

HOUSE AMENDMENTS TO HOUSE BILL 4084

By COMMITTEE ON HUMAN SERVICES

February 13

1 On page 1 of the printed bill, line 3, delete “163.165,” and after “181.537,” insert “192.586.”
2 Delete lines 5 through 17.

3 On page 2, delete lines 1 through 28 and insert:

4 “**NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.”.

5 On page 8, delete lines 3 through 8 and insert:

6 “**SECTION 6.** (1) Upon notice by a law enforcement agency that an investigation into abuse is
7 being conducted under ORS 124.070, and without the consent of the named elderly person or of the
8 named elderly person’s caretaker, fiduciary or other legal representative, a health care provider
9 must:

10 “(a) Permit the law enforcement agency to inspect and copy, or otherwise obtain, protected
11 health information of the named elderly person; and

12 “(b) Upon request of the law enforcement agency, consult with the agency about the protected
13 health information.”.

14 In line 12, delete “192.519” and insert “192.556”.

15 Delete lines 16 through 21 and insert:

16 “**SECTION 8.** (1) Upon notice by a law enforcement agency that an investigation into abuse is
17 being conducted under ORS 441.650, and without the consent of the named resident or of the named
18 resident’s caretaker, fiduciary or other legal representative, a health care provider must:

19 “(a) Permit the law enforcement agency to inspect and copy, or otherwise obtain, protected
20 health information of the named resident; and

21 “(b) Upon request of the law enforcement agency, consult with the agency about the protected
22 health information.”.

23 In line 25, delete “192.519” and insert “192.556”.

24 Delete lines 29 through 45.

25 On page 9, delete lines 1 through 18 and insert:

26 “**SECTION 10.** (1) **Upon the request of a law enforcement agency and the receipt of the**
27 **certification required under subsection (2) of this section, a financial institution shall dis-**
28 **close and provide copies of the financial records of the person who is the alleged victim in**
29 **an investigation under ORS 124.070 or 441.650 to the law enforcement agency without the**
30 **consent of the person or of the person’s caretaker, fiduciary or other legal representative.**

31 “**(2) In requesting the copies of financial records under subsection (1) of this section, the**
32 **law enforcement agency shall specify the name and Social Security number of the person**
33 **about whom the copies are sought, and shall certify to the financial institution in writing,**
34 **signed by an agent of the law enforcement agency:**

35 “**(a) That the person about whom copies of financial records are sought is the alleged**

1 **victim in an abuse investigation under ORS 124.070 or 441.650;**

2 **“(b) That the law enforcement agency has a reasonable belief that abuse has occurred**
3 **or is occurring; and**

4 **“(c) That the requested copies of financial records are necessary for a determination in**
5 **the investigation that abuse has occurred or is occurring.**

6 **“(3) A financial institution that supplies copies of financial records under this section**
7 **may, but is not required to, inform the person about whom copies of financial records have**
8 **been requested, or the person’s caretaker, fiduciary or other legal representative, about the**
9 **request and disclosure unless specifically directed by the law enforcement agency not to do**
10 **so.**

11 **“(4) A financial institution that supplies copies of financial records under this section**
12 **may be reimbursed for costs incurred as provided in ORS 192.602.**

13 **“(5) A financial institution that supplies copies of financial records under this section is**
14 **not liable to any person for any loss, damage or injury arising out of or in any way pertaining**
15 **to the disclosure of the copies.**

16 **“(6) Each financial institution that is requested to supply copies of financial records un-**
17 **der this section may specify that requests for copies from the financial institution must be**
18 **submitted in written, tape or electronic format. A reasonable time must be provided the fi-**
19 **nanical institution to comply with subsection (1) of this section.**

20 **“(7)(a) A law enforcement agency may seek disclosure and copies of financial records**
21 **under this section only with respect to a person who is the alleged victim of abuse in an in-**
22 **vestigation under ORS 124.070 or 441.650.**

23 **“(b) Notwithstanding paragraph (a) of this subsection, disclosure and copies of financial**
24 **records may be obtained under this section when the financial records pertain to an account,**
25 **loan or other financial relationship owned, held or maintained by a person who is the alleged**
26 **victim in an abuse investigation under ORS 124.070 or 441.650 together with one or more**
27 **other persons who are not alleged victims in the abuse investigation.**

