

House Bill 2205

Sponsored by Representatives GILLIAM, HOYLE, Senator JOHNSON (Pre-session filed.)

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**.

Requires Department of Human Services to adopt rules to ensure that investigations of abuse of vulnerable persons are conducted in uniform, objective and thorough manner throughout state.

Directs department to prepare annual report to Legislative Assembly regarding reports and complaints of abuse against vulnerable persons.

Expands crime of assault in third degree to include intentional physical injury to vulnerable person.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to abuse of vulnerable persons; creating new provisions; amending ORS 163.165 and 441.637;
3 and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 124.050 to**
6 **124.095.**

7 **SECTION 2. The Department of Human Services shall adopt rules to ensure that inves-**
8 **tigations of abuse undertaken pursuant to ORS 124.070 are conducted in a uniform, objective**
9 **and thorough manner throughout this state. Rules adopted under this section must address,**
10 **at a minimum, the following:**

11 (1) **The qualifications and duties of persons investigating abuse pursuant to ORS 124.070.**

12 (2) **The creation of a plan to utilize and coordinate other state government resources that**
13 **have proven successful in training persons who investigate abuse under ORS 124.070 in the**
14 **skills and tasks necessary to uniformly, objectively and thoroughly investigate abuse**
15 **allegations, including but not limited to resources available from the Department of Public**
16 **Safety Standards and Training.**

17 (3) **The provision of multidisciplinary training for state employees, including but not**
18 **limited to persons who conduct abuse investigations, law enforcement, service providers and**
19 **the Long Term Care Ombudsman.**

20 (4) **The development of uniform standards, requirements and timelines to screen and in-**
21 **vestigate reports of abuse.**

22 **SECTION 3. ORS 441.637 is amended to read:**

23 441.637. (1) The Department of Human Services shall **adopt rules to** implement the provisions
24 of ORS 441.630 to 441.680 and 441.995[*and shall adopt such rules as are reasonably necessary for the*
25 *enforcement of ORS 441.630 to 441.680 and 441.995*]. **The rules must ensure that investigations**
26 **of oral or written reports required under ORS 441.640 and of abuse complaints under ORS**
27 **441.650 are conducted in a uniform, objective and thorough manner throughout this state.**
28 **Rules adopted under this section must address, at a minimum, the following:**

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 (a) The qualifications and duties of persons investigating oral or written reports required
 2 under ORS 441.640 and abuse complaints under ORS 441.650.

3 (b) The creation of a plan to utilize and coordinate other state government resources
 4 that have proven successful in training persons who investigate oral or written reports re-
 5 quired under ORS 441.640 and abuse complaints under ORS 441.650 in the skills and tasks
 6 necessary to uniformly, objectively and thoroughly investigate abuse allegations, including
 7 but not limited to resources available from the Department of Public Safety Standards and
 8 Training.

9 (c) The provision of multidisciplinary training for state employees, including but not
 10 limited to persons who conduct abuse investigations, law enforcement, service providers and
 11 the Long Term Care Ombudsman.

12 (d) The development of uniform standards, requirements and timelines to screen and in-
 13 vestigate oral or written reports required under ORS 441.640 and abuse complaints under
 14 ORS 441.650.

15 (2) Prior to proceeding with the procedures for notice prescribed under ORS 183.335, the de-
 16 partment shall submit any proposed rules to an advisory group consisting of representatives of long
 17 term care providers, long term care advocates, relevant licensing boards and the department. The
 18 department shall consider and respond to the comments of the advisory group that pertain to any
 19 proposed rules before the department adopts the rules.

20 **SECTION 4.** The Department of Human Services shall prepare an annual report and
 21 submit it to each regular session of the Legislative Assembly. The report shall contain, at a
 22 minimum, the following:

23 (1) The number of reports of abuse made under ORS 124.060, of oral or written reports
 24 of abuse required under ORS 441.640 and of abuse complaints as defined in ORS 441.630, by
 25 county.

26 (2) The total number of investigations undertaken pursuant to ORS 124.070 and 441.650,
 27 by investigation type, county and facility.

28 (3) The average time between receipt of a report or complaint described in subsection (1)
 29 of this section and a determination of substantiation or unsubstantiation, if the report or
 30 complaint was investigated.

31 (4) The total number of reports and complaints described in subsection (1) of this section
 32 that are substantiated, by investigation type, county and facility.

33 (5) Information and analysis of data regarding self-neglect, by county.

34 (6) The number of reports of abuse made under ORS 124.060, of oral or written reports
 35 of abuse required under ORS 441.640 and of abuse complaints as defined in ORS 441.630 that
 36 were referred to law enforcement, by county.

37 (7) The number of reports of abuse made under ORS 124.060, of oral or written reports
 38 of abuse required under ORS 441.640 and of abuse complaints as defined in ORS 441.630 that
 39 were referred to county multidisciplinary teams.

40 (8) The number of criminal convictions sought and obtained as a result of referrals made
 41 under subsections (6) and (7) of this section.

42 **SECTION 5.** ORS 163.165 is amended to read:

43 163.165. (1) A person commits the crime of assault in the third degree if the person:

44 (a) Recklessly causes serious physical injury to another by means of a deadly or dangerous
 45 weapon;

1 (b) Recklessly causes serious physical injury to another under circumstances manifesting ex-
2 tremely indifference to the value of human life;

3 (c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon un-
4 der circumstances manifesting extreme indifference to the value of human life;

5 (d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical
6 injury to the operator of a public transit vehicle while the operator is in control of or operating the
7 vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS
8 166.116;

9 (e) While being aided by another person actually present, intentionally or knowingly causes
10 physical injury to another;

11 (f) While committed to a youth correction facility, intentionally or knowingly causes physical
12 injury to another knowing the other person is a staff member while the other person is acting in the
13 course of official duty;

14 (g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical ser-
15 vices provider, as defined in ORS 682.025, while the emergency medical services provider is per-
16 forming official duties;

17 (h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child
18 10 years of age or younger; [or]

19 (i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical
20 injury to the operator of a taxi while the operator is in control of the taxi; **or**

21 **(j) Intentionally, knowingly or recklessly causes physical injury to a vulnerable person**
22 **as defined in ORS 124.100.**

23 (2)(a) Assault in the third degree is a Class C felony.

24 (b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under sub-
25 section (1)(a) or (b) of this section is a Class B felony if:

26 (A) The assault resulted from the operation of a motor vehicle; and

27 (B) The defendant was the driver of the motor vehicle and was driving while under the influence
28 of intoxicants.

29 (3) As used in this section:

30 (a) "Staff member" means:

31 (A) A corrections officer as defined in ORS 181.610, a youth correction officer, a youth cor-
32 rection facility staff member, a Department of Corrections or Oregon Youth Authority staff member
33 or a person employed pursuant to a contract with the department or youth authority to work with,
34 or in the vicinity of, inmates, youth or youth offenders; and

35 (B) A volunteer authorized by the department, youth authority or other entity in charge of a
36 corrections facility to work with, or in the vicinity of, inmates, youth or youth offenders.

37 (b) "Youth correction facility" has the meaning given that term in ORS 162.135.

38 **SECTION 6. This 2013 Act being necessary for the immediate preservation of the public**
39 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
40 **on its passage.**