

**PROPOSED AMENDMENTS TO
HOUSE BILL 2205**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and insert “amending ORS 9.114, 124.050, 124.060, 131.125,
3 192.586, 192.600 and 192.602 and section 8, chapter 837, Oregon Laws 2009,
4 and sections 10, 23 and 24, chapter 70, Oregon Laws 2012; repealing section
5 43, chapter 837, Oregon Laws 2009, and sections 25 and 29, chapter 70,
6 Oregon Laws 2012;”.

7 Delete lines 5 through 28 and delete pages 2 and 3 and insert:

8 **“SECTION 1. (1) Sections 25 and 29, chapter 70, Oregon Laws 2012,**
9 **are repealed.**

10 **“(2) Section 43, chapter 837, Oregon Laws 2009, is repealed.**

11 **“SECTION 2.** ORS 192.586, as amended by sections 10a and 26, chapter
12 70, Oregon Laws 2012, is amended to read:

13 “192.586. (1) Except as provided in ORS 192.588, 192.591, 192.593, 192.596,
14 192.598 and 192.603 **and section 10, chapter 70, Oregon Laws 2012,** or as
15 required by ORS 25.643 and 25.646 and the Uniform Disposition of Unclaimed
16 Property Act, ORS 98.302 to 98.436 and 98.992:

17 “(a) A financial institution may not provide financial records of a cus-
18 tomer to a state or local agency.

19 “(b) A state or local agency may not request or receive from a financial
20 institution financial records of customers.

21 “(2) Subsection (1) of this section does not preclude a financial institu-
22 tion, in the discretion of the financial institution, from initiating contact

1 with, and thereafter communicating with and disclosing customer financial
2 records to:

3 “(a) Appropriate state or local agencies concerning a suspected violation
4 of the law.

5 “(b) The office of the State Treasurer if the records relate to state in-
6 vestments in commercial mortgages involving the customer. The records and
7 the information contained therein are public records but are exempt from
8 disclosure under ORS 192.410 to 192.505 unless the public interest in disclo-
9 sure clearly outweighs the public interest in confidentiality. However, the
10 following records in the office must remain open to public inspection:

11 “(A) The contract or promissory note establishing a directly held resi-
12 dential or commercial mortgage and information identifying collateral;

13 “(B) Any copy the office retains of the underlying mortgage note in which
14 the office purchases a participation interest; and

15 “(C) Information showing that a directly held loan is in default.

16 “(c) An appropriate state or local agency in connection with any business
17 relationship or transaction between the financial institution and the cus-
18 tomer, if the disclosure is made in the ordinary course of business of the fi-
19 nancial institution and will further the legitimate business interests of the
20 customer or the financial institution.

21 “(3) ORS 192.583 to 192.607 do not prohibit any of the following:

22 “(a) The dissemination of any financial information that is not identified
23 with, or identifiable as being derived from, the financial records of a par-
24 ticular customer.

25 “(b) The examination by, or disclosure to, the Department of Consumer
26 and Business Services of financial records that relate solely to the exercise
27 of the department’s supervisory function. The scope of the department’s su-
28 pervisory function shall be determined by reference to statutes that grant
29 authority to examine, audit, or require reports of financial records or finan-
30 cial institutions.

1 “(c) The furnishing to the Department of Revenue of information by the
2 financial institution, whether acting as principal or agent, as required by
3 ORS 314.360.

4 “(d) Compliance with the provisions of ORS 708A.655 or 723.844.

5 “(4) Notwithstanding subsection (1) of this section, a financial institution
6 may:

7 “(a) Enter into an agreement with the Oregon State Bar that requires the
8 financial institution to make reports to the Oregon State Bar whenever a
9 properly payable instrument is presented for payment out of an attorney
10 trust account that contains insufficient funds, whether or not the instrument
11 is honored by the financial institution; and

12 “(b) Submit reports to the Oregon State Bar concerning instruments pre-
13 sented for payment out of an attorney trust account under a trust account
14 overdraft notification program established under ORS 9.685.

