

(To Resolve Conflicts)

## B-Engrossed Senate Bill 264

Ordered by the House May 14  
Including Senate Amendments dated April 2 and House Amendments  
dated May 14 to resolve conflicts

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Advocacy Center)

### 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.

Adds requirement for reporting abuse of persons with developmental disabilities who are 18 years of age or older and are currently receiving, or were previously determined eligible for, services from community program or facility.

Modifies definition of "adult protective services" to include petitioning for protective order.

### A BILL FOR AN ACT

1  
2 Relating to reporting abuse of persons with developmental disabilities; amending ORS 430.735.

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

4 **SECTION 1.** ORS 430.735 is amended to read:

5 430.735. As used in ORS 430.735 to 430.765:

6 (1) "Abuse" means one or more of the following:

7 (a) Any death caused by other than accidental or natural means.

8 (b) Any physical injury caused by other than accidental means, or that appears to be at variance  
9 with the explanation given of the injury.

10 (c) Willful infliction of physical pain or injury.

11 (d) Sexual harassment or exploitation, including but not limited to any sexual contact between  
12 an employee of a facility or community program and an adult.

13 (e) Neglect that leads to physical harm through withholding of services necessary to maintain  
14 health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the  
15 state or a community program to provide services due to a lack of funding available to provide the  
16 services.

17 [(2) "Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of  
18 age or older and receives services from a community program or facility.]

19 **(2) "Adult" means a person 18 years of age or older with:**

20 **(a) A developmental disability who is currently receiving services from a community**  
21 **program or facility or was previously determined eligible for services as an adult by a com-**  
22 **munity program or facility; or**

23 **(b) A mental illness who is receiving services from a community program or facility.**

24 (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploi-

**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 tation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and  
2 funds, **including petitioning for a protective order as defined in ORS 125.005**. Any actions taken  
3 to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides  
4 for the greatest degree of independence.

5 (4) "Care provider" means an individual or facility that has assumed responsibility for all or a  
6 portion of the care of an adult as a result of a contract or agreement.

7 (5) "Community program" means a community mental health and developmental disabilities  
8 program as established in ORS 430.610 to 430.695.

9 (6) "Department" means the Department of Human Services.

10 (7) "Facility" means a residential treatment home or facility, residential care facility, adult fos-  
11 ter care home, residential training home or facility or crisis respite facility.

12 (8) "Law enforcement agency" means:

13 (a) Any city or municipal police department;

14 (b) Any county sheriff's office;

15 (c) The Oregon State Police; or

16 (d) Any district attorney.

17 (9) "Public or private official" means:

18 (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or  
19 podiatric physician and surgeon, including any intern or resident;

20 (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an  
21 in-home health service;

22 (c) Employee of the Department of Human Services, county health department, community  
23 mental health and developmental disabilities program or private agency contracting with a public  
24 body to provide any community mental health service;

25 (d) Peace officer;

26 (e) Member of the clergy;

27 (f) Licensed clinical social worker;

28 (g) Physical, speech or occupational therapist;

29 (h) Information and referral, outreach or crisis worker;

30 (i) Attorney;

31 (j) Licensed professional counselor or licensed marriage and family therapist; or

32 (k) Any public official who comes in contact with adults in the performance of the official's du-  
33 ties.

34 **SECTION 2. If Senate Bill 83 becomes law, section 1 of this 2007 Act (amending ORS**  
35 **430.735) is repealed and ORS 430.735, as amended by section 236, chapter 70, Oregon Laws 2007**  
36 **(Enrolled Senate Bill 83), is amended to read:**

37 430.735. As used in ORS 430.735 to 430.765:

38 (1) "Abuse" means one or more of the following:

39 (a) Any death caused by other than accidental or natural means.

40 (b) Any physical injury caused by other than accidental means, or that appears to be at variance  
41 with the explanation given of the injury.

42 (c) Willful infliction of physical pain or injury.

43 (d) Sexual harassment or exploitation, including but not limited to any sexual contact between  
44 an employee of a facility or community program and an adult.

45 (e) Neglect that leads to physical harm through withholding of services necessary to maintain

1 health and well-being. For purposes of this paragraph, “neglect” does not include a failure of the  
2 state or a community program to provide services due to a lack of funding available to provide the  
3 services.

4 *[(2) “Adult” means a person with a mental illness or developmental disability, who is 18 years of*  
5 *age or older and receives services from a community program or facility.]*

6 **(2) “Adult” means a person 18 years of age or older with:**

7 **(a) A developmental disability who is currently receiving services from a community**  
8 **program or facility or was previously determined eligible for services as an adult by a com-**  
9 **munity program or facility; or**

10 **(b) A mental illness who is receiving services from a community program or facility.**

11 (3) “Adult protective services” means the necessary actions taken to prevent abuse or exploi-  
12 tation of an adult, to prevent self-destructive acts and to safeguard an adult’s person, property and  
13 funds, **including petitioning for a protective order as defined in ORS 125.005.** Any actions taken  
14 to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides  
15 for the greatest degree of independence.

16 (4) “Care provider” means an individual or facility that has assumed responsibility for all or a  
17 portion of the care of an adult as a result of a contract or agreement.

18 (5) “Community program” means a community mental health and developmental disabilities  
19 program as established in ORS 430.610 to 430.695.

20 (6) “Department” means the Department of Human Services.

21 (7) “Facility” means a residential treatment home or facility, residential care facility, adult fos-  
22 ter care home, residential training home or facility or crisis respite facility.

23 (8) “Law enforcement agency” means:

24 (a) Any city or municipal police department;

25 (b) Any county sheriff’s office;

26 (c) The Oregon State Police; or

27 (d) Any district attorney.

28 (9) “Public or private official” means:

29 (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or  
30 podiatric physician and surgeon, including any intern or resident;

31 (b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of an  
32 in-home health service;

33 (c) Employee of the Department of Human Services, county health department, community  
34 mental health and developmental disabilities program or private agency contracting with a public  
35 body to provide any community mental health service;

36 (d) Peace officer;

37 (e) Member of the clergy;

38 (f) Licensed clinical social worker;

39 (g) Physical, speech or occupational therapist;

40 (h) Information and referral, outreach or crisis worker;

41 (i) Attorney;

42 (j) Licensed professional counselor or licensed marriage and family therapist; or

43 (k) Any public official who comes in contact with adults in the performance of the official’s du-  
44 ties.

45