

D R A F T

SUMMARY

Expands definition of abuse of individuals with mental illness. Recognizes responsibility of Oregon Health Authority to investigate abuse of individuals with mental illness.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to abuse of individuals with mental illness; amending ORS 430.731, 430.735, 430.743, 430.745, 430.746, 430.747, 430.756, 430.757, 430.763, 430.768 and 443.875; and declaring an emergency.

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

SECTION 1. ORS 430.735 is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1)(a) “Abuse,” **with respect to a person with a developmental disability or a person with mental illness**, means one or more of the following:

[(a) Abandonment, including desertion or willful forsaking of a person with a developmental disability or the withdrawal or neglect of duties and obligations owed a person with a developmental disability by a caregiver or other person.]

[(b)] **(A)** Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

[(c)] **(B)** Willful infliction of physical pain or injury upon an adult.

[(d)] **(C)** Sexual abuse of an adult.

[(e)] **(D)** Neglect[.] **of an adult.**

(E) An act that constitutes a crime under ORS 163.375, 163.405,

1 **163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.**

2 **(F) Any death of an adult caused by other than accidental or na-**
3 **tural means.**

4 **(b) “Abuse,” with respect to a person with mental illness receiving**
5 **services in a facility or a person with a developmental disability,**
6 **means one or more of the following:**

7 **(A) Abandonment, including desertion or willful forsaking of an**
8 **adult or the withdrawal or neglect of duties and obligations owed an**
9 **adult by a caregiver or other person.**

10 *[(f)]* **(B) Verbal abuse of [a person with a developmental disability] an**
11 **adult.**

12 *[(g)]* **(C) Financial exploitation of [a person with a developmenal disabil-**
13 **ity] an adult.**

14 *[(h)]* **(D) Involuntary seclusion or restriction of an adult [of a person**
15 **with a developmental disability] for the convenience of the caregiver or to**
16 **discipline the [person] adult.**

17 *[(i)]* **(E) A wrongful use of a physical or chemical restraint upon [a person**
18 **with a developmental disability] an adult, excluding an act of restraint pre-**
19 **scribed by a licensed physician and any treatment activities that are con-**
20 **sistent with an approved treatment plan or in connection with a court order.**

21 *[(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,*
22 *163.415, 163.425, 163.427, 163.465 or 163.467.]*

23 *[(k) Any death of an adult caused by other than accidental or natural*
24 *means.]*

25 (2) “Adult” means a person 18 years of age or older. *[with:]*

26 *[(a) A developmental disability who is currently receiving services from a*
27 *community program or facility or was previously determined eligible for ser-*
28 *vices as an adult by a community program or facility; or]*

29 *[(b) A mental illness who is receiving services from a community program*
30 *or facility.]*

31 (3) “Adult protective services” means the necessary actions taken to pre-

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

6 (4) "Caregiver" means an individual, whether paid or unpaid, or a facility
7 that has assumed responsibility for all or a portion of the care of an adult
8 as a result of a contract or agreement.

9 (5) "Community program" means a community mental health program or
10 a community developmental disabilities program as established in ORS
11 430.610 to 430.695.

12 (6) "Facility" means a residential treatment home or facility, residential
13 care facility, adult foster home, residential training home or facility or crisis
14 respite facility.

15 (7) "Financial exploitation" means:

16 (a) Wrongfully taking the assets, funds or property belonging to or in-
17 tended for the use of [*a person with a developmental disability*] **an adult**.

18 (b) Alarming [*a person with a developmental disability*] **an adult** by con-
19 veying a threat to wrongfully take or appropriate money or property of the
20 [*person if the person*] **adult if the adult** would reasonably believe that the
21 threat conveyed would be carried out.

22 (c) Misappropriating, misusing or transferring without authorization any
23 money from any account held jointly or singly by [*a person with a develop-*
24 *mental disability*] **an adult**.

25 (d) Failing to use the income or assets of [*a person with a developmental*
26 *disability*] **an adult** effectively for the support and maintenance of the [*per-*
27 *son*] **adult**.

28 (8) "Intimidation" means compelling or deterring conduct by threat.

29 (9) "Law enforcement agency" means:

30 (a) Any city or municipal police department;

31 (b) A police department established by a university under ORS 352.383;

- 1 (c) Any county sheriff's office;
- 2 (d) The Oregon State Police; or
- 3 (e) Any district attorney.

