

# Senate Bill 976

Sponsored by Senator WALKER

## 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**.

Increases penalties for failure to report child abuse and abuse of persons 65 years of age or older to maximum one year's imprisonment, \$6,250 fine, or both.

Punishes failure to report abuse of mentally ill and developmentally disabled adults by maximum one year's imprisonment, \$6,250 fine, or both.

Punishes failure to report abuse of long term care facility residents by maximum one year's imprisonment, \$6,250 fine, or both.

Authorizes suspension or revocation of certain licenses, certificates, permits or registrations for failure to report certain types of abuse.

## A BILL FOR AN ACT

1  
2 Relating to reporting abuse; amending ORS 124.990, 419B.010, 430.743, 430.753, 430.757, 430.765 and  
3 441.990.

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

5 **SECTION 1.** ORS 419B.010 is amended to read:

6 419B.010. (1) Any public or private official having reasonable cause to believe that any child  
7 with whom the official comes in contact has suffered abuse or that any person with whom the offi-  
8 cial comes in contact has abused a child shall immediately report or cause a report to be made in  
9 the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6)  
10 affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member  
11 of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report  
12 such information communicated by a person if the communication is privileged under ORS 40.225 to  
13 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason  
14 of information communicated to the attorney in the course of representing a client if disclosure of  
15 the information would be detrimental to the client.

16 (2) Notwithstanding subsection (1) of this section, a report need not be made under this section  
17 if the public or private official acquires information relating to abuse by reason of a report made  
18 under this section, or by reason of a proceeding arising out of a report made under this section, and  
19 the public or private official reasonably believes that the information is already known by a law  
20 enforcement agency or the Department of Human Services.

21 (3) A person who violates subsection (1) of this section commits a Class A [*violation*]  
22 **misdemeanor**. Prosecution under this subsection shall be commenced at any time within 18 months  
23 after commission of the offense.

24 (4) **Notwithstanding any other provisions of law, a conviction for violating subsection (1)**  
25 **of this section is grounds for revoking or suspending any license, certificate, permit or reg-**  
26 **istration that a public or private official is required by state law to possess in order to en-**  
27 **gage in an occupation or to use a particular occupational or professional title. Upon receiving**  
28 **notification that the holder of such a license, certification, permit or registration has been**

**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 convicted of violating subsection (1) of this section, the issuing entity shall initiate pro-  
2 ceedings to revoke or suspend the license, certificate, permit or registration.

3 **SECTION 2.** ORS 124.990 is amended to read:

4 124.990. (1) A person who violates ORS 124.060 commits a Class A [violation] misdemeanor.

5 (2) All licenses, certificates, permits or registrations that a public or private official is  
6 required by state law to possess in order to engage in an occupation or to use a particular  
7 occupational or professional title are subject to revocation or suspension by the respective  
8 issuing entities upon notification to the issuing entity that the public or private official was  
9 convicted of violating ORS 124.060. Notwithstanding any other provisions of law, a conviction  
10 for violating ORS 124.060 is grounds for revoking or suspending any license, certificate, per-  
11 mit or registration that a public or private official is required by state law to possess in or-  
12 der to engage in an occupation or to use a particular occupational or professional title. Upon  
13 receiving notification that the holder of such a license, certification, permit or registration  
14 has been convicted of violating ORS 124.060, the issuing entity shall initiate proceedings to  
15 revoke or suspend the license, certificate, permit or registration.

16 **SECTION 3.** ORS 441.990 is amended to read:

17 441.990. (1) Violation of ORS 441.015 (1) is a violation punishable, upon conviction, by a fine of  
18 not more than \$100 for the first violation and not more than \$500 for each subsequent violation.  
19 Each day of continuing violation after a first conviction shall be considered a subsequent violation.

20 (2)(a) Violation of ORS 441.815 (1) is a violation punishable by a fine of \$10.

21 (b) Violation of ORS 441.815 (2) or (3) is a Class D violation.

22 (3) Any person who willfully prevents, interferes with, or attempts to impede in any way the  
23 work of any duly authorized representative of the Department of Human Services in the lawful  
24 carrying out of the provisions of ORS 441.087 (1) is guilty of a Class C misdemeanor.

25 (4) The removal of the notice required by ORS 441.030 (5) by any person other than an official  
26 of the department is a Class C misdemeanor.

27 (5)(a) Violation of ORS 441.640 is a Class A misdemeanor.

