

Senate Bill 670

Sponsored by Senator WINTERS; Senator KRUSE

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**.

Adds professions to list of public or private officials required to report abuse of elderly person or child.

Exempts privileged communications to psychiatrist or psychologist from mandatory abuse reporting requirement.

A BILL FOR AN ACT

1
2 Relating to mandatory reporters of abuse; creating new provisions; and amending ORS 124.050,
3 124.060 and 419B.005.

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

5 **SECTION 1.** ORS 124.050 is amended to read:

6 124.050. As used in ORS 124.050 to 124.095:

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

8 (a) Any physical injury caused by other than accidental means, or which appears to be at vari-
9 ance with the explanation given of the injury.

10 (b) Neglect which leads to physical harm through withholding of services necessary to maintain
11 health and well-being.

12 (c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal
13 or neglect of duties and obligations owed an elderly person by a caretaker or other person.

14 (d) Willful infliction of physical pain or injury.

15 (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
16 163.465 or 163.467.

17 (f) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly
18 person or person with a disability to alarm by conveying a threat to wrongfully take or appropriate
19 money or property, which threat reasonably would be expected to cause the person to believe that
20 the threat will be carried out.

21 (2) "Elderly person" means any person 65 years of age or older who is not subject to the pro-
22 visions of ORS 441.640 to 441.665.

23 (3) "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.

27 (d) Any district attorney.

28 (4) "Public or private official" means:

29 (a) Physician, naturopathic physician, osteopathic physician, chiropractor, **physician assistant**
30 or podiatric physician and surgeon, including any intern or resident.

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 (b) Licensed practical nurse, registered nurse, **nurse practitioner**, nurse’s aide, home health
 2 aide or employee of an in-home health service.

3 (c) Employee of the Department of Human Services, county health department or community
 4 mental health and developmental disabilities program.

5 (d) Peace officer.

6 (e) Member of the clergy.

7 (f) Licensed clinical social worker.

8 (g) Physical, speech or occupational therapists.

9 (h) Senior center employee.

10 (i) Information and referral or outreach worker.

11 (j) Licensed professional counselor or licensed marriage and family therapist.

12 (k) Any public official who comes in contact with elderly persons in the performance of the of-
 13 ficial’s official duties.

14 (L) Firefighter or emergency medical technician.

15 **(m) Psychologist.**

16 **(n) Provider of adult foster care or an employee of the provider.**

17 **SECTION 2.** ORS 124.060 is amended to read:

18 124.060. Any public or private official having reasonable cause to believe that any person 65
 19 years of age or older with whom the official comes in contact, while acting in an official capacity,
 20 has suffered abuse, or that any person with whom the official comes in contact while acting in an
 21 official capacity has abused a person 65 years of age or older shall report or cause a report to be
 22 made in the manner required in ORS 124.065. **Nothing contained in ORS 40.225 to 40.295 affects**
 23 **the duty to report imposed by this section, except that a psychiatrist or psychologist is not**
 24 **required to report such information communicated by a person if the communication is**
 25 **privileged under ORS 40.225 to 40.295.**

26 **SECTION 3.** ORS 419B.005 is amended to read:

27 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

28 (1)(a) “Abuse” means:

29 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
 30 which has been caused by other than accidental means, including any injury which appears to be
 31 at variance with the explanation given of the injury.

32 (B) Any mental injury to a child, which shall include only observable and substantial impairment
 33 of the child’s mental or psychological ability to function caused by cruelty to the child, with due
 34 regard to the culture of the child.

35 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
 36 tration and incest, as those acts are defined in ORS chapter 163.

37 (D) Sexual abuse, as defined in ORS chapter 163.

38 (E) Sexual exploitation, including but not limited to:

39 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
 40 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
 41 in the performing for people to observe or the photographing, filming, tape recording or other ex-
 42 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
 43 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
 44 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
 45 which is designed to serve educational or other legitimate purposes; and

1 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in
 2 ORS chapter 167.

3 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
 4 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
 5 welfare of the child.

6 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
 7 to the child's health or welfare.

8 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

9 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
 10 methamphetamines are being manufactured.

11 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child
 12 to a substantial risk of harm to the child's health or safety.

13 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
 14 conditions described in paragraph (a) of this subsection.

15 (2) "Child" means an unmarried person who is under 18 years of age.

16 (3) "Public or private official" means:

17 (a) Physician, **osteopathic physician, physician assistant, naturopathic physician, podiatric**
 18 **physician and surgeon**, including any intern or resident.

19 (b) Dentist.

20 (c) School employee.

21 (d) Licensed practical nurse [or], registered nurse, **nurse practitioner, nurse's aide, home**
 22 **health aide or employee of an in-home health service**.

23 (e) Employee of the Department of Human Services, State Commission on Children and Families,
 24 Child Care Division of the Employment Department, the Oregon Youth Authority, a county health
 25 department, a community mental health and developmental disabilities program, a county juvenile
 26 department, a licensed child-caring agency or an alcohol and drug treatment program.

27 (f) Peace officer.

28 (g) Psychologist.

29 (h) Member of the clergy.

30 (i) Licensed clinical social worker.

31 (j) Optometrist.

32 (k) Chiropractor.

33 (L) Certified provider of foster care, or an employee thereof.

34 (m) Attorney.

35 [(n) *Naturopathic physician.*]

36 [(o)] (n) Licensed professional counselor.

37 [(p)] (o) Licensed marriage and family therapist.

38 [(q)] (p) Firefighter or emergency medical technician.

39 [(r)] (q) A court appointed special advocate, as defined in ORS 419A.004.

40 [(s)] (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to
 41 657A.450.

42 [(t)] (s) Member of the Legislative Assembly.

43 (4) "Law enforcement agency" means:

44 (a) Any city or municipal police department.

45 (b) Any county sheriff's office.

1 (c) The Oregon State Police.

2 (d) A county juvenile department.

3 **SECTION 4. The amendments to ORS 124.050, 124.060 and 419B.005 by sections 1 to 3 of**
4 **this 2009 Act apply to information about elderly person or child abuse received on or after**
5 **the effective date of this 2009 Act.**

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