

## **SB 228 -2, -3 STAFF MEASURE SUMMARY**

### **Senate Committee On Human Services**

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**Meeting Dates:** 3/4, 3/27

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#### **WHAT THE MEASURE DOES:**

The measure establishes the right of a resident in a residential care facility to the formation of a family council. The measure establishes requirements for facilities if a family council is formed and allows the Department of Human Services (DHS) to impose civil penalties.

#### Detailed Summary:

- Defines "facility" as a residential care facility for socially dependent individuals or individuals with physical disabilities, including facilities with a memory care endorsement.
- Defines "family council" as a group of family members or representatives of at least two residents of the facility that meets in private without facility staff.
- Establishes the right of a resident to the formation of a family council.
- In the case of the formation of a family council, requires the facility to:
  - Provide the family council with a private meeting space;
  - Make family members and representative aware of upcoming meetings in a timely manner, if requested;
  - Allow the family members and representative of former residents to attend the meetings if invited by the family council;
  - Provide a designated staff person approved by the family council to attend meetings, if invited;
  - Respond in writing to any written requests, concerns, or recommendations submitted by the family council within 14 business days;
  - Provide family members and representatives of newly admitted residents with contact information for the family council and the Long Term Care Ombudsman (LTCO);
  - Provide adequate, accessible counter or bulletin board space in the facility to display notices about the family council and the LTCO.
- Prohibits the facility from interfering with the formation, maintenance, or promotion of a family council, or from discriminating or retaliating against residents based on participation in the family council.
- Allows DHS to impose a civil penalty for violations of the act's provisions.

**REVENUE:** *May have revenue impact, but no statement yet issued.*

**FISCAL:** *May have fiscal impact, but no statement yet issued.*

#### **ISSUES DISCUSSED:**

- Provisions of measure and forthcoming amendment
- Federal guarantee of the right to form a family council in nursing facilities

#### **EFFECT OF AMENDMENT:**

-2 The amendment replaces the measure. The amendment establishes the right of a resident of a residential care facility to organize and participate in an independent family council. The amendment specifies requirements for a facility if a council is formed and prohibits a facility from interfering in a council's formation.

#### Detailed Summary:

- Defines "facility" as a residential care facility for socially dependent individuals or individuals with physical disabilities, including facilities with a memory care endorsement.

## SB 228 -2, -3 STAFF MEASURE SUMMARY

- Defines "independent family council" as a group of residents, family members, or legal representatives that meets privately, either in person or virtually.
- Defines "resident" as an individual residing in a facility.
- Establishes the right of a resident to organize and participate in resident groups in a facility, including an independent family council.
- Requires a facility to:
  - Provide a resident and their legal representative with information about the right to participate in an independent family council and whether any such group exists at the facility;
  - Provide adequate space in the facility's entry area to display information about the council;
  - Provide the council with private meeting space;
  - Inform residents, family members, and legal representatives about upcoming council meetings, if requested by the council;
  - Allow the council to conduct private meetings without attendance from staff or visitors except by invitation, and to require visitors to comply with all facility requirements;
  - Designate a staff person to serve as liaison between the facility and the council; and
  - Provide a prompt response to, but not necessarily implement, requests and grievances submitted by the council.
- Specifies that a council may not override the rights of a resident.
- Prohibits a facility from:
  - Discriminating or retaliating against a resident based on their participation in a council; and
  - Willfully interfering with the formation, maintenance, or promotion of a council.

*REVENUE: No revenue impact*

*FISCAL: Has minimal fiscal impact*

-3 The amendment replaces the measure. The amendment establishes the right of a resident of a memory care facility to organize and participate in an independent family council. The amendment specifies requirements for a facility if a council is formed and prohibits a facility from interfering in a council's formation.

### Detailed Summary:

- Defines "facility" as a facility with a memory care endorsement.
- Defines "independent family council" as a group of residents, family members, or legal representatives that meets privately, either in person or virtually.
- Defines "resident" as an individual residing in a facility.
- Establishes the right of a resident to organize and participate in resident groups in a facility, including an independent family council.
- Requires a facility to:
  - Provide a resident and their legal representative with information about the right to participate in an independent family council and whether any such group exists at the facility;
  - Provide the council with private meeting space;
  - Inform residents, family members, and legal representatives about upcoming council meetings, if requested by the council;
  - Allow the council to conduct private meetings without attendance from staff or visitors except by invitation, and to require visitors to comply with all facility requirements;
  - Designate a staff person to serve as liaison between the facility and the council; and
  - Provide a timely response to, but not necessarily implement, requests and grievances submitted by the council.
- Specifies that a council may not override the rights of a resident.
- Prohibits a facility from:
  - Discriminating or retaliating against a resident based on their participation in a council; and

- Willfully interfering with the formation, maintenance, or promotion of a council.

*REVENUE: No revenue impact*

*FISCAL: Has minimal fiscal impact*

**BACKGROUND:**

Residential care facilities provide individuals with supervision and assistance with daily activities such as bath, dressing, and eating in a residential setting. These facilities serve older adults and individuals with disabilities in a community-based setting and are licensed by the Oregon Department of Human Services (ODHS). Facilities that provide care for residents with Alzheimer's disease or other forms of dementia must obtain a memory care endorsement on its license or registration ([ORS 443.886](#)).

[ORS 441.403](#) establishes the [Office of the Long-Term Care Ombudsman](#) (LTCO) and states that the LTCO functions independently from any other state agency. The LTCO investigates and resolves complaints made by or for residents of long-term care facilities. [ORS 443.445](#) requires residential care facilities to provide new residents with information describing the availability and services of the LTCO. In 1987, the federal Nursing Home Reform Act required nursing facilities to allow residents and family members to organize and participate in resident groups in the facility ([42 U.S.C. §1396r \(c\)\(1\)\(vii\)](#)).