15 “**SECTION 3.** ORS 192.600, as amended by sections 10b and 27, chapter
16 70, Oregon Laws 2012, is amended to read:

17 “192.600. (1) Nothing in ORS 192.583 to 192.607 shall require a financial
18 institution to inquire or determine that those seeking disclosure have duly
19 complied with the requirements set forth in ORS 192.583 to 192.607, provided
20 only that the customer authorization, summons, subpoena or search warrant
21 served upon or delivered to a financial institution pursuant to ORS 192.593,
22 192.596 or 192.598 **or section 10, chapter 70, Oregon Laws 2012**, shows
23 compliance on its face.

24 “(2) A financial institution which in good faith reliance refuses to dis-
25 close financial records of a customer upon the prohibitions of ORS 192.583
26 to 192.607, shall not be liable to its customer, to a state or local agency, or
27 to any person for any loss or damage caused in whole or in part by such
28 refusal.

29 “(3) Financial institutions shall not be required to notify their customers
30 concerning the receipt by them of requests from state or local agencies for

1 disclosures of financial records of such customers. However, except as oth-
2 erwise provided in ORS 192.583 to 192.607, nothing in ORS 192.583 to 192.607
3 shall preclude financial institutions from giving such notice to customers.
4 A court may order a financial institution to withhold notification to a cus-
5 tomer of the receipt of a summons, subpoena or search warrant when the
6 court finds that notice to the customer would impede the investigation being
7 conducted by the state or local agency.

8 “(4) Financial institutions that participate in a trust account overdraft
9 notification program established under ORS 9.685 are not liable to a lawyer
10 or law firm on the attorney trust account, to a beneficiary of the trust ac-
11 count or to the Oregon State Bar for loss or damage caused in whole or in
12 part by that participation or arising in any way out of that participation.

13 “(5) A financial institution shall not be liable to any person for any loss,
14 damage or injury arising out of or in any way pertaining to the release of
15 information pursuant to ORS 192.586 (2)(a).

16 “**SECTION 4.** ORS 192.602, as amended by sections 10c and 28, chapter
17 70, Oregon Laws 2012, is amended to read:

18 “192.602. (1)(a) A financial institution shall have a reasonable period of
19 time in which to comply with any proper customer authorization, summons,
20 subpoena or search warrant permitting or seeking disclosure of financial
21 records. [*For the purposes of this section,*] **Except as provided in para-**
22 **graphs (b) and (c) of this subsection,** a ‘reasonable period of time’ shall
23 in no case be less than 10 days from the date upon which the financial in-
24 stitution receives or is served with a customer authorization, summons,
25 subpoena or search warrant.

26 “(b) [*However, in all cases in which*] **When** disclosure is sought under
27 ORS 192.596, the reasonable period of time shall be not less than 20 days.

28 “(c) **When disclosure is sought under section 10, chapter 70, Oregon**
29 **Laws 2012, the reasonable period of time shall be that period of time**
30 **required by the circumstances but in no case more than 10 days from**

1 **the date upon which the financial institution receives or is served with**
2 **a subpoena under section 10, chapter 70, Oregon Laws 2012.**

3 “(2) Before making disclosures, a financial institution may require that
4 the requesting state or local agency reimburse the financial institution for
5 the reasonable costs incurred by the financial institution in the course of
6 compliance. These costs include, but are not limited to, personnel costs, re-
7 production costs and travel expenses. The following charges shall be consid-
8 ered reasonable costs:

9 “(a) Personnel costs, \$30 per hour per person, computed on the basis of
10 \$7.50 per quarter hour or fraction thereof, for time expended by personnel
11 of the financial institution in searching, locating, retrieving, copying and
12 transporting or conveying the requested material to the place of examina-
13 tion.

