Individuals eligible for services and supports under this section include, but are not**

**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 **limited to, an individual who:**

2 (A) Has been hospitalized or has been in an out-of-home placement in the prior 24-month  
3 period;

4 (B) Has been diagnosed with a severe and persistent mental illness or behavioral disorder,  
5 serious emotional disturbance or trauma-related behavioral disorder;

6 (C) Came to an emergency room as a result of an attempted suicide, incident of self-harm  
7 or drug overdose;

8 (D) Needs home and community-based supports to ensure the individual's success living  
9 in noninstitutional placements and:

10 (i) Is being discharged from an inpatient hospital stay or leaving an out-of-home place-  
11 ment and wishes to receive services in the individual's own home or a foster care home; or

12 (ii) Is leaving a foster care home and wishes to receive services in the individual's own  
13 home; or

14 (E) Is at risk of being hospitalized or placed in an institutional setting as a result of be-  
15 haviors related to the individual's mental illness.

16 (c) An individual may not be denied eligibility for or access to services or supports under  
17 this subsection on the basis that the individual also has an intellectual or developmental  
18 disability.

19 (3) Services and supports provided under subsection (1) of this section must include, but  
20 are not limited to:

21 (a) Skills training;

22 (b) Home modifications;

23 (c) Assistive technology;

24 (d) Supervision;

25 (e) Attendant care services; and

26 (f) Nonmedical transportation.

27 (4) The authority shall seek a waiver or other federal authority necessary to:

28 (a) Disregard the income of a parent of an individual who is under 18 years of age when  
29 determining the individual's eligibility for medical assistance if the individual:

30 (A) Has a severe and persistent mental illness, substance use disorder or behavioral dis-  
31 order that requires a hospital, nursing home or inpatient psychiatric level of care and puts  
32 the individual at risk of an institutional placement in the absence of home and community-  
33 based supports and services; or

34 (B) Has a physical disability or chronic medical needs that require a hospital or nursing  
35 home level of care and that put the individual at risk of institutional placement in the ab-  
36 sence of home and community-based supports and services; and

37 (b) Provide flexibility for providing innovative services and supports needed to allow in-  
38 dividuals receiving services and supports under subsection (1) of this section to be successful  
39 living with family or in other home and community-based settings, including but not limited  
40 to:

41 (A) Specialized respite care;

42 (B) Job coaching and employment supports;

43 (C) Family counseling;

44 (D) Person-centered planning;

45 (E) Specialized peer support for individuals under 21 years of age and their parents,

1 guardians, personal representatives or families; and

2 (F) Specialized training and support for parents, guardians, personal representatives and  
3 family members of individuals under 21 years of age.

4 (5) The Department of Human Services and the authority shall:

5 (a) Develop a process to ensure that individuals who are eligible for services and supports  
6 under both the Community First Choice option and any other type of federal waiver or au-  
7 thority under subsection (4) of this section have all of their assessed needs fully met while  
8 avoiding duplication of services and supports;

9 (b) Ensure that an individual is not denied access to services and supports from the au-  
10 thority or the department on the basis that the individual is also receiving services and  
11 supports from the other agency or another agency;

12 (c) Ensure that services and supports are accessible to individuals by minimizing the  
13 number of steps an individual must take to establish eligibility for the services and supports,  
14 including by streamlining the application process for individuals who qualify for services and  
15 supports from both agencies or different divisions within an agency; and

16 (d) Ensure that individuals who experience intellectual or developmental disabilities along  
17 with mental illness or substance use disorder are provided access to services and supports  
18 offered by each agency without delay.

19 (6) The authority shall create and maintain a unit within the authority's children's be-  
20 havioral health program to support the coordination of the services and supports provided  
21 under this section to individuals, including those who are involved with multiple state agen-  
22 cies such as the authority, the department or the Oregon Youth Authority. The unit must  
23 coordinate with the Oregon Health Authority, the department and the Oregon Youth Au-  
24 thority to assist individuals who are receiving services and supports under this section to  
25 remain in the community and avoid health crises, hospitalization or an out-of-home place-  
26 ment. The unit must focus on prevention, recovery and support, supporting individuals and  
27 their families in accessing the appropriate comprehensive, wrap-around home and  
28 community-based services and supports that prevent crises from happening or from reoc-  
29 ccurring and that provide support and stabilization in the event of a crisis.

30 (7)(a) Subject to rules adopted by the Oregon Health Authority, an individual may be  
31 enrolled in a coordinated care organization to receive services and supports under this sec-  
32 tion but must be given the choice to change to services and supports paid for on a fee-for-  
33 service basis if the individual needs services or supports that are not immediately accessible  
34 through the local coordinated care organization. The individual must be allowed to see pro-  
35 viders outside of the coordinated care organization's provider network for evaluation, as-  
36 sessment, treatment, counseling, therapy or short-term residential care and must be ensured  
37 continuity in care with the individual's providers if the individual moves to a different ge-  
38 ographical area.