28 (b) Notwithstanding any other provisions of law, a conviction for violating ORS 441.640  
29 is grounds for revoking or suspending any license, certificate, permit or registration that a  
30 public or private official is required by state law to possess in order to engage in an occu-  
31 pation or to use a particular occupational or professional title. Upon receiving notification  
32 that the holder of such a license, certification, permit or registration has been convicted of  
33 violating ORS 441.640, the issuing entity shall initiate proceedings to revoke or suspend the  
34 license, certificate, permit or registration.

35 **SECTION 4.** ORS 430.765 is amended to read:

36 430.765. (1) Any public or private official who has reasonable cause to believe that any adult  
37 with whom the official comes in contact while acting in an official capacity, has suffered abuse, or  
38 that any person with whom the official comes in contact while acting in an official capacity has  
39 abused an adult shall report or cause a report to be made in the manner required in ORS 430.743.

40 (2) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by [subsections  
41 (1) and (2)] subsection (1) of this section, except that a psychiatrist, psychologist, member of the  
42 clergy or attorney shall not be required to report such information communicated by a person if the  
43 communication is privileged under ORS 40.225 to 40.295.

44 (3) An adult who in good faith is voluntarily under treatment solely by spiritual means through  
45 prayer in accordance with the tenets and practices of a recognized church or religious denomination

1 by a duly accredited practitioner thereof shall for this reason alone not be considered subjected to  
2 abuse under ORS 430.735 to 430.765.

3 **(4) A person who violates subsection (1) of this section commits a Class A misdemeanor.**

4 **(5) Notwithstanding any other provisions of law, a conviction for violating subsection (1)**  
5 **of this section is grounds for revoking or suspending any license, certificate, permit or reg-**  
6 **istration that a public or private official is required by state law to possess in order to en-**  
7 **gage in an occupation or to use a particular occupational or professional title. Upon receiving**  
8 **notification that the holder of such a license, certification, permit or registration has been**  
9 **convicted of violating subsection (1) of this section, the issuing entity shall initiate pro-**  
10 **ceedings to revoke or suspend the license, certificate, permit or registration.**

11 **SECTION 5.** ORS 430.743 is amended to read:

12 430.743. (1) When a report is required under ORS 430.765 (1) [*and* (2)], an oral report shall be  
13 made immediately by telephone or otherwise to the designee of the Department of Human Services  
14 or a law enforcement agency within the county where the person making the report is at the time  
15 of contact. If known, the report shall include:

16 (a) The name, age and present location of the allegedly abused adult;

17 (b) The names and addresses of persons responsible for the adult's care;

18 (c) The nature and extent of the alleged abuse, including any evidence of previous abuse;

19 (d) Any information that led the person making the report to suspect that abuse has occurred  
20 plus any other information that the person believes might be helpful in establishing the cause of the  
21 abuse and the identity of the perpetrator; and

22 (e) The date of the incident.

23 (2) When a report is received by the department's designee under this section, the designee shall  
24 immediately determine whether the reported victim has sustained any serious injury. If so, the  
25 designee shall immediately notify the department. If there is reason to believe a crime has been  
26 committed, the designee shall notify the law enforcement agency having jurisdiction within the  
27 county where the report was made. If the designee is unable to gain access to the allegedly abused  
28 adult, the designee may contact the law enforcement agency for assistance and the agency shall  
29 provide assistance. When a report is received by a law enforcement agency, the agency shall im-  
30 mediately notify the law enforcement agency having jurisdiction if the receiving agency does not.  
31 The receiving agency shall also immediately notify the department in cases of serious injury or  
32 death.

33 **SECTION 6.** ORS 430.753 is amended to read:

34 430.753. (1) Anyone participating in good faith in making a report of abuse pursuant to ORS  
35 430.743 and 430.765 (1) [*and* (2)] and who has reasonable grounds for making the report, shall have  
36 immunity from any civil liability that might otherwise be incurred or imposed with respect to the  
37 making or content of the report. The participant shall have the same immunity with respect to  
38 participating in any judicial proceeding resulting from the report.

39 (2) The identity of the person making the report shall be treated as confidential information and  
40 shall be disclosed only with the consent of that person, by judicial order or as otherwise permitted  
41 by ORS 430.763.

42 **SECTION 7.** ORS 430.757 is amended to read:

43 430.757. A proper record of all reports of abuse made under ORS 430.743 and 430.765 (1) [*and*  
44 (2)] shall be maintained by the Department of Human Services.