4 (10)(a) "Neglect," **with respect to a person with a developmental**
5 **disability, or a person with mental illness receiving services in a fa-**
6 **cility,** means:

7 [(a)] (A) Failure to provide the care, supervision or services necessary to
8 maintain the physical and mental health of a person [*with a developmental*
9 *disability*] that may result in physical harm or significant emotional harm
10 to the person; **or**

11 [(b)] (B) The failure of a caregiver to make a reasonable effort to protect
12 a person [*with a developmental disability*] from abuse.[: or]

13 [(c)] (b) "Neglect," **with respect to a person with a developmental**
14 **disability, or a person with mental illness receiving services from a**
15 **community program or in a facility, means the active or passive with-**
16 **holding of services necessary to maintain the health and well-being of an**
17 **adult [*which*] **that** leads to physical harm of [*an*] **the** adult.**

18 (11) "Person with a developmental disability" means [*a person described*
19 *in subsection (2)(a) of this section.*] **an adult who is receiving services from**
20 **a community program or in a facility or who was previously deter-**
21 **mined eligible for services as a person with a developmental disability**
22 **by a community program or facility.**

23 (12) "Public or private official" means:

24 (a) Physician, naturopathic physician, osteopathic physician, psychologist,
25 chiropractor or podiatric physician and surgeon, including any intern or
26 resident;

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

29 (c) Employee of the Department of Human Services or Oregon Health
30 Authority, county health department, community mental health program or
31 community developmental disabilities program or private agency contracting

- 1 with a public body to provide any community mental health service;
- 2 (d) Peace officer;
- 3 (e) Member of the clergy;
- 4 (f) Regulated social worker;
- 5 (g) Physical, speech or occupational therapist;
- 6 (h) Information and referral, outreach or crisis worker;
- 7 (i) Attorney;
- 8 (j) Licensed professional counselor or licensed marriage and family ther-
- 9 apist;
- 10 (k) Any public official who comes in contact with adults in the perform-
- 11 ance of the official's duties; or
- 12 (L) Firefighter or emergency medical services provider.
- 13 (13) "Services" includes but is not limited to the provision of food,
- 14 clothing, medicine, housing, medical services, assistance with bathing or
- 15 personal hygiene or any other service essential to the well-being of an adult.
- 16 (14)(a) "Sexual abuse" means:
- 17 (A) Sexual contact with a nonconsenting adult or with an adult consid-
- 18 ered incapable of consenting to a sexual act under ORS 163.315;
- 19 (B) Sexual harassment, sexual exploitation or inappropriate exposure to
- 20 sexually explicit material or language;
- 21 (C) Any sexual contact between an employee of a facility or paid
- 22 caregiver and an adult served by the facility or caregiver;
- 23 (D) Any sexual contact between [*a person with a developmental*
- 24 *disability*] **an adult** and a relative of the [*person with a developmental disa-*
- 25 *bility*] **adult** other than a spouse; or
- 26 (E) Any sexual contact that is achieved through force, trickery, threat
- 27 or coercion.
- 28 (b) "Sexual abuse" does not mean consensual sexual contact between an
- 29 adult and a paid caregiver who is the spouse of the adult.
- 30 (15) "Sexual contact" has the meaning given that term in ORS 163.305.
- 31 (16) "Verbal abuse" means to threaten significant physical or emotional

1 harm to [*a person with a developmental disability*] **an adult** through the use
2 of:

3 (a) Derogatory or inappropriate names, insults, verbal assaults, profanity
4 or ridicule; or

5 (b) Harassment, coercion, threats, intimidation, humiliation, mental cru-
6 elty or inappropriate sexual comments.

7 **SECTION 2.** ORS 430.731 is amended to read:

8 430.731. (1) The Department of Human Services, **the Oregon Health**
9 **Authority** or a designee of the department **or the authority** shall conduct
10 the investigations and make the findings required by ORS 430.735 to 430.765.

