

House Bill 3217

Sponsored by COMMITTEE ON HUMAN SERVICES AND HOUSING

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**.

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

1
2 Relating to abuse of individuals with mental illness; amending ORS 430.731, 430.735, 430.743, 430.745,
3 430.746, 430.747, 430.756, 430.757, 430.763, 430.768 and 443.875; and declaring an emergency.

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

5 **SECTION 1.** ORS 430.735 is amended to read:

6 430.735. As used in ORS 430.735 to 430.765:

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

9 *[(a) Abandonment, including desertion or willful forsaking of a person with a developmental disa-*
10 *bility or the withdrawal or neglect of duties and obligations owed a person with a developmental dis-*
11 *ability by a caregiver or other person.]*

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

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

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

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

17 (E) **An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425,**
18 **163.427, 163.465 or 163.467.**

19 (F) **Any death of an adult caused by other than accidental or natural means.**

20 (b) "Abuse," **with respect to a person with mental illness receiving services in a facility**
21 **or a person with a developmental disability, means one or more of the following:**

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

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

25 *[(g)]* (C) Financial exploitation of *[a person with a developmental disability]* **an adult.**

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

28 *[(i)]* (E) A wrongful use of a physical or chemical restraint upon *[a person with a developmental*
29 *disability]* **an adult**, excluding an act of restraint prescribed by a licensed physician and any treat-
30 ment activities that are consistent with an approved treatment plan or in connection with a court
31 order.

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 [(j) *An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,*
2 *163.465 or 163.467.*]

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

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

5 [(a) *A developmental disability who is currently receiving services from a community program or*
6 *facility or was previously determined eligible for services as an adult by a community program or fa-*
7 *cility; or]*

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

9 (3) “Adult protective services” means the necessary actions taken to prevent abuse or exploi-
10 tation of an adult, to prevent self-destructive acts and to safeguard an adult’s person, property and
11 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to
12 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides
13 for the greatest degree of independence.

14 (4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed re-
15 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.

16 (5) “Community program” means a community mental health program or a community develop-
17 mental disabilities program as established in ORS 430.610 to 430.695.

18 (6) “Facility” means a residential treatment home or facility, residential care facility, adult fos-
19 ter home, residential training home or facility or crisis respite facility.

20 (7) “Financial exploitation” means:

21 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of [*a*
22 *person with a developmental disability*] **an adult**.

23 (b) Alarming [*a person with a developmental disability*] **an adult** by conveying a threat to
24 wrongfully take or appropriate money or property of the [*person if the person*] **adult if the adult**
25 would reasonably believe that the threat conveyed would be carried out.

26 (c) Misappropriating, misusing or transferring without authorization any money from any ac-
27 count held jointly or singly by [*a person with a developmental disability*] **an adult**.

28 (d) Failing to use the income or assets of [*a person with a developmental disability*] **an adult**
29 effectively for the support and maintenance of the [*person*] **adult**.

30 (8) “Intimidation” means compelling or deterring conduct by threat.

31 (9) “Law enforcement agency” means:

32 (a) Any city or municipal police department;

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

34 (c) Any county sheriff’s office;

35 (d) The Oregon State Police; or

36 (e) Any district attorney.

37 (10)(a) “Neglect,” **with respect to a person with a developmental disability, or a person**
38 **with mental illness receiving services in a facility**, means:

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

42 [(b)] **(B)** The failure of a caregiver to make a reasonable effort to protect a person [*with a de-*
43 *velopmental disability*] from abuse.[: or]

44 [(c)] **(b)** “Neglect,” **with respect to a person with a developmental disability, or a person**
45 **with mental illness receiving services from a community program or in a facility**, means the

1 **active or passive** withholding of services necessary to maintain the health and well-being of an
 2 adult [*which*] **that** leads to physical harm of [*an*] **the** adult.