39 (b) The authority, a community mental health program or a coordinated care organiza-  
40 tion may not deny an individual access to mental health assessment, treatment or services  
41 on the basis that the individual also has an intellectual or developmental disability.

42 (8) An individual or the individual's parents, guardian or legal representative must be  
43 given the opportunity to direct the services and supports under this section, to choose how  
44 to employ providers and to select the providers, including the option to recruit and supervise  
45 the providers obtained through the Home Care Commission registry or other entity that

1 makes providers available.

2 (9) The authority shall contract with one or more community-based entities to develop  
3 person-centered services, assist individuals and their families in identifying and recruiting  
4 preferred providers of services and support staff, provide fiscal intermediary services and  
5 support individuals and their families in directing the provision of services and supports. The  
6 contracts must ensure access to culturally and linguistically appropriate and person-centered  
7 care for individuals and their families throughout this state.

8 (10)(a) The authority shall adopt rules for entities that supply providers of services and  
9 supports under this section to ensure the safety and quality of care. The rules must allow  
10 for both self-managed models of service and agency-delivered models of service, as selected  
11 by the individual receiving services and supports or the individual's parent, guardian or legal  
12 representative.

13 (b) As used in this subsection:

14 (A) "Agency-delivered model of service" means a public or private community agency or  
15 organization authorized by the authority to take direct responsibility for managing services  
16 and supports, including the hiring, training and supervision of support staff, in a manner  
17 that promotes the personal choices and values of an individual who is receiving the services  
18 and supports.

19 (B) "Self-managed model of service" means that an individual, or a legal or designated  
20 representative of the individual, takes direct responsibility for managing the services and  
21 supports provided to the individual with the assistance of a support system that promotes  
22 personal choice and control over the delivery of the services and supports.

23 (11) Rules adopted by the authority under subsection (10) of this section:

24 (a) Must require that any services described as treatment are provided only by licensed  
25 medical providers.

26 (b) May not require that attendant care services, supervision, respite or other nontreat-  
27 ment services be provided by licensed medical professionals or qualified mental health pro-  
28 fessionals.

29 **SECTION 2.** Section 3 of this 2024 Act is added to and made a part of ORS chapter 414.

30 **SECTION 3.** (1) The Oregon Health Authority shall adopt by rule a list of services to be  
31 provided to individuals who are under 21 years of age and eligible for medical assistance  
32 without any:

33 (a) Requirement for prior authorization;

34 (b) Review for medical necessity or appropriateness; or

35 (c) Requirement that the service be provided only by a provider who is in a coordinated  
36 care organization's network of providers.

37 (2) The services on the list described in subsection (1) of this section must include, but  
38 are not limited to:

39 (a) Assessments or evaluations necessary to establish eligibility for services provided in  
40 the medical assistance program or by the Department of Human Services, the Department  
41 of Education or a public education program;

42 (b) Any other treatment or service covered by the medical assistance program that is  
43 necessary to prevent individuals who are under 21 years of age from needing an out-of-home  
44 placement or a higher level of care; and

45 (c) Services that are necessary for the continuity of care, treatment and uninterrupted

1 access to counseling, prescription medication and medical equipment or supplies for individ-  
2 uals under 21 years of age who are in out-of-home placements and move from one coordi-  
3 nated care organization to another coordinated care organization.

4 **SECTION 4.** (1) The Oregon Health Authority and the Department of Education shall  
5 develop strategies and recommendations to leverage federal Medicaid or Children's Health  
6 Insurance Program funds to support the inclusion, academic success and well-being of all  
7 Oregon students under 21 years of age who are eligible for medical assistance, including  
8 students with severe emotional disturbances and students who need school-based nursing  
9 services.

10 (2) No later than October 1, 2024, the authority and the department shall report to the  
11 Legislative Assembly, in the manner provided in ORS 192.245, on the strategies and recom-  
12 mendations developed. The report must include, at a minimum:

13 (a) Strategies to simplify medical assistance billing for school districts;

14 (b) Recommendations for any needed investments in infrastructure, including staff and  
15 technology, to ensure low-barrier access to services in the medical assistance program for  
16 eligible students; and

17 (c) Specific recommendations related to leveraging federal funds to increase access to  
18 school-based services including, but not limited to:

19 (A) Nursing services for medically fragile and medically involved students;

20 (B) Access to school-based mental health care, including screening, assessment, coun-  
21 seling, treatment and therapy from licensed providers;

22 (C) Access to school-based direct services in speech, physical and occupational therapy,  
23 nutrition, respiratory therapy, functional behavioral assessment and behavior support ser-  
24 vices;

25 (D) Personal care and noneducational attendant care services at school to improve access  
26 to inclusive settings for high school students with high needs; and

27 (E) Enhanced specialized transportation services.