11 (2) The department **and the authority** shall prescribe by rule policies and
12 procedures for the investigations of allegations of abuse [*of a person with a*
13 *developmental disability as described*] **as defined** in ORS 430.735 [(2)(a)] **oc-**
14 **curing in community programs or facilities within their respective**
15 **jurisdictions**, to ensure that the investigations are conducted in a uniform,
16 objective and thorough manner in every county of the state including, but
17 not limited to, policies and procedures that:

18 (a) Limit the duties of investigators solely to conducting and reporting
19 investigations of abuse;

20 (b) Establish investigator caseloads based upon the most appropriate
21 investigator-to-complaint ratios;

22 (c) Establish minimum qualifications for investigators that include the
23 successful completion of training in identified competencies; and

24 (d) Establish procedures for the screening and investigation of abuse
25 complaints and establish uniform standards for reporting the results of the
26 investigation.

27 (3) A person employed by or under contract with the department, the
28 **authority, a** designee of the department **or the authority, a community**
29 **developmental disabilities program or a community mental health pro-**
30 **gram** to provide case management services may not serve as the lead inves-
31 tigator of an allegation of abuse [*of a person with a developmental*

1 *disability*].

2 (4) The department **or the authority** shall monitor investigations con-
3 ducted by a **respective** designee of the department **or the authority**.

4 **SECTION 3.** ORS 430.743 is amended to read:

5 430.743. (1) When a report is required under ORS 430.765 (1) and (2), an
6 oral report shall be made immediately by telephone or otherwise to the De-
7 partment of Human Services, **the Oregon Health Authority**, the designee
8 of the department **or the authority** or a law enforcement agency within the
9 county where the person making the report is at the time of contact. If
10 known, the report shall include:

- 11 (a) The name, age and present location of the allegedly abused adult;
- 12 (b) The names and addresses of persons responsible for the adult's care;
- 13 (c) The nature and extent of the alleged abuse, including any evidence
14 of previous abuse;
- 15 (d) Any information that led the person making the report to suspect that
16 abuse has occurred plus any other information that the person believes might
17 be helpful in establishing the cause of the abuse and the identity of the
18 perpetrator; and
- 19 (e) The date of the incident.

20 (2) When a report is received by [*the department's*] a designee **of the de-**
21 **partment or the authority** under this section, the designee shall imme-
22 diately determine whether abuse occurred and if the reported victim has
23 sustained any serious injury. If so, the designee shall immediately notify the
24 department **or the authority**. If there is reason to believe a crime has been
25 committed, the designee shall immediately notify the law enforcement agency
26 having jurisdiction within the county where the report was made. If the
27 designee is unable to gain access to the allegedly abused adult, the designee
28 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,
30 the agency shall immediately notify the law enforcement agency having ju-
31 risdiction if the receiving agency does not. The receiving agency shall also

1 immediately notify the department **or the authority** in cases of serious in-
2 jury or death.

3 (3) Upon receipt of a report of abuse under this section, the department,
4 **the authority** or *[its]* a designee **of the department or the authority** shall
5 notify:

6 (a) The *[agency]* **persons responsible for** providing primary case man-
7 agement services to the adult; and

8 (b) The guardian or case manager of the adult unless the notification
9 would undermine the integrity of the investigation because the guardian or
10 case manager is suspected of committing abuse.

11 **SECTION 4.** ORS 430.745 is amended to read:

12 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or
13 upon receipt of a report of a death of an adult that may have been caused
14 by other than accidental or natural means, the Department of Human Ser-
15 vices, **the Oregon Health Authority** *[or its designee]* **a designee of the**
16 **department or the authority** shall investigate promptly to determine if
17 abuse occurred or whether a death was caused by abuse. If the department,
18 **the authority** or *[its designee]* **a designee of the department or the au-**
19 **thority** determines that a law enforcement agency is conducting an investi-
20 gation of the same incident, the department, **the authority** or *[its*
21 *designee]* **a designee of the department or the authority** need not conduct
22 its own investigation.

23 (2) The department, **the authority** or *[its designee]* **a designee of the**
24 **department or the authority** may enter a facility and inspect and copy
25 records of a facility or community program if necessary for the completion
26 of the investigation.

27 (3) In cases in which the department, *[its designee]* **the authority, a**
28 **designee of the department or the authority** or the law enforcement
29 agency conducting the investigation finds reasonable cause to believe that
30 an adult has died as a result of abuse, it shall report that information to the
31 appropriate medical examiner. The medical examiner shall complete an in-

1 vestigation as required under ORS chapter 146 and report the findings to the
 2 department, [*its designee*] **the authority, a designee of the department**
 3 **or the authority** or the law enforcement agency.