3 (11) “Person with a developmental disability” means [*a person described in subsection (2)(a) of*
 4 *this section.*] **an adult who is receiving services from a community program or in a facility or**
 5 **who was previously determined eligible for services as a person with a developmental disa-**
 6 **bility by a community program or facility.**

7 (12) “Public or private official” means:

8 (a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or
 9 podiatric physician and surgeon, including any intern or resident;

10 (b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of an
 11 in-home health service;

12 (c) Employee of the Department of Human Services or Oregon Health Authority, county health
 13 department, community mental health program or community developmental disabilities program or
 14 private agency contracting with a public body to provide any community mental health service;

15 (d) Peace officer;

16 (e) Member of the clergy;

17 (f) Regulated social worker;

18 (g) Physical, speech or occupational therapist;

19 (h) Information and referral, outreach or crisis worker;

20 (i) Attorney;

21 (j) Licensed professional counselor or licensed marriage and family therapist;

22 (k) Any public official who comes in contact with adults in the performance of the official’s du-
 23 ties; or

24 (L) Firefighter or emergency medical services provider.

25 (13) “Services” includes but is not limited to the provision of food, clothing, medicine, housing,
 26 medical services, assistance with bathing or personal hygiene or any other service essential to the
 27 well-being of an adult.

28 (14)(a) “Sexual abuse” means:

29 (A) Sexual contact with a nonconsenting adult or with an adult considered incapable of con-
 30 senting to a sexual act under ORS 163.315;

31 (B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit mate-
 32 rial or language;

33 (C) Any sexual contact between an employee of a facility or paid caregiver and an adult served
 34 by the facility or caregiver;

35 (D) Any sexual contact between [*a person with a developmental disability*] **an adult** and a rela-
 36 tive of the [*person with a developmental disability*] **adult** other than a spouse; or

37 (E) Any sexual contact that is achieved through force, trickery, threat or coercion.

38 (b) “Sexual abuse” does not mean consensual sexual contact between an adult and a paid
 39 caregiver who is the spouse of the adult.

40 (15) “Sexual contact” has the meaning given that term in ORS 163.305.

41 (16) “Verbal abuse” means to threaten significant physical or emotional harm to [*a person with*
 42 *a developmental disability*] **an adult** through the use of:

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

44 (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate
 45 sexual comments.

SECTION 2. ORS 430.731 is amended to read:

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

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

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

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

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

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

(3) A person employed by or under contract with the department, the **authority**, a designee of the department or **the authority**, a community developmental disabilities program **or a community mental health program** to provide case management services may not serve as the lead investigator of an allegation of abuse [*of a person with a developmental disability*].

(4) The department **or the authority** shall monitor investigations conducted by a **respective** designee of the department **or the authority**.

SECTION 3. ORS 430.743 is amended to read:

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

(a) The name, age and present location of the allegedly abused adult;

(b) The names and addresses of persons responsible for the adult's care;

(c) The nature and extent of the alleged abuse, including any evidence of previous abuse;

(d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and

(e) The date of the incident.

(2) When a report is received by [*the department's*] a designee **of the department or the authority** under this section, the designee shall immediately determine whether abuse occurred and if the reported victim has sustained any serious injury. If so, the designee shall immediately notify the department **or the authority**. If there is reason to believe a crime has been committed, the designee shall immediately notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiv-

1 ing agency shall also immediately notify the department **or the authority** in cases of serious injury
 2 or death.

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

5 (a) The *[agency]* **persons responsible for** providing primary case management services to the
 6 adult; and

7 (b) The guardian or case manager of the adult unless the notification would undermine the in-
 8 tegrity of the investigation because the guardian or case manager is suspected of committing abuse.

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

10 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or upon receipt of a report
 11 of a death of an adult that may have been caused by other than accidental or natural means, the
 12 Department of Human Services, **the Oregon Health Authority** *[or its designee]* **a designee of the**
 13 **department or the authority** shall investigate promptly to determine if abuse occurred or whether
 14 a death was caused by abuse. If the department, **the authority** or *[its designee]* **a designee of the**
 15 **department or the authority** determines that a law enforcement agency is conducting an investi-
 16 gation of the same incident, the department, **the authority** or *[its designee]* **a designee of the de-**
 17 **partment or the authority** need not conduct its own investigation.

