

House Bill 3536

Sponsored by Representative MANNIX

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 describes the process for a parent to admit their minor child to a place for treatment of a substance abuse problem. (Flesch Readability Score: 65.7).

Prescribes certain procedures that apply when a child's parent or guardian consents to inpatient substance use disorder treatment for the child. Expands access of a child's parent or guardian to the child's relevant health information when the child is receiving certain treatment.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to treatment for minors; creating new provisions; amending ORS 109.680 and 430.397; and declaring an emergency.

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

SECTION 1. Definitions. As used in sections 1 to 4 of this 2025 Act:

(1) **"Behavioral health disorder"** means a mental disorder, a substance use disorder or a co-occurring mental disorder and substance use disorder.

(2) **"Child"** means an unemancipated individual who has not attained the age of majority, as described in ORS 109.510.

(3) **"Evaluator"** means a physician, mental health professional or other person empowered by a treatment facility with authority to make admission and discharge decisions on behalf of the treatment facility.

(4) **"Mental disorder"** means any organic, mental or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this subsection.

(5) **"Substance use disorder"** means a cluster of cognitive, behavioral and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of substance use disorder is based on a pathological pattern related to the use of substances.

(6) **"Treatment facility"** has the meaning given that term in ORS 430.306.

SECTION 2. Admission of minor child by parent for inpatient substance use disorder treatment. (1) A parent or guardian of a child may bring, or authorize the bringing of, the child to a treatment facility to have the child evaluated by an evaluator to determine whether the child has a substance use disorder and is in need of admission to a treatment facility under ORS 430.397 for inpatient treatment.

(2) The consent of the child is not required for evaluation, admission or treatment under

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 this section if the child's parent or guardian consents on the child's behalf to the evaluation,
2 admission or treatment.

3 (3)(a) An appropriately trained evaluator shall evaluate whether the child has a behav-
4 ioral health disorder. Unless the evaluator determines that the child's condition requires
5 additional time for evaluation, the evaluation must be completed within 24 hours from the
6 time the child is brought to the treatment facility. In no event may the child be held longer
7 than 120 hours for evaluation.

8 (b) The treatment facility may only provide treatment to the child that is identified by
9 the evaluator as necessary to stabilize the child's condition until the evaluation has been
10 completed.

11 (c) The child may be admitted to the treatment facility to receive inpatient treatment
12 under this section only if, in the professional judgment of the evaluator, the inpatient
13 treatment is medically necessary.

14 (4) Inpatient treatment of a child for a substance use disorder is medically necessary for
15 purposes of this section if:

16 (a) Admission is reasonably calculated to diagnose, correct, cure or alleviate the child's
17 behavioral health disorder or prevent the progression of a behavioral health disorder that
18 endangers life, causes suffering and pain, results in illness or infirmity, threatens to cause
19 or aggravate a disability or causes physical deformity or malfunction; and

20 (b) There is no adequate less restrictive alternative available.

21 (5)(a) No later than 24 hours after the evaluation is complete, the treatment facility shall
22 notify the Oregon Health Authority if the child is admitted under this section to receive in-
23 patient treatment. The treatment facility shall ensure that the child's patient identifying
24 information is redacted from the notice unless:

25 (A) The child consents in writing to the disclosure of the fact of admission and other
26 substance use disorder information in the notice; or

27 (B) Otherwise permitted by federal law.

28 (b) The authority shall ensure that the admission decision, and subsequent decisions re-
29 garding the medical necessity of ongoing inpatient treatment, is reviewed as required under
30 section 3 of this 2025 Act.

31 (c) Before the authority conducts its admission review under section 3 of this 2025 Act,
32 the treatment facility shall notify the child of the child's right under section 4 of this 2025
33 Act to petition the court to be discharged from the facility.

34 (6) Nothing in this section requires the treatment facility to treat a child except that the
35 treatment facility may not refuse to treat the child solely on the basis that the child objects
36 or has not otherwise consented to the treatment.