4 (4) Upon completion of an investigation conducted by a law enforcement
 5 agency, that agency shall provide the department, **the authority** or [*its*
 6 *designee*] **a designee of the department or the authority** with a report
 7 of its findings and supporting evidence.

8 (5) If the department, **the authority** or [*its designee*] **a designee of the**
 9 **department or the authority** determines that there is reasonable cause to
 10 believe that abuse occurred at a facility or that abuse was caused or aided
 11 by a person licensed by a licensing agency to provide care or services, the
 12 department, **the authority** or [*its designee*] **a designee of the department**
 13 **or the authority** shall immediately notify each appropriate licensing agency
 14 and provide each licensing agency with a copy of its investigative findings.

15 (6) Upon completion of the investigation, the department, **the authority**
 16 or [*its designee*] **a designee of the department or the authority** shall
 17 prepare written findings that include recommended actions and a determi-
 18 nation of whether protective services are needed. The department, **the au-**
 19 **thority** or [*its designee*] **a designee of the department or the authority**
 20 shall provide appropriate protective services as necessary to prevent further
 21 abuse of the adult. Any protective services provided shall be undertaken in
 22 a manner that is least intrusive to the adult and provides for the greatest
 23 degree of independence that is available within existing resources.

24 (7) If the department, **the authority** or [*its designee*] **a designee of the**
 25 **department or the authority** determines that there is reason to believe a
 26 crime has occurred, the department, **the authority** or [*its designee*] **a**
 27 **designee of the department or the authority** shall report the findings to
 28 the appropriate law enforcement agency. The law enforcement agency must
 29 confirm its receipt of the report to the department, **the authority** or [*its*
 30 *designee*] **a designee of the department or the authority** within two
 31 business days. Within three business days of receipt of the findings, the

1 agency shall notify the department, **the authority** or *[its designee]* a
2 **designee of the department or the authority of its determination:**

3 (a) That there will be no criminal investigation, including an explanation
4 of why there will be no criminal investigation;

5 (b) That the findings have been given to the district attorney for review;
6 or

7 (c) That there will be a criminal investigation.

8 (8) If a law enforcement agency gives the findings of the department, **the**
9 **authority** or *[its designee]* a **designee of the department or the authority**
10 to the district attorney for review, within five business days the district at-
11 torney shall notify the department, **the authority** or *[its designee]* a
12 **designee of the department or the authority** that the district attorney
13 has received the findings and shall inform the department, **the authority**
14 or *[its designee]* a **designee of the department or the authority** whether
15 the findings have been received for review or for filing charges. A district
16 attorney shall make the determination of whether to file charges within six
17 months of receiving the findings of the department, **the authority** or *[its*
18 *designee]* a **designee of the department or the authority**.

19 (9) If a district attorney files charges stemming from a report from the
20 department, **the authority** or *[its designee]* a **designee of the department**
21 **or the authority** and the district attorney makes a determination not to
22 proceed to trial, the district attorney shall notify the department, **the au-**
23 **thority** or *[its designee]* a **designee of the department or the authority**
24 of the determination within five business days and shall include information
25 explaining the basis for the determination.

26 **SECTION 5.** ORS 430.745, as amended by section 18, chapter 837, Oregon
27 Laws 2009, is amended to read:

28 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or
29 upon receipt of a report of a death of an adult that may have been caused
30 by other than accidental or natural means, the Department of Human Ser-
31 vices, **the Oregon Health Authority** or *[its designee]* a **designee of the**

1 **department or the authority** shall investigate promptly to determine if
2 abuse occurred or whether a death was caused by abuse. If the department,
3 **the authority** or [*its designee*] **a designee of the department or the au-**
4 **thority** determines that a law enforcement agency is conducting an investi-
5 gation of the same incident, the department, **the authority** or [*its*
6 *designee*] **a designee of the department or the authority** need not conduct
7 its own investigation.

8 (2) The department, **the authority** or [*its designee*] **a designee of the**
9 **department or the authority** may enter a facility and inspect and copy
10 records of a facility or community program if necessary for the completion
11 of the investigation.

12 (3) In cases in which the department, [*its designee*] **the authority, a**
13 **designee of the department or the authority** or the law enforcement
14 agency conducting the investigation finds reasonable cause to believe that
15 an adult has died as a result of abuse, it shall report that information to the
16 appropriate medical examiner. The medical examiner shall complete an in-
17 vestigation as required under ORS chapter 146 and report the findings to the
18 department, [*its designee*] **the authority, a designee of the department**
19 **or the authority** or the law enforcement agency.

