

LC 488
2023 Regular Session
44300-012
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D R A F T

SUMMARY

Requires state agencies, to extent permitted by federal law, to enter into intergovernmental agreement to furnish data and information to Oregon Health Authority, for specified purposes, about individuals with mental illness or substance use disorders who receive or have received publicly funded behavioral health care services.

A BILL FOR AN ACT

Relating to interagency sharing of information; creating new provisions; and amending ORS 179.508 and 419A.257.

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

SECTION 1. (1) As used in this section:

(a) “Assertive community treatment” means an evidence-based practice that is:

(A) Designed to provide comprehensive treatment and support services to individuals with mental illness who have severe functional impairment and who have not responded to traditional psychiatric outpatient treatment to help keep the individual in the community and out of a structured service setting such as residential or hospital care;

(B) Provided by a single multidisciplinary team, which typically includes a psychiatrist, nurse and at least two case managers; and

(C) Characterized by:

(i) Low client-to-staff ratios;

(ii) Services provided in the community rather than in an office;

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 (iii) Case loads shared by team members;

2 (iv) Availability of staff 24 hours per day;

3 (v) Provision of all services by the teams rather than by referral;

4 and

5 (vi) No time limit on the receipt of services.

6 (b) “Behavioral Health Quality and Performance Improvement
7 Plan” means the plan adopted by the Oregon Health Authority to
8 better provide individuals with mental illness or substance use disor-
9 ders with community services that will assist the individuals to live
10 in the most integrated setting appropriate to the individuals’ needs,
11 achieve positive outcomes and prevent unnecessary hospitalizations.

12 (c) “Client” means an individual with mental illness or a substance
13 use disorder who receives or who has received publicly funded behav-
14 ioral health services.

15 (d) “Competitive integrated employment” means full-time or part-
16 time work that:

17 (A) Pays at least minimum wage and at a rate that is no less than
18 the customary rate paid by the employer for the same or similar work
19 performed by other employees who are not individuals with disabilities
20 with similar training, experience and skill;

21 (B) Provides the same level of benefits provided to other employees;

22 (C) Is located in a setting where the employee interacts with other
23 individuals who do not have disabilities to the same extent as the
24 employee and who are in comparable positions; and

25 (D) Presents opportunities for advancement that are similar to the
26 opportunities for other employees who do not have disabilities and
27 hold similar positions.

28 (e) “Mobile crisis intervention team” has the meaning given that
29 term in ORS 430.626.

30 (f) “Peer-delivered services” means services and supports provided
31 by peer support specialists and peer wellness specialists to individuals

1 or family members of individuals with mental illness or substance use
2 disorders to support the individuals to engage in treatment and to live
3 successfully in the community.

4 (g) “Peer support specialist” has the meaning given that term in
5 ORS 414.025.

6 (h) “Peer wellness specialist” has the meaning given that term in
7 ORS 414.025.

8 (i) “Supported employment services” means individualized services
9 that:

10 (A) Assist an individual to obtain and maintain competitive inte-
11 grated employment;

12 (B) Are provided in a manner that allows the individual to work the
13 maximum number of hours consistent with the individual’s prefer-
14 ences, interests and abilities; and

15 (C) Are individually planned, based on person-centered planning
16 principles and evidence-based practices.

17 (j) “Supported housing” means permanent housing with tenancy
18 rights and flexible support services that are available as needed, but
19 not mandated as a condition of the tenancy, and that enable an indi-
20 vidual to attain and maintain integrated affordable housing that:

21 (A) Provides the tenant with a private and secure place to live;

22 (B) Enables tenants with disabilities to interact with individuals
23 who do not have disabilities, to the fullest extent possible;

24 (C) Is scattered site housing;

25 (D) Has no more than two individuals living together in an apart-
26 ment or house;

27 (E) Allows tenants to select their own roommates; and

28 (F) Does not reject potential tenants based on medical needs or
29 substance use history.