28 **“SECTION 10a.** ORS 192.586 is amended to read:

29 **“192.586. (1) Except as provided in ORS 192.588, 192.591, 192.593, 192.596, 192.598 and 192.603**
30 **and section 10 of this 2012 Act or as required by ORS 25.643 and 25.646 and the Uniform Dispo-**
31 **sition of Unclaimed Property Act, ORS 98.302 to 98.436 and 98.992:**

32 **“(a) A financial institution may not provide financial records of a customer to a state or local**
33 **agency.**

34 **“(b) A state or local agency may not request or receive from a financial institution financial**
35 **records of customers.**

36 **“(2) Subsection (1) of this section does not preclude a financial institution, in the discretion of**
37 **the financial institution, from initiating contact with, and thereafter communicating with and dis-**
38 **closing customer financial records to:**

39 **“(a) Appropriate state or local agencies concerning a suspected violation of the law.**

40 **“(b) The office of the State Treasurer if the records relate to state investments in commercial**
41 **mortgages involving the customer. The records and the information contained therein are public**
42 **records but are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest in**
43 **disclosure clearly outweighs the public interest in confidentiality. However, the following records**
44 **in the office must remain open to public inspection:**

45 **“(A) The contract or promissory note establishing a directly held residential or commercial**

1 mortgage and information identifying collateral;

2 “(B) Any copy the office retains of the underlying mortgage note in which the office purchases
3 a participation interest; and

4 “(C) Information showing that a directly held loan is in default.

5 “(c) An appropriate state or local agency in connection with any business relationship or
6 transaction between the financial institution and the customer, if the disclosure is made in the or-
7 dinary course of business of the financial institution and will further the legitimate business inter-
8 ests of the customer or the financial institution.

9 “(3) ORS 192.583 to 192.607 do not prohibit any of the following:

10 “(a) The dissemination of any financial information that is not identified with, or identifiable as
11 being derived from, the financial records of a particular customer.

12 “(b) The examination by, or disclosure to, the Department of Consumer and Business Services
13 of financial records that relate solely to the exercise of the department’s supervisory function. The
14 scope of the department’s supervisory function shall be determined by reference to statutes that
15 grant authority to examine, audit, or require reports of financial records or financial institutions.

16 “(c) The furnishing to the Department of Revenue of information by the financial institution,
17 whether acting as principal or agent, as required by ORS 314.360.

18 “(d) Compliance with the provisions of ORS 708A.655 or 723.844.

19 “(4) Notwithstanding subsection (1) of this section, a financial institution may:

20 “(a) Enter into an agreement with the Oregon State Bar that requires the financial institution
21 to make reports to the Oregon State Bar whenever a properly payable instrument is presented for
22 payment out of an attorney trust account that contains insufficient funds, whether or not the in-
23 strument is honored by the financial institution; and

24 “(b) Submit reports to the Oregon State Bar concerning instruments presented for payment out
25 of an attorney trust account under a trust account overdraft notification program established under
26 ORS 9.685.”.

27 On page 12, lines 15 through 17, restore the bracketed material.

28 In line 19, after “(b)” insert “Notwithstanding paragraph (a) of this subsection,”.

29 On page 18, delete lines 39 through 43.

30 In line 44, delete “21” and insert “20” and before “The” insert “No later than October 1,
31 2012,”.

32 On page 19, line 1, delete “the” and insert “a”.

33 Delete lines 2 and 3 and insert “call system and 2-1-1 system integration to provide a means of
34 making the report required by ORS 124.060.”.

35 In line 4, delete “22” and insert “21”.

36 In line 5, after “(a)” insert “Using new or existing materials,”.

37 In line 10, after “(b)” insert “Using new or existing materials,”.

38 In line 15, delete “23” and insert “22” and before “The” insert “No later than October 1,
39 2012,”.

40 In line 18, after “section” delete the rest of the line and line 19 and insert “21 of this 2012
41 Act.”.

42 Delete lines 20 through 25.

43 In line 26, delete “25” and insert “23”.

44 On page 21, line 5, delete “26” and insert “24” and delete “25” and insert “23”.

45 In line 6, delete “27” and insert “25”.

1 In line 10, delete "28" and insert "26".

2 In line 14, delete "29" and insert "27".

3