20 (4) Upon completion of an investigation conducted by a law enforcement
21 agency, that agency shall provide the department, **the authority** or [*its*
22 *designee*] **a designee of the department or the authority** with a report
23 of its findings and supporting evidence.

24 (5) If the department, **the authority** or [*its designee*] **a designee of the**
25 **department or the authority** determines that there is reasonable cause to
26 believe that abuse occurred at a facility or that abuse was caused or aided
27 by a person licensed by a licensing agency to provide care or services, the
28 department, **the authority** or [*its designee*] **a designee of the department**
29 **or the authority** shall immediately notify each appropriate licensing agency
30 and provide each licensing agency with a copy of its investigative findings.

31 (6) Upon completion of the investigation, the department, **the authority**

1 or *[its designee]* **a designee of the department or the authority** shall
2 prepare written findings that include recommended actions and a determi-
3 nation of whether protective services are needed. The department, **the au-**
4 **thority** or *[its designee]* **a designee of the department or the authority**
5 shall provide appropriate protective services as necessary to prevent further
6 abuse of the adult. Any protective services provided shall be undertaken in
7 a manner that is least intrusive to the adult and provides for the greatest
8 degree of independence that is available within existing resources.

9 (7) If the department, **the authority** or *[its designee]* **a designee of the**
10 **department or the authority** determines that there is reason to believe a
11 crime has occurred, the department, **the authority** or *[its designee]* **a**
12 **designee of the department or the authority** shall report the findings to
13 the appropriate law enforcement agency. The law enforcement agency must
14 confirm its receipt of the report to the department, **the authority** or *[its*
15 *designee]* **a designee of the department or the authority**. The agency shall
16 notify the department, **the authority** or *[its designee]* **a designee of the**
17 **department or the authority** of its determination:

18 (a) That there will be no criminal investigation, including an explanation
19 of why there will be no criminal investigation;

20 (b) That the findings have been given to the district attorney for review;
21 or

22 (c) That there will be a criminal investigation.

23 (8) If a law enforcement agency gives the findings of the department, **the**
24 **authority** or *[its designee]* **a designee of the department or the authority**
25 to the district attorney for review, the district attorney shall notify the de-
26 partment, **the authority** or *[its designee]* **a designee of the department**
27 **or the authority** that the district attorney has received the findings and
28 shall inform the department, **the authority** or *[its designee]* **a designee of**
29 **the department or the authority** whether the findings have been received
30 for review or for filing charges. A district attorney shall make the determi-
31 nation of whether to file charges within six months of receiving the findings

1 of the department, **the authority** or [*its designee*] **a designee of the de-**
2 **partment or the authority.**

3 (9) If a district attorney files charges stemming from a report from the
4 department, **the authority** or [*its designee*] **a designee of the department**
5 **or the authority** and the district attorney makes a determination not to
6 proceed to trial, the district attorney shall notify the department, **the au-**
7 **thority** or [*its designee*] **a designee of the department or the authority**
8 of the determination and shall include information explaining the basis for
9 the determination.

10 **SECTION 6.** ORS 430.746 is amended to read:

11 430.746. Any designee of the Department of Human Services **or the**
12 **Oregon Health Authority** who makes a determination or conducts an in-
13 vestigation under ORS 430.743 or 430.745 shall receive training and consul-
14 tation that is necessary to allow the designee to make the determination or
15 conduct a thorough and unbiased investigation. The training required under
16 this section shall address the cultural and social diversity of the people of
17 this state.

18 **SECTION 7.** ORS 430.747 is amended to read:

19 430.747. (1) In carrying out its duties under ORS 430.735 to 430.765, a law
20 enforcement agency or the **designee of the** Department of Human [*Services'*
21 *designee*] **Services or the Oregon Health Authority** may photograph or
22 cause to have photographed any victim who is the subject of the investi-
23 gation for purposes of preserving evidence of the condition of the victim at
24 the time of investigation unless the victim knowingly refuses to be photo-
25 graphed.

26 (2) For purposes of ORS 430.763, photographs taken under authority of
27 subsection (1) of this section shall be considered case records.