30 (2) All agencies of state government, as defined in ORS 174.111,
31 shall, at the request of the Oregon Health Authority and to the extent

1 permitted by federal law, enter into an intergovernmental agreement
2 with the authority to furnish the authority with, or provide the au-
3 thority with access to, data and information under the control of the
4 agency regarding individuals receiving publicly funded behavioral
5 health services, to enable the authority to evaluate the success of the
6 Behavioral Health Quality and Performance Improvement Plan and
7 other behavioral health transformation initiatives in meeting the goals
8 of the plan and initiatives, which include but are not limited to:

9 (a) Increasing the percentage of clients who are served by assertive
10 community treatment teams.

11 (b) Increasing the percentage of clients with safe and stable housing
12 for six months or more.

13 (c) Increasing the percentage of clients who are employed in com-
14 petitive integrated employment.

15 (d) Increasing the percentage of clients served by or having contact
16 with mobile crisis intervention teams.

17 (e) Increasing the percentage of clients in supported housing.

18 (f) Increasing the percentage of clients receiving peer-delivered
19 services.

20 (g) During each calendar quarter:

21 (A) Reducing the percentage of clients who are homeless at any
22 point.

23 (B) Reducing the percentage of clients using emergency depart-
24 ments for mental health care services.

25 (C) Reducing the percentage of clients admitted to the Oregon State
26 Hospital.

27 (D) Reducing the percentage of clients hospitalized in an acute care
28 facility.

29 (E) Reducing the percentage of clients arrested or in jail at any
30 point.

31 (F) Increasing the percentage of arrested clients receiving jail di-

version services.

(G) Increasing the percentage of clients receiving supported employment services.

(3) An intergovernmental agreement entered into in accordance with subsection (2) of this section must allow the authority to collect data that:

(a) Is contained in the Oregon Judicial Case Information Network;

(b) Is contained in the Law Enforcement Data System;

(c) Includes names, birth dates, state offender identification numbers, Social Security numbers and taxpayer identification numbers;

(d) Includes the county where a client is arrested, the county where the client encountered law enforcement leading to the arrest, existing jail diversion services in that county, the impacts of the jail diversion services on the client and the obstacles to the client achieving success with the jail diversion services; and

(e) Includes, from local jurisdictions, mental health diagnosis, status, medication regimen and services provided to clients who are incarcerated in the local jurisdictions.

(4) Data and information collected by the authority through intergovernmental agreements under this section:

(a) Retains, while in the custody of the authority, the same level of security and confidentiality that was assigned to the data and information by the agency from which the data and information is collected; and

(b) May not be published or disclosed outside of the authority without the consent of the agency from which it was collected.

SECTION 2. ORS 179.508 is amended to read:

179.508. (1) The Department of Corrections may disclose individually identifiable health information without obtaining an authorization from an adult in custody or a personal representative of the adult in custody **to the Oregon Health Authority in accordance with section 1 of this 2023 Act**

or if **the** disclosure [*of the information*] is necessary for:

(a) The provision of health care to the adult in custody;

(b) The health and safety of the adult in custody or other adults in custody;

(c) The health and safety of the officers or employees of or others at the Department of Corrections institution as defined in ORS 421.005 where the adult in custody is incarcerated;

(d) The health and safety of the adult in custody or officers or other persons responsible for transporting or transferring adults in custody from one setting to another;

(e) Law enforcement purposes on the premises of the correctional institution; or

(f) The administration and maintenance of the safety, security and good order of the correctional institution.

(2) As used in this section, “disclosure,” “individually identifiable health information” and “personal representative” have the meanings given those terms in ORS 179.505.

SECTION 3. ORS 419A.257 is amended to read:

419A.257. (1) Reports and other materials relating to a child, ward, youth or adjudicated youth’s history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority or the juvenile department are privileged and, except with the consent of the child, ward, youth or adjudicated youth or with the authorization of the court, shall be withheld from public inspection.