28 (3) As used in this section, "medical assistance" has the meaning given that term in ORS  
29 414.025.

30 **SECTION 5.** ORS 419C.380 is amended to read:

31 419C.380. (1) An evaluation ordered under ORS 419C.378 must be conducted by a psychiatrist,  
32 a licensed psychologist or a regulated social worker. If an evaluation is requested, the party at  
33 whose request the evaluation was ordered shall notify the court and other parties of the date, time  
34 and location of the evaluation and the name of the evaluator chosen by the party. A party or the  
35 court may submit written information to the evaluator for consideration. When written information  
36 that has not been provided to the court or an opposing party is submitted to the evaluator, the party  
37 submitting the written information to the evaluator shall provide the written information to the  
38 court and the opposing party.

39 (2)(a) A county court or justice court shall order the county to pay the fees and costs described  
40 in subsection (3) of this section from funds available for that purpose.

41 (b) A circuit court shall order the executive director of the Oregon Public Defense Commission  
42 to pay the fees and costs described in subsection (3) of this section from funds available for that  
43 purpose.

44 (3) Pursuant to subsection (2) of this section, (3) the county or the executive director of the Oregon  
45 Public Defense Commission shall pay:

1 (a) A reasonable fee to a psychiatrist, licensed psychologist or regulated social worker in private  
2 practice who conducts the evaluation; and

3 (b) All costs, including transportation of the youth, if the evaluation is conducted by a psychia-  
4 trist, licensed psychologist or regulated social worker employed by the Department of Human Ser-  
5 vices [*or is conducted by a community mental health program or community developmental disabilities*  
6 *program established under ORS 430.610 to 430.695*].

7 (4) If an evaluation is ordered under ORS 419C.378, the county shall pay for the expense of the  
8 evaluation.

9 (5) After a motion is made by the court or the youth under ORS 419C.378 (3), the state shall  
10 have the right to seek an independent evaluation at its own expense.

11 (6) A youth may not be removed from the youth's current placement for the purpose of an  
12 evaluation performed under this section unless:

13 (a) The youth has been placed in a detention facility as defined in ORS 419A.004 or a youth  
14 correction facility as defined in ORS 420.005; **and**

15 **(b) The removal is for less than 14 days.**

16 **SECTION 6.** ORS 419C.392 is amended to read:

17 419C.392. (1) If the court finds that the youth is fit to proceed, the court shall vacate the stay  
18 under ORS 419C.378.

19 (2) If the court finds that the youth is unfit to proceed and that there is not a substantial  
20 probability that the youth will gain or regain fitness to proceed in the foreseeable future if provided  
21 restorative services under ORS 419C.396, the court shall:

22 (a) Immediately enter a judgment that dismisses the petition alleging jurisdiction under ORS  
23 419C.005 without prejudice; or

24 (b) If necessary for planning or instituting an alternative proceeding, then not more than five  
25 days after the findings are made enter a judgment that dismisses the petition without prejudice.

26 (3)(a) If the court finds that the youth is unfit to proceed and that there is a substantial proba-  
27 bility that the youth will gain or regain fitness to proceed in the foreseeable future if provided  
28 restorative services under ORS 419C.396, the court shall continue the order under ORS 419C.378  
29 staying the proceedings and order that the youth receive restorative services under ORS 419C.396.

30 (b) The court shall forward the order for restorative services to the Oregon Health Authority.

31 **(c) Unless otherwise specifically ordered, the court's order for restorative services does**  
32 **not commit the youth to the custody of the authority or alter the guardianship of the youth.**

33 **SECTION 7.** ORS 419C.396 is amended to read:

34 419C.396. (1) The Oregon Health Authority shall arrange for the provision of or begin providing  
35 restorative services within 30 days after receiving a court order under ORS 419C.392 (3). The au-  
36 thority shall send a report to the court, with copies to the parties to the proceeding initiated by a  
37 petition alleging jurisdiction under ORS 419C.005, no later than 90 days after receipt of the order.  
38 The report must describe the nature and duration of restorative services provided, indicate whether  
39 the youth is fit to proceed or presents a substantial probability of gaining or regaining fitness to  
40 proceed and recommend whether restorative services should be continued and, if so, the type and  
41 duration of the services.

42 (2) Within 14 days after receiving a report under subsection (1) of this section, the court shall  
43 [*determine*] **issue a finding regarding** the youth's fitness to proceed.