14 “(b) Reproduction costs, \$1 per page, including copies produced by reader
15 and printer reproduction processes. Photographs, films and other materials
16 shall be reimbursed at actual costs.

17 “(c) Travel expenses, 50 cents per mile, plus other actual costs, necessary
18 to transport personnel to locate and retrieve the information required or
19 requested and to convey the required or requested material to the place of
20 examination.

21 “(3) The provisions of subsection (2) of this section do not apply in the
22 case of records subpoenaed by a prosecuting attorney as evidence of the
23 crimes of negotiating a bad check under ORS 165.065, forgery under ORS
24 165.007 and 165.013, theft by deception by means of a bad check under ORS
25 164.085, fraudulent use of a credit card under ORS 165.055, identity theft
26 under ORS 165.800 or racketeering activity under ORS 166.720 or of an of-
27 fense listed in ORS 137.700.

28 **“SECTION 5.** ORS 131.125, as amended by section 2, chapter 70, Oregon
29 Laws 2012, is amended to read:

30 “131.125. (1) A prosecution for aggravated murder, murder, attempted

1 murder or aggravated murder, conspiracy or solicitation to commit aggra-
2 vated murder or murder or any degree of manslaughter may be commenced
3 at any time after the commission of the attempt, conspiracy or solicitation
4 to commit aggravated murder or murder, or the death of the person killed.

5 “(2) A prosecution for any of the following felonies may be commenced
6 within six years after the commission of the crime or, if the victim at the
7 time of the crime was under 18 years of age, anytime before the victim at-
8 tains 30 years of age or within 12 years after the offense is reported to a law
9 enforcement agency or the Department of Human Services, whichever occurs
10 first:

11 “(a) Strangulation under ORS 163.187 (4).

12 “(b) Criminal mistreatment in the first degree under ORS 163.205.

13 “(c) Rape in the third degree under ORS 163.355.

14 “(d) Rape in the second degree under ORS 163.365.

15 “(e) Rape in the first degree under ORS 163.375.

16 “(f) Sodomy in the third degree under ORS 163.385.

17 “(g) Sodomy in the second degree under ORS 163.395.

18 “(h) Sodomy in the first degree under ORS 163.405.

19 “(i) Unlawful sexual penetration in the second degree under ORS 163.408.

20 “(j) Unlawful sexual penetration in the first degree under ORS 163.411.

21 “(k) Sexual abuse in the second degree under ORS 163.425.

22 “(L) Sexual abuse in the first degree under ORS 163.427.

23 “(m) Using a child in a display of sexual conduct under ORS 163.670.

24 “(n) Encouraging child sexual abuse in the first degree under ORS
25 163.684.

26 “(o) Incest under ORS 163.525.

27 “(p) Promoting prostitution under ORS 167.012.

28 “(q) Compelling prostitution under ORS 167.017.

29 “(r) Luring a minor under ORS 167.057.

30 “(3) A prosecution for any of the following misdemeanors may be com-

1 commenced within four years after the commission of the crime or, if the victim
2 at the time of the crime was under 18 years of age, anytime before the victim
3 attains 22 years of age or within four years after the offense is reported to
4 a law enforcement agency or the Department of Human Services, whichever
5 occurs first:

6 “(a) Strangulation under ORS 163.187 (3).

7 “(b) Sexual abuse in the third degree under ORS 163.415.

8 “(c) Exhibiting an obscene performance to a minor under ORS 167.075.

9 “(d) Displaying obscene materials to minors under ORS 167.080.

10 “(4) In the case of crimes described in subsection (2)(m) of this section,
11 the victim is the child engaged in sexual conduct. In the case of the crime
12 described in subsection (2)(o) of this section, the victim is the party to the
13 incest other than the party being prosecuted. In the case of crimes described
14 in subsection (2)(p) and (q) of this section, the victim is the child whose acts
15 of prostitution are promoted or compelled.

16 “(5) A prosecution for arson in any degree may be commenced within six
17 years after the commission of the crime.