18 (2) The department, **the authority** or *[its designee]* **a designee of the department or the au-**
 19 **thority** may enter a facility and inspect and copy records of a facility or community program if
 20 necessary for the completion of the investigation.

21 (3) In cases in which the department, *[its designee]* **the authority, a designee of the depart-**
 22 **ment or the authority** or the law enforcement agency conducting the investigation finds reason-
 23 able cause to believe that an adult has died as a result of abuse, it shall report that information to
 24 the appropriate medical examiner. The medical examiner shall complete an investigation as required
 25 under ORS chapter 146 and report the findings to the department, *[its designee]* **the authority, a**
 26 **designee of the department or the authority** or the law enforcement agency.

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

30 (5) If the department, **the authority** or *[its designee]* **a designee of the department or the**
 31 **authority** determines that there is reasonable cause to believe that abuse occurred at a facility or
 32 that abuse was caused or aided by a person licensed by a licensing agency to provide care or ser-
 33 vices, the department, **the authority** or *[its designee]* **a designee of the department or the au-**
 34 **thority** shall immediately notify each appropriate licensing agency and provide each licensing
 35 agency with a copy of its investigative findings.

36 (6) Upon completion of the investigation, the department, **the authority** or *[its designee]* **a**
 37 **designee of the department or the authority** shall prepare written findings that include recom-
 38 mended actions and a determination of whether protective services are needed. The department, **the**
 39 **authority** or *[its designee]* **a designee of the department or the authority** shall provide appro-
 40 priate protective services as necessary to prevent further abuse of the adult. Any protective services
 41 provided shall be undertaken in a manner that is least intrusive to the adult and provides for the
 42 greatest degree of independence that is available within existing resources.

43 (7) If the department, **the authority** or *[its designee]* **a designee of the department or the**
 44 **authority** determines that there is reason to believe a crime has occurred, the department, **the**
 45 **authority** or *[its designee]* **a designee of the department or the authority** shall report the

1 findings to the appropriate law enforcement agency. The law enforcement agency must confirm its
 2 receipt of the report to the department, **the authority** or *[its designee]* **a designee of the depart-**
 3 **ment or the authority** within two business days. Within three business days of receipt of the
 4 findings, the agency shall notify the department, **the authority** or *[its designee]* **a designee of the**
 5 **department or the authority of its determination:**

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

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

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

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

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

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

26 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or upon receipt of a report
 27 of a death of an adult that may have been caused by other than accidental or natural means, the
 28 Department of Human Services, **the Oregon Health Authority** or *[its designee]* **a designee of the**
 29 **department or the authority** shall investigate promptly to determine if abuse occurred or whether
 30 a death was caused by abuse. If the department, **the authority** or *[its designee]* **a designee of the**
 31 **department or the authority** determines that a law enforcement agency is conducting an investi-
 32 gation of the same incident, the department, **the authority** or *[its designee]* **a designee of the de-**
 33 **partment or the authority** need not conduct its own investigation.

34 (2) The department, **the authority** or *[its designee]* **a designee of the department or the au-**
 35 **thority** may enter a facility and inspect and copy records of a facility or community program if
 36 necessary for the completion of the investigation.

37 (3) In cases in which the department, *[its designee]* **the authority, a designee of the depart-**
 38 **ment or the authority** or the law enforcement agency conducting the investigation finds reason-
 39 able cause to believe that an adult has died as a result of abuse, it shall report that information to
 40 the appropriate medical examiner. The medical examiner shall complete an investigation as required
 41 under ORS chapter 146 and report the findings to the department, *[its designee]* **the authority, a**
 42 **designee of the department or the authority** or the law enforcement agency.

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

1 (5) If the department, **the authority** or *[its designee]* **a designee of the department or the**
 2 **authority** determines that there is reasonable cause to believe that abuse occurred at a facility or
 3 that abuse was caused or aided by a person licensed by a licensing agency to provide care or ser-
 4 vices, the department, **the authority** or *[its designee]* **a designee of the department or the au-**
 5 **thority** shall immediately notify each appropriate licensing agency and provide each licensing
 6 agency with a copy of its investigative findings.