44 (3) Upon the recommendation of the authority, the request of a party or the court's own motion,  
45 the court may hold a review hearing concerning the evaluation of the youth's fitness to proceed at

1 any time during which restorative services are provided pursuant to an order under ORS 419C.392  
 2 (3). After a review hearing, the court shall determine the youth's fitness to proceed.

3 (4) If the court finds that a youth is fit to proceed, the court shall vacate the stay under ORS  
 4 419C.378.

5 (5) If the court finds that the youth remains unfit to proceed and that there is not a substantial  
 6 probability that the youth will gain or regain fitness to proceed in the foreseeable future, the court  
 7 shall:

8 (a) Immediately enter a judgment that dismisses the petition alleging jurisdiction under ORS  
 9 419C.005 without prejudice; or

10 (b) If necessary for planning or instituting an alternative proceeding, then not more than five  
 11 days after the findings are made enter a judgment that dismisses the petition without prejudice.

12 (6) If the court finds under subsection (2) or (3) of this section that the youth remains unfit to  
 13 proceed, but that the youth presents a substantial probability of gaining or regaining fitness to  
 14 proceed, the court shall order that restorative services be continued. The court shall order the au-  
 15 thority to send a report to the court, with copies to the parties, within a specified time, not to ex-  
 16 ceed 90 days from the time the order is filed.

17 (7) If the court finds under subsection (2) or (3) of this section that a youth remains unfit to  
 18 proceed, the youth shall be discharged within a period of time that is reasonable for making a de-  
 19 termination whether the youth presents a substantial probability of gaining or regaining fitness to  
 20 proceed. Regardless of the number of acts the petition alleging jurisdiction under ORS 419C.005 al-  
 21 leges that the youth committed, the youth may not be continued in restorative services for longer  
 22 than whichever of the following, measured from the date the petition is filed, is shorter:

23 (a) Three years; or

24 (b) The period of time that is equal to the maximum commitment the court could have imposed  
 25 if the petition had been adjudicated.

26 (8)(a) If the court orders placement for restorative services, the court may specify the type of  
 27 care, supervision, security or services to be provided by the authority to any youth placed in the  
 28 custody of the Department of Human Services and to the parents or guardians of the youth.

29 (b) The authority, in coordination with the Department of Human Services, the local juvenile  
 30 department and the youth's family, may place the youth in any facility authorized to accept the  
 31 youth and provide the necessary services and care that are most appropriate for the youth.

32 (c) The authority shall continue to provide restorative services wherever the youth is placed.

33 **SECTION 8.** ORS 419C.398 is amended to read:

34 419C.398. (1) A youth may not be removed from the youth's current placement solely for the  
 35 purpose of receiving restorative services pursuant to a court order under ORS 419C.392 unless the  
 36 court finds:

37 (a) That removal is necessary to provide restorative services under ORS 419C.396;

38 (b) That removal is in the best interest of the youth; *[and]*

39 **(c) That the youth meets the medical necessity criteria for the restorative services**  
 40 **placement; and**

41 *[(c)]* **(d)** If the Department of Human Services has custody of the youth, that:

42 (A) The department made reasonable efforts to prevent or eliminate the need for removal and  
 43 make it possible for the youth to safely return to the youth's current placement; or

44 (B) Reasonable efforts have not been made by the department but reasonable efforts would not  
 45 have eliminated the need for removal under paragraphs (a) *[and (b)]* **to (c)** of this subsection.

1 (2) If a youth is removed for the purpose of receiving restorative services, the youth shall be  
2 returned to the youth's current placement immediately upon conclusion of the provision of the  
3 restorative services unless the youth has been placed in a detention facility as defined in ORS  
4 419A.004 or a youth correction facility as defined in ORS 420.005.

5 **SECTION 9. No later than December 1, 2024, the Oregon Health Authority must submit**  
6 **to the Centers for Medicare and Medicaid Services an application for a waiver to disregard**  
7 **parental income under section 1 (4)(a) of this 2024 Act.**

8 **SECTION 10. (1) The Oregon Health Authority shall adopt eligibility criteria under sec-**  
9 **tion 1 (2) of this 2024 Act no later than January 1, 2025.**

10 (2) No later than July 1, 2025, the authority shall begin making eligibility determinations:

11 (a) For the home and community-based services and supports described in section 1 (3)  
12 of this 2024 Act; and

13 (b) Under the terms of the waiver described in section 1 (4) of this 2024 Act.

14 **SECTION 11. Section 4 of this 2024 Act is repealed on January 2, 2025.**

15 **SECTION 12. This 2024 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect**  
17 **on its passage.**

18