37 (7)(a) A treatment facility that has admitted a child for inpatient treatment under this
38 section may continue to provide inpatient treatment to the child until the earlier of:

39 (A) Receiving notice from the authority under section 3 of this 2025 Act of the authority's
40 determination that it is no longer medically necessary for the child to receive inpatient
41 treatment;

42 (B) Receiving an order from the court under section 4 of this 2025 Act directing the
43 treatment facility to discharge the child;

44 (C) The evaluator determining that it is no longer medically necessary for the child to
45 receive inpatient treatment; or

(D) Receiving a written request from the child's parent or guardian for the discharge of the child.

(b) The treatment facility shall discharge a child to the child's parent or guardian within 24 hours after the occurrence of an event described in paragraph (a) of this subsection.

(c) A child receiving inpatient treatment under this section may not be discharged from the treatment facility based solely on the child's request.

(8) To the extent permitted under federal law, the treatment facility may disclose information regarding the child's evaluation, admission and treatment, or need for treatment, to the child's parent or guardian without the consent of the child. The treatment facility shall encourage the child to sign an authorization for the disclosure of information that is necessary for the parent or guardian to participate in the child's discharge planning and to provide appropriate support to the child following discharge.

(9) This section does not apply to:

(a) The voluntary admission of a child to a state hospital under ORS 426.220; or

(b) The placement of a child or ward in a congregate care residential setting by the Department of Human Services under ORS 418.322.

SECTION 3. Admission and continued treatment decision review. (1) The Oregon Health Authority shall ensure that, for any child admitted to a treatment facility for inpatient treatment under section 2 of this 2025 Act, a neutral fact finder reviews the initial admission decision and conducts additional medical necessity reviews during the course of the child's inpatient treatment.

(2) The neutral fact finder:

(a) Must be employed by the authority or contracted with by the authority;

(b) May not have a financial interest in continued inpatient treatment of the child; and

(c) May not be affiliated with the treatment facility.

(3)(a) The neutral fact finder shall conduct a review of the initial admission decision not less than seven nor more than 14 days following the date the child was brought to the treatment facility for evaluation under section 2 (1) of this 2025 Act. The neutral fact finder shall determine whether, in the neutral fact finder's professional judgment, it is medically necessary, as described in section 2 (4) of this 2025 Act, to continue the child's treatment on an inpatient basis.

(b) The neutral fact finder shall conduct additional medical necessity reviews every 30 days after the initial review while the child remains in inpatient treatment under section 2 of this 2025 Act.

(4) In making a determination under subsection (3) of this section, the neutral fact finder shall consider the opinion of the treatment facility, the safety of the child and the likelihood that the child's behavioral health will deteriorate if released from inpatient treatment. The neutral fact finder shall consult with the child's parent or guardian in advance of making its determination.

(5) If, after a review conducted under this section, the neutral fact finder determines it is no longer medically necessary for the child to receive inpatient treatment, the authority shall immediately notify the child's parent or guardian and the treatment facility.

(6) If the evaluation conducted under section 2 of this 2025 Act is done by the authority, the reviews required by this section shall be done by contract with a neutral fact finder.

SECTION 4. Judicial review. A child who has been admitted for inpatient treatment un-

der section 2 of this 2025 Act may petition the circuit court in the county in which the child resides or is receiving treatment for discharge from the treatment facility. The petition may be filed no sooner than five days following the date of the most recent medical necessity review under section 3 of this 2025 Act. The court shall order the treatment facility to discharge the child from inpatient treatment unless it finds, by a preponderance of the evidence, that it is medically necessary to continue the child's treatment on an inpatient basis.

SECTION 5. ORS 430.397 is amended to read:

430.397. (1) Any person may voluntarily apply for admission to any treatment facility operated pursuant to rules of the Oregon Health Authority.

(2) The director of the treatment facility shall determine whether the person shall be admitted as a patient, or referred to another appropriate treatment facility or denied referral or admission.

