

HB 4084 OVERVIEW

Bill Section	HB 4084 change from current law	-1 change from HB 4084
Section 1	Creates crime of felony assault in the 3 rd degree of an elderly person	
Section 2	Extends the statute of limitations from 3 years to 6 years for commission of a financial crime against an elderly person.	
Section 4	Eliminates expunction for convictions of criminal mistreatment of an elderly person in the 1 st or 2 nd degree	
Section 6-8	Permits health care providers in Oregon to allow Adult Protective Services and law enforcement to inspect health records during an abuse investigation of a person over age 65; protects health care provider from civil/criminal liability for disclosure	Expands methods for obtaining health records beyond inspecting or copying to include "or otherwise obtain"
Section 10	Grants law enforcement access to financial records from a bank or credit union when investigating abuse or financial exploitation of an elderly person; protects financial institution from liability for disclosure	Permits financial institutions to be reimbursed for costs incurred; clarifies provision for multiple account holders
Section 12-13	Clarifies with whom DHS/APS can share investigation reports to assist in protecting elderly persons	
Section 14-16	Creates Resident Safety Review Council to review abuse investigation reports in long term care settings to determine whether occurrences should be classified as abuse or adverse events; must submit recommendations to 2013 Legislative Assembly	
Section 17	(a) Adds Animal Abuse, Forgery and Child Neglect to the list of permanently disqualifying crimes that bars convicted individuals from working with vulnerable Oregonians (b) Removes crimes of <i>public indecency, private indecency, invasion of personal privacy, theft in 1st degree, theft of services, and computer crimes</i> from permanently disqualifying list for individuals seeking employment as	P. 12, lines 15-17: Fixes inadvertent removal

	caregivers for elderly	
Section 18-19	Removes requirement that DHS grant “appeal” right to individual who has been denied employment because of a prior conviction for a permanently disqualifying crime. Despite current law that bars an individual from working as a caregiver if they have ever been convicted of a permanently disqualifying crime, the individual retains the right to an appeal under a separate statute. If an individual appeals the denial, he or she has the right to a contested case hearing, causing the agency to spend funds on a process that will never turn in the individual’s favor because of state law barring them from working in this field.	
Section 20-21	Requires DHS to report back to 2013 Legislative Assembly with recommendations for centralized, statewide report system for abuse of elderly person	Removes requirement on DHS to establish a statewide call system for reporting abuse of elderly person
Section 22-23	Requires DHS to report back to 2013 Legislative Assembly with recommendations to increase training and education for Adult Protective Services investigators with a focus on investigation techniques, evidence gathering, report writing abuse awareness, prevention, and early-detection training for caregivers.	Allows DHS to use “new or existing materials” to develop/implement training curriculum for investigators Changes date DHS is required to submit report on recommendations for training/ curriculum development from October 1, 2013 to October 1, 2012
Section 24	Requires DHS to apply for grant from CMS to receive 3:1 matching funds to develop nationwide background check system for employees of long term care facilities and providers	Deletes requirement for DHS to apply for grant from CMS to receive 3:1 matching funds to develop nationwide background check system for employees of long term care facilities and providers
Section 25	Extends Oregon Elder Abuse Work Group to June 2013	

QUALITY CARE FUND BACKGROUND

When established? 2009

Who contributes?

- All license fees paid by long term care facilities, residential facilities, and adult foster homes are directed into QCF
- Civil penalties paid by residential facilities and adult foster homes are directed into QCF
 - Civil penalties paid by long term care facilities (nursing facilities) are required by federal law to be maintained in separate account

What does it fund?

443.001 Quality Care Fund; rules. The Quality Care Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Quality Care Fund shall be credited to the Quality Care Fund. Moneys in the fund are continuously appropriated to the Department of Human Services and the Oregon Health Authority **for training, technical assistance, quality improvement initiatives and licensing activities** to ensure that high standards for quality of care are met in accordance with rules adopted with respect to:

- (1) A long term care facility as defined in ORS 442.015;
- (2) A residential facility as defined in ORS 443.400, including but not limited to an assisted living facility; and
- (3) An adult foster home as defined in ORS 443.705. [2009 c.837 §1; 2009 c.828 §78]

Quality Care Fund balance as of January 5, 2012: \$868,302.80

HB 4084: New Tools to Fight Elder Abuse

SUPPORTERS



**Oregon Credit Union Association
Oregon Bankers Association
Oregon District Attorney's Association
And many more....**

Proposed bills get tough on elder abuse

By Peter Wong

Statesman Journal

January 21, 2012

New steps to help Oregon police and prosecutors combat elder abuse will be taken in the Oregon Legislature's 2012 session, which starts Feb. 1.

The steps, contained in proposed bills, were outlined Wednesday at a joint meeting of the House and Senate judiciary committees.

"With the input we have had, I think we are ready to go," said Rep. Vic Gilliam, R-Silverton, who led the group working on the issue. "You cannot do everything in one bill, but this will move 'elder abuse' and its prevention down the field."

Gilliam credited Sen. Jackie Winters, R-Salem, with the concept of linking comparable legal treatment of elder abuse and child abuse.

"It lags 25 years behind what we do in child-abuse cases," said John Wentworth, a Clackamas County deputy district attorney who is a specialist in the field.

Wentworth said when an adult child commits an offense against a parent who is "vulnerable adult" — the legal term for elder abuse — it is prosecuted as a misdemeanor if the adult child is not a caregiver.

Among the group's recommendations are that the statute of limitations for prosecution of crimes against "vulnerable adults" should be set at six years, convictions for criminal mistreatment of such persons should not be expunged automatically after three years, and police should have access to financial and medical records when abuse victims are unable to consent.

Matt Smith, a Forest Grove police detective, said older victims in many cases he investigates are either dead or have dementia.

"We have financial institutions and physicians who want to do the right thing for their customers and patients, but they are not able to do that" under current law, he said.

Smith said the law should allow for a test so that a potential caregiver who committed a crime 20 years ago should not be judged the same as someone convicted more recently.

"It is striking how far we have come in child abuse — and how far we have to go in elder abuse," Smith said.

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