18 “(6) A prosecution **that results in or from a report made pursuant to**
19 **ORS 124.060 or 441.640** for any of the following felonies may be commenced
20 within six years after the commission of the crime if the victim at the time
21 of the crime was 65 years of age or older:

22 “(a) Theft in the first degree under ORS 164.055.

23 “(b) Aggravated theft in the first degree under ORS 164.057.

24 “(c) Theft by extortion under ORS 164.075.

25 “(d) Robbery in the third degree under ORS 164.395.

26 “(e) Robbery in the second degree under ORS 164.405.

27 “(f) Robbery in the first degree under ORS 164.415.

28 “(g) Forgery in the first degree under ORS 165.013.

29 “(h) Fraudulent use of a credit card under ORS 165.055 (4)(b).

30 “(i) Identity theft under ORS 165.800.

1 “(7) Except as provided in subsection (8) of this section or as otherwise
2 expressly provided by law, prosecutions for other offenses must be com-
3 menced within the following periods of limitations after their commission:

4 “(a) For any other felony, three years.

5 “(b) For any misdemeanor, two years.

6 “(c) For a violation, six months.

7 “(8) If the period prescribed in subsection (7) of this section has expired,
8 a prosecution nevertheless may be commenced as follows:

9 “(a) If the offense has as a material element either fraud or the breach
10 of a fiduciary obligation, prosecution may be commenced within one year
11 after discovery of the offense by an aggrieved party or by a person who has
12 a legal duty to represent an aggrieved party and who is not a party to the
13 offense, but in no case shall the period of limitation otherwise applicable be
14 extended by more than three years;

15 “(b) If the offense is based upon misconduct in office by a public officer
16 or employee, prosecution may be commenced at any time while the defendant
17 is in public office or employment or within two years thereafter, but in no
18 case shall the period of limitation otherwise applicable be extended by more
19 than three years; or

20 “(c) If the offense is an invasion of personal privacy under ORS 163.700,
21 prosecution may be commenced within one year after discovery of the offense
22 by the person aggrieved by the offense, by a person who has a legal duty to
23 represent the person aggrieved by the offense or by a law enforcement
24 agency, but in no case shall the period of limitation otherwise applicable be
25 extended by more than three years.

26 “(9) Notwithstanding subsection (2) of this section, if the defendant is
27 identified after the period described in subsection (2) of this section on the
28 basis of DNA (deoxyribonucleic acid) sample comparisons, a prosecution for:

29 “(a) Rape in the first degree, sodomy in the first degree, unlawful sexual
30 penetration in the first degree or sexual abuse in the first degree may be

1 commenced at any time after the commission of the crime.

2 “(b) Rape in the second degree, sodomy in the second degree or unlawful
3 sexual penetration in the second degree may be commenced within 25 years
4 after the commission of the crime.

5 “(10) Notwithstanding subsection (9) of this section, if a prosecution for
6 a felony listed in subsection (9) of this section would otherwise be barred
7 by subsection (2) of this section, the prosecution must be commenced within
8 two years of the DNA-based identification of the defendant.

9 **“SECTION 6.** ORS 124.050 is amended to read:

10 “124.050. As used in ORS 124.050 to 124.095:

11 “(1) ‘Abuse’ means one or more of the following:

12 “(a) Any physical injury to an elderly person caused by other than acci-
13 dental means, or which appears to be at variance with the explanation given
14 of the injury.

15 “(b) Neglect.

16 “(c) Abandonment, including desertion or willful forsaking of an elderly
17 person or the withdrawal or neglect of duties and obligations owed an el-
18 derly person by a caretaker or other person.

19 “(d) Willful infliction of physical pain or injury upon an elderly person.

20 “(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,
21 163.415, 163.425, 163.427, 163.465 or 163.467.

22 “(f) Verbal abuse.

23 “(g) Financial exploitation.

24 “(h) Sexual abuse.