(3) If the person is under 18 years of age or an incompetent, the director of the treatment facility shall notify the person's parents or guardian of the admission or referral.

(4) **An application for admission of a child, as defined in section 1 of this 2025 Act, to a treatment facility made by the child's parent or guardian is subject to the provisions of sections 1 to 4 of this 2025 Act.**

SECTION 6. ORS 109.680, as amended by section 30, chapter 73, Oregon Laws 2024, is amended to read:

109.680. (1) As used in this section, "mental health care provider" means a physician or physician associate licensed by the Oregon Medical Board, psychologist licensed by the Oregon Board of Psychology, nurse practitioner registered by the Oregon State Board of Nursing, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed under ORS chapter 685 or community mental health program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.

(2)[(a)] **Unless otherwise prohibited by federal law,** a mental health care provider that is providing services to a minor pursuant to ORS 109.675 may disclose relevant health information about the minor without the minor's consent. *[as provided in ORS 109.675 (2) and this subsection.]*

[(b) If the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or if the minor's condition requires detoxification in a residential or acute care facility, the minor's mental health care provider may disclose the relevant information regarding the minor's diagnosis and treatment to the minor's parent or legal guardian to the extent the mental health care provider determines the disclosure is clinically appropriate and will serve the best interests of the minor's treatment.]

[(c) If the mental health care provider assesses the minor to be at serious and imminent risk of a suicide attempt but inpatient treatment is not necessary or practicable:]

[(A) The mental health care provider shall disclose relevant information about the minor to and engage in safety planning with the minor's parent, legal guardian or other individuals the provider reasonably believes may be able to prevent or lessen the minor's risk of a suicide attempt.]

[(B) The mental health care provider may disclose relevant information regarding the minor's treatment and diagnosis that the mental health care provider determines is necessary to further the minor's treatment to those organizations, including appropriate schools and social service entities, that the mental health care provider reasonably believes will provide treatment support to the minor to the extent the mental health care provider determines necessary.]

[(d) Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of this subsection, if a

1 *mental health care provider has provided the minor with the opportunity to object to the disclosure and*
2 *the minor has not expressed an objection, the mental health care provider may disclose information*
3 *related to the minor's treatment and diagnosis to individuals, including the minor's parent or legal*
4 *guardian, and organizations when the information directly relates to the individual's or organization's*
5 *involvement in the minor's treatment.]*

6 *[(3) Notwithstanding subsection (2)(c)(A) of this section, a mental health care provider is not re-*
7 *quired to disclose the minor's treatment and diagnosis information to an individual if the mental health*
8 *care provider:]*

9 *[(a) Reasonably believes the individual has abused or neglected the minor or subjected the minor*
10 *to domestic violence or may abuse or neglect the minor or subject the minor to domestic violence;]*

11 *[(b) Reasonably believes disclosure of the minor's information to the individual could endanger the*
12 *minor; or]*

13 *[(c) Determines that it is not in the minor's best interest to disclose the information to the individ-*
14 *ual.]*

15 *[(4) Nothing in this section is intended to limit a mental health care provider's authority to disclose*
16 *information related to the minor with the minor's consent.]*

17 *[(5)] (3) If a mental health care provider discloses a minor's information as provided in [sub-*
18 *section (2) of] this section in good faith, the mental health care provider is immune from civil li-*
19 *ability for making the disclosure without the consent of the minor.*

20 **SECTION 7. The section captions used in this 2025 Act are provided only for the con-**
21 **venience of the reader and do not become part of the statutory law of this state or express**
22 **any legislative intent in the enactment of this 2025 Act.**

23 **SECTION 8. Sections 1 to 4 of this 2025 Act and the amendments to ORS 109.680 and**
24 **430.397 by sections 5 and 6 of this 2025 Act apply to evaluations, admissions or treatment**
25 **occurring, and information and records related to such evaluations, admissions or treatment,**
26 **on or after the effective date of this 2025 Act.**

27 **SECTION 9. This 2025 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
29 **on its passage.**