7 (6) Upon completion of the investigation, the department, **the authority** or *[its designee]* **a**
 8 **designee of the department or the authority** shall prepare written findings that include recom-
 9 mended actions and a determination of whether protective services are needed. The department, **the**
 10 **authority** or *[its designee]* **a designee of the department or the authority** shall provide appro-
 11 priate protective services as necessary to prevent further abuse of the adult. Any protective services
 12 provided shall be undertaken in a manner that is least intrusive to the adult and provides for the
 13 greatest degree of independence that is available within existing resources.

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

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

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

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

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

33 (9) If a district attorney files charges stemming from a report from the department, **the au-**
 34 **thority** or *[its designee]* **a designee of the department or the authority** and the district attorney
 35 makes a determination not to proceed to trial, the district attorney shall notify the department, **the**
 36 **authority** or *[its designee]* **a designee of the department or the authority** of the determination
 37 and shall include information explaining the basis for the determination.

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

39 430.746. Any designee of the Department of Human Services **or the Oregon Health Authority**
 40 who makes a determination or conducts an investigation under ORS 430.743 or 430.745 shall receive
 41 training and consultation that is necessary to allow the designee to make the determination or
 42 conduct a thorough and unbiased investigation. The training required under this section shall ad-
 43 dress the cultural and social diversity of the people of this state.

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

45 430.747. (1) In carrying out its duties under ORS 430.735 to 430.765, a law enforcement agency

1 or the **designee of the** Department of Human [Services' designee] **Services or the Oregon Health**
 2 **Authority** may photograph or cause to have photographed any victim who is the subject of the in-
 3 vestigation for purposes of preserving evidence of the condition of the victim at the time of inves-
 4 tigation unless the victim knowingly refuses to be photographed.

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

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

8 430.756. A person who has personal knowledge that an employee or former employee of the
 9 person was found by the Department of Human Services, **the Oregon Health Authority** or a law
 10 enforcement agency to have committed abuse under ORS 430.735 to 430.765, is immune from civil
 11 liability for the disclosure to a prospective employer of the employee or former employee of known
 12 facts concerning the abuse.

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

14 430.757. A proper record of all reports of abuse made under ORS 430.743 and 430.765 (1) and (2)
 15 shall be maintained by the Department of Human Services **and the Oregon Health Authority**.

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

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

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

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

35 (2) The department **or the authority** shall make a finding that the allegation of abuse is un-
 36 substantiated if the department **or the authority** finds that:

37 (a) The person was acting in self-defense in response to the use or imminent use of physical
 38 force;

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

41 (c) The person used the least restrictive procedures necessary under the circumstances in ac-
 42 cordance with an approved behavior management plan or other method of response approved by the
 43 department **or the authority** by rule.

44 (3) Notwithstanding ORS 179.505, the department **or the authority** shall disclose to the person
 45 alleged to be responsible for the abuse a copy of its findings under subsection (1) of this section if

1 the allegation of abuse is substantiated.

2 (4) If a person makes a claim of self-defense during an investigation of a report of abuse and the
3 allegation is found to be substantiated, the person may ask the Director of Human Services **or the**
4 **Director of the Oregon Health Authority** to review the finding. The director shall appoint a re-
5 view team to conduct the review and make a recommendation to the director under procedures
6 adopted by the director by rule.

7 (5) As used in this section, "self-defense" means the use of physical force upon another person
8 in self-defense or to defend a third person.

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

10 443.875. (1) If the Department of Human Services or the Oregon Health Authority substantiates
11 an allegation of abuse that occurred in a facility, the department or **the** authority shall immediately
12 notify the facility of its findings.

13 (2) Upon receipt of the notice described in subsection (1) of this section, a facility shall provide
14 written notice of the findings to the individual found to have committed abuse, residents of the fa-
15 cility, the residents' case managers and the residents' guardians.

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

18 (4) As used in this section:

19 (a) "Abuse" [*has the meaning given that term*] **means the acts and failures to act described**
20 **in ORS 430.735 (1).**

21 (b) "Facility" means:

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

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

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

27