

Senate Bill 419

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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**.

Clarifies definition of "abuse" in Elderly Persons and Persons With Disabilities Abuse Prevention Act with respect to conduct involving elements of speech.

A BILL FOR AN ACT

1
2 Relating to the definition of abuse in the Elderly Persons and Persons With Disabilities Abuse Pre-
3 vention Act; creating new provisions; and amending ORS 124.005.

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

5 **SECTION 1.** ORS 124.005 is amended to read:

6 124.005. As used in ORS 124.005 to 124.040:

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

8 (a) 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 (b) Neglect that 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 a person with
13 a disability or the withdrawal or neglect of duties and obligations owed an elderly person or a
14 person with a disability by a caregiver or other person.

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

16 (e) Use of derogatory or inappropriate names, phrases or profanity, ridicule, harassment,
17 coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a na-
18 ture as to *[threaten]* **knowingly subject an elderly person or person with a disability to alarm**
19 **by conveying a threat of** significant physical or emotional harm to the elderly person or person
20 with a disability, **which threat reasonably would be expected to cause the elderly person or**
21 **person with a disability to believe that the threat will be carried out.**

22 (f) Causing any sweepstakes promotion to be mailed to an elderly person or a person with a
23 disability who had received sweepstakes promotional material in the United States mail, spent more
24 than \$500 in the preceding year on any sweepstakes promotions, or any combination of sweepstakes
25 promotions from the same service, regardless of the identities of the originators of the sweepstakes
26 promotion and who represented to the court that the person felt the need for the court's assistance
27 to prevent the person from incurring further expense.

28 (g) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly
29 person or person with a disability to alarm by conveying a threat to wrongfully take or appropriate
30 money or property, which threat reasonably would be expected to cause the elderly person or person

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 with a disability to believe that the threat will be carried out.

2 (h) Sexual contact with a nonconsenting elderly person or person with a disability or with an
3 elderly person or person with a disability considered incapable of consenting to a sexual act as de-
4 scribed in ORS 163.315. As used in this paragraph, “sexual contact” has the meaning given that term
5 in ORS 163.305.

6 (2) “Elderly person” means any person 65 years of age or older who is not subject to the pro-
7 visions of ORS 441.640 to 441.665.

8 (3) “Guardian petitioner” means a guardian or guardian ad litem for an elderly person or a
9 person with a disability who files a petition under ORS 124.005 to 124.040 on behalf of the elderly
10 person or person with a disability.

11 (4) “Interfere” means to interpose in a way that hinders or impedes.

12 (5) “Intimidate” means to compel or deter conduct by a threat.

13 (6) “Menace” means to act in a threatening manner.

14 (7) “Molest” means to annoy, disturb or persecute with hostile intent or injurious effect.

15 (8) “Person with a disability” means a person described in:

16 (a) ORS 410.040 (7)(b); or

17 (b) ORS 410.715.

18 (9) “Petitioner” means an elderly person or a person with a disability who files a petition under
19 ORS 124.005 to 124.040.

20 (10) “Sweepstakes” means:

21 (a) A procedure for awarding a prize that is based on chance;

22 (b) A procedure in which a person is required to purchase anything, pay anything of value or
23 make a donation as a condition of winning a prize or of receiving or obtaining information about a
24 prize; or

25 (c) A procedure that is advertised in a way that creates a reasonable impression that a payment
26 of anything of value, purchase of anything or making a donation is a condition of winning a prize
27 or receiving or obtaining information about a prize.

28 (11) “Sweepstakes promotion” means an offer to participate in a sweepstakes.

29 **SECTION 2. The amendments to ORS 124.005 by section 1 of this 2011 Act apply to pro-**
30 **ceedings brought under the Elderly Persons and Persons With Disabilities Abuse Prevention**
31 **Act commenced on or after the effective date of this 2011 Act.**

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