28 **SECTION 8.** ORS 430.756 is amended to read:

29 430.756. A person who has personal knowledge that an employee or former
30 employee of the person was found by the Department of Human Services, **the**
31 **Oregon Health Authority** or a law enforcement agency to have committed

1 abuse under ORS 430.735 to 430.765, is immune from civil liability for the
2 disclosure to a prospective employer of the employee or former employee of
3 known facts concerning the abuse.

4 **SECTION 9.** ORS 430.757 is amended to read:

5 430.757. A proper record of all reports of abuse made under ORS 430.743
6 and 430.765 (1) and (2) shall be maintained by the Department of Human
7 Services **and the Oregon Health Authority.**

8 **SECTION 10.** ORS 430.763 is amended to read:

9 430.763. Notwithstanding the provisions of ORS 192.410 to 192.505, the
10 names of persons who made reports of abuse, witnesses of alleged abuse and
11 the affected adults and materials under ORS 430.747 maintained under the
12 provisions of ORS 430.757 are confidential and are not accessible for public
13 inspection. However, the Department of Human Services **or the Oregon**
14 **Health Authority** shall make this information and any investigative report
15 available to any law enforcement agency, to any public agency that licenses
16 or certifies facilities or licenses or certifies the persons practicing therein
17 and to any public agency providing protective services for the adult, if ap-
18 propriate. The department **and the authority** shall also make this informa-
19 tion and any investigative report available to any private agency providing
20 protective services for the adult and to the system described in ORS 192.517
21 (1). When this information and any investigative report is made available to
22 a private agency, the confidentiality requirements of this section apply to the
23 private agency.

24 **SECTION 11.** ORS 430.768 is amended to read:

25 430.768. (1) When the Department of Human Services investigates a report
26 of abuse under ORS 430.735 to 430.765 at a residential training home as de-
27 fined in ORS 443.400 that is operated by the department, or **when the**
28 **Oregon Health Authority investigates** a report of abuse at a state hospital
29 described in ORS 426.010, the department **or the authority** shall address in
30 the written report of its findings whether the person alleged to be responsi-
31 ble for the abuse was acting in self-defense.

1 (2) The department **or the authority** shall make a finding that the
2 allegation of abuse is unsubstantiated if the department **or the authority**
3 finds that:

4 (a) The person was acting in self-defense in response to the use or immi-
5 nent use of physical force;

6 (b) The amount of force used was reasonably necessary to protect the
7 person from violence or assault; and

8 (c) The person used the least restrictive procedures necessary under the
9 circumstances in accordance with an approved behavior management plan
10 or other method of response approved by the department **or the authority**
11 by rule.

12 (3) Notwithstanding ORS 179.505, the department **or the authority** shall
13 disclose to the person alleged to be responsible for the abuse a copy of its
14 findings under subsection (1) of this section if the allegation of abuse is
15 substantiated.

16 (4) If a person makes a claim of self-defense during an investigation of a
17 report of abuse and the allegation is found to be substantiated, the person
18 may ask the Director of Human Services **or the Director of the Oregon**
19 **Health Authority** to review the finding. The director shall appoint a review
20 team to conduct the review and make a recommendation to the director un-
21 der procedures adopted by the director by rule.

22 (5) As used in this section, “self-defense” means the use of physical force
23 upon another person in self-defense or to defend a third person.

24 **SECTION 12.** ORS 443.875 is amended to read:

25 443.875. (1) If the Department of Human Services or the Oregon Health
26 Authority substantiates an allegation of abuse that occurred in a facility, the
27 department or **the** authority shall immediately notify the facility of its
28 findings.

29 (2) Upon receipt of the notice described in subsection (1) of this section,
30 a facility shall provide written notice of the findings to the individual found
31 to have committed abuse, residents of the facility, the residents’ case man-

1 agers and the residents' guardians.

2 (3) An application for employment at a facility must inquire whether the
3 applicant has been found to have committed abuse.

4 (4) As used in this section:

5 (a) "Abuse" [*has the meaning given that term*] **means the acts and fail-**
6 **ures to act described** in ORS 430.735 (1).

7 (b) "Facility" means:

8 (A) A residential facility as defined in ORS 443.400; or

9 (B) An adult foster home as defined in ORS 443.705.

10 **SECTION 13. This 2013 Act being necessary for the immediate**
11 **preservation of the public peace, health and safety, an emergency is**
12 **declared to exist, and this 2013 Act takes effect on its passage.**

13