25 “(i) Involuntary seclusion of an elderly person for the convenience of a
26 caregiver or to discipline the person.

27 “(j) A wrongful use of a physical or chemical restraint of an elderly per-
28 son, excluding an act of restraint prescribed by a licensed physician and any
29 treatment activities that are consistent with an approved treatment plan or
30 in connection with a court order.

1 “(2) ‘Elderly person’ means any person 65 years of age or older who is not
2 subject to the provisions of ORS 441.640 to 441.665.

3 “(3) ‘Facility’ means:

4 “(a) A long term care facility as that term is defined in ORS 442.015.

5 “(b) A residential facility as that term is defined in ORS 443.400, includ-
6 ing but not limited to an assisted living facility.

7 “(c) An adult foster home as that term is defined in ORS 443.705.

8 “(4) ‘Financial exploitation’ means:

9 “(a) Wrongfully taking the assets, funds or property belonging to or in-
10 tended for the use of an elderly person or a person with a disability.

11 “(b) Alarming an elderly person or a person with a disability by convey-
12 ing a threat to wrongfully take or appropriate money or property of the
13 person if the person would reasonably believe that the threat conveyed would
14 be carried out.

15 “(c) Misappropriating, misusing or transferring without authorization any
16 money from any account held jointly or singly by an elderly person or a
17 person with a disability.

18 “(d) Failing to use the income or assets of an elderly person or a person
19 with a disability effectively for the support and maintenance of the person.

20 “(5) ‘Intimidation’ means compelling or deterring conduct by threat.

21 “(6) ‘Law enforcement agency’ means:

22 “(a) Any city or municipal police department.

23 “(b) Any county sheriff’s office.

24 “(c) The Oregon State Police.

25 “(d) Any district attorney.

26 “(e) A police department established by a university under ORS 352.383.

27 “(7) ‘Neglect’ means:

28 “(a) Failure to provide the care, supervision or services necessary to
29 maintain the physical and mental health of an elderly person that may result
30 in physical harm or significant emotional harm to the elderly person; or

1 “(b) The failure of a caregiver to make a reasonable effort to protect an
2 elderly person from abuse.

3 “(8) ‘Person with a disability’ means a person described in:

4 “(a) ORS 410.040 (7); or

5 “(b) ORS 410.715.

6 “(9) ‘Public or private official’ means:

7 “(a) Physician, naturopathic physician, osteopathic physician,
8 chiropractor, physician assistant or podiatric physician and surgeon, includ-
9 ing any intern or resident.

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

12 “(c) Employee of the Department of Human Services or community de-
13 velopmental disabilities program.

14 “(d) Employee of the Oregon Health Authority, county health department
15 or community mental health program.

16 “(e) Peace officer.

17 “(f) Member of the clergy.

18 “(g) Regulated social worker.

19 “(h) Physical, speech or occupational therapist.

20 “(i) Senior center employee.

21 “(j) Information and referral or outreach worker.

22 “(k) Licensed professional counselor or licensed marriage and family
23 therapist.

24 “(L) [*Any public official who comes in contact with elderly persons in the*
25 *performance of the official’s official duties*] **Member of the Legislative As-**
26 **sembly.**

27 “(m) Firefighter or emergency medical services provider.

28 “(n) Psychologist.

29 “(o) Provider of adult foster care or an employee of the provider.

30 “(p) Audiologist.

1 “(q) Speech-language pathologist.

2 “(r) **Attorney.**

3 “(s) **Dentist.**

4 “(t) **Optometrist.**

5 “(u) **Chiropractor.**

6 “(10) ‘Services’ includes but is not limited to the provision of food,
7 clothing, medicine, housing, medical services, assistance with bathing or
8 personal hygiene or any other service essential to the well-being of an el-
9 derly person.