(2) The Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to the child, ward, youth or adjudicated youth’s history and prognosis **to the Oregon Health Authority in accordance with section 1 of this 2023 Act** or, if the disclosure is reasonably necessary to perform official duties relating to the involvement of the child, ward, youth or adjudicated youth with the juvenile court or the juvenile department, to the following:

1 (a) Each other;

2 (b) The court;

3 (c) Service providers in the case;

4 (d) School superintendents and their designees in cases under ORS
5 419C.005;

6 (e) Attorneys of record for the child, ward, youth or adjudicated youth;

7 (f) Attorneys representing a party in the case;

8 (g) The district attorney or assistant attorney general representing a
9 party in the case;

10 (h) The Department of Human Services;

11 (i) The court appointed special advocate; and

12 (j) The Psychiatric Security Review Board.

13 (3)(a) The Oregon Youth Authority and county juvenile departments es-
14 tablished under ORS 419A.010 to 419A.020 may disclose and provide copies
15 of reports and other materials relating to the child, ward, youth or adjudi-
16 cated youth's history and prognosis to the Department of Corrections for the
17 purpose of enabling the Department of Corrections to perform its official
18 duties relating to the exercise of custody or supervision of a person com-
19 mitted to the legal and physical custody of the Department of Corrections.

20 (b) The Department of Corrections shall limit the use of reports and other
21 materials disclosed and provided to the department under this section to re-
22 ports and other materials that relate to the history and prognosis of a youth
23 or adjudicated youth as these pertain to:

24 (A) A person who was transferred to the physical custody of the **Oregon**
25 **Youth** Authority under ORS 137.124 and is subsequently transferred to the
26 physical custody of the Department of Corrections under ORS 137.124 or
27 420.011 or any other statute; or

28 (B) A person committed to the legal and physical custody of the Depart-
29 ment of Corrections while the person is under the jurisdiction of the juvenile
30 court under ORS 419C.005, including but not limited to a person in the legal
31 custody of the **Oregon Youth** Authority.

(4) A person that obtains copies of reports or other materials under this section is responsible for preserving the confidentiality of the reports or other materials. A service provider, school superintendent or superintendent's designee who obtains copies of reports or other materials under this section shall destroy the copies upon the conclusion of involvement in the case.

(5)(a) Information appearing in reports or other materials relating to the child, ward, youth or adjudicated youth's history or prognosis may not be disclosed directly or indirectly to any person not described in subsection (2) of this section unless the consent of the child, ward, youth or adjudicated youth or the authorization of the court has been obtained, except for purposes of evaluating the child, ward, youth or adjudicated youth's eligibility for special education as provided in ORS chapter 343.

(b) Information appearing in reports or other materials may not be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or adjudicated youth, whether the proceeding occurs after the child, ward, youth or adjudicated youth has reached 18 years of age or otherwise, except for the following purposes:

(A) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.

(B) In connection with a proceeding in another juvenile court concerning the child, ward, youth or adjudicated youth or an appeal from an order or judgment of the juvenile court.

(6)(a) Information contained in reports and other materials relating to a child, ward, youth or adjudicated youth's history and prognosis that, in the professional judgment of the Oregon Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information contained in the reports and other materials has been provided, indicates a clear and immediate danger to another person or to society, shall be disclosed to the appropriate authority and the person or entity that is in danger from the

1 child, ward, youth or adjudicated youth.

2 (b) An agency or a person that discloses information under paragraph (a)
3 of this subsection has immunity from any liability, civil or criminal, that
4 might otherwise be incurred or imposed for making the disclosure.

5 (c) Nothing in this subsection affects the provisions of ORS 146.750,
6 146.760, 419B.035, 419B.040 and 419B.045.

7 (7) The disclosure of information under this section does not make the
8 information admissible in any court or administrative proceeding if it is not
9 otherwise admissible.

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