10 “(11)(a) ‘Sexual abuse’ means:

11 “(A) Sexual contact with an elderly person who does not consent or is
12 considered incapable of consenting to a sexual act under ORS 163.315;

13 “(B) Sexual harassment, sexual exploitation or inappropriate exposure to
14 sexually explicit material or language;

15 “(C) Any sexual contact between an employee of a facility or paid
16 caregiver and an elderly person served by the facility or caregiver;

17 “(D) Any sexual contact between an elderly person and a relative of the
18 elderly person other than a spouse; or

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

21 “(b) ‘Sexual abuse’ does not mean consensual sexual contact between an
22 elderly person and a paid caregiver who is the spouse of the elderly person.

23 “(12) ‘Sexual contact’ has the meaning given that term in ORS 163.305.

24 “(13) ‘Verbal abuse’ means to threaten significant physical or emotional
25 harm to an elderly person or a person with a disability through the use of:

26 “(a) Derogatory or inappropriate names, insults, verbal assaults, profanity
27 or ridicule; or

28 “(b) Harassment, coercion, threats, intimidation, humiliation, mental cru-
29 elty or inappropriate sexual comments.

30 “**SECTION 7.** ORS 124.060 is amended to read:

1 “124.060. Any public or private official having reasonable cause to believe
2 that any person 65 years of age or older with whom the official comes in
3 contact, while acting in an official capacity, has suffered abuse, or that any
4 person with whom the official comes in contact while acting in an official
5 capacity has abused a person 65 years of age or older shall report or cause
6 a report to be made in the manner required in ORS 124.065. Nothing con-
7 tained in ORS 40.225 to 40.295 affects the duty to report imposed by this
8 section, except that a psychiatrist, [or] psychologist, **member of the clergy**
9 **or attorney** is not required to report such information communicated by a
10 person if the communication is privileged under ORS 40.225 to 40.295. **An**
11 **attorney is not required to make a report under this section by reason**
12 **of information communicated to the attorney in the course of repre-**
13 **senting a client if disclosure of the information would be detrimental**
14 **to the client.**

15 “**SECTION 8.** ORS 9.114 is amended to read:

16 “9.114. The Oregon State Bar shall require that attorneys complete one
17 hour of training every three years designed to provide education on the du-
18 ties of attorneys under ORS **124.060 and** 419B.010. All training under this
19 section shall be applied by the bar against the hours of continuing legal ed-
20 ucation required of attorneys as a condition of membership in the bar or as
21 a condition to the practice of law in this state. Credit acquired under this
22 section shall be applied first against any requirement of continuing legal
23 education relating to ethics.

24 “**SECTION 9.** Section 23, chapter 70, Oregon Laws 2012, is amended to
25 read:

26 “**Sec. 23.** (1) It is the intent of the Legislative Assembly to recreate the
27 Oregon Elder Abuse Work Group, first established on June 21, 2011, by sec-
28 tion 1, chapter 444, Oregon Laws 2011, and repealed on February 29, 2012,
29 so that the work group may complete its work as set forth in **this section**
30 **and** section 1, chapter 444, Oregon Laws 2011.

1 “(2) The Oregon Elder Abuse Work Group shall consist of [17] **22** members
2 appointed as follows:

3 “(a) The President of the Senate shall appoint two members from among
4 members of the Senate who shall cease being members of the work group
5 upon ceasing to be members of the Legislative Assembly.

6 “(b) The Speaker of the House of Representatives shall appoint two
7 members from among members of the House of Representatives who shall
8 cease being members of the work group upon ceasing to be members of the
9 Legislative Assembly.

10 “(c) The Governor shall appoint [10] **12** members as follows:

11 “(A) The Long Term Care Ombudsman appointed under ORS 441.103;

12 “(B) Three members representing long term care providers for elderly
13 persons;

14 “(C) Two members representing law enforcement agencies, one of whom
15 shall be a representative from the Oregon District Attorneys Association and
16 one of whom shall be a representative from a local law enforcement agency
17 with expertise in investigating elder abuse;

18 “(D) Two members representing consumers who are elderly persons;

19 “(E) An officer of a bank, as defined in ORS 706.008; [and]

20 “(F) An officer of a credit union, as defined in ORS 723.008;

21 **“(G) A representative of unionized health care workers who is re-**
22 **commended by a local affiliate of the Service Employees International**
23 **Union; and**

24 **“(H) A member of the Oregon Patient Safety Commission estab-**
25 **lished under ORS 442.820.**

26 “(d) The chairperson of the Governor’s Commission on Senior Services
27 created under ORS 410.320 shall appoint one member.

28 “(e) The Director of Human Services shall appoint two members as fol-
29 lows:

30 “(A) One member with expertise in elder abuse services and investi-

1 gations; and

2 “(B) One member representing the office or department within the De-
3 partment of Human Services that performs criminal background checks of
4 individuals providing services to elderly persons or conducting elder abuse
5 investigations.

6 “(f) **The Attorney General shall appoint a deputy or assistant at-
7 torney general with expertise in the investigation of criminal offenses
8 that have been committed against vulnerable persons.**

9 “(g) **The Board of Governors of the Oregon State Bar shall appoint
10 two members as follows:**

11 “(A) **A lawyer whose practice is concentrated on elder law; and**

12 “(B) **A criminal defense lawyer.**

13 “(3) The work group shall [*have its first meeting on or before the later of*
14 *30 days after adjournment sine die of the 2012 regular session of the Seventy-*
15 *sixth Legislative Assembly or September 30, 2012*] **meet at times and places**
16 **specified by the call of the chairperson or of a majority of the mem-**
17 **bers of the work group.**

18 “(4) The work group shall study and make recommendations on[:]

19 “[*a*] the definition of elder abuse, **including but not limited to:**

20 “(a) **Aligning definitions of abuse of vulnerable persons across pop-**
21 **ulations, agencies, service providers and law enforcement;**

22 “(b) **Defining abuse of vulnerable persons for purposes of investi-**
23 **gation and for purposes of making determinations that abuse of vul-**
24 **nerable persons has or has not occurred; and**

25 “(c) **Defining abuse of vulnerable persons for purposes of abuse data**
26 **reporting systems.**

27 “[*b*] *The criminal background check system and its role in prevention and*
28 *investigation of elder abuse.*]

29 “[*c*] *The process involved in conducting elder abuse investigations.*]

30 “[*d*] *Elder abuse data reporting systems.*]

1 “[(e) *Reports to the Legislative Assembly.*]

2 “[(f) *Information that could be made available to the public regarding elder*
3 *abuse and investigations of elder abuse.*]

4 “[(5) *The work group shall prepare a detailed assessment of the costs to*
5 *implement the work group’s recommendations. The assessment must address*
6 *both current and future needs in providing elder abuse prevention and inves-*
7 *tigation services. Each agency or organization with a member on the work*
8 *group shall cooperate with the work group in assessing and identifying the*
9 *costs of complying with the work group’s recommendations.*]

10 “[(6)] **(5)** A majority of the members of the work group constitutes a
11 quorum for the transaction of business.

12 “[(7)] **(6)** Official action by the work group requires the approval of a
13 majority of the members of the work group.

14 “[(8)] **(7)** The work group shall elect [one] **two** of its members to serve
15 as [chairperson] **cochairpersons**.

16 “[(9)] **(8)** If there is a vacancy for any cause, the appointing authority
17 shall make an appointment to become immediately effective.

18 “[(10)] **(9)** The work group shall meet at times and places specified by the
19 call of the [chairperson] **cochairpersons** or of a majority of the members of
20 the work group.

21 “[(11)] **(10)** The work group may adopt rules necessary for the operation
22 of the work group.

23 “[(12)] **(11)** The work group shall make a report, and may include recom-
24 mendations for legislation, to interim committees of the Legislative Assembly
25 related to the provision of services to elderly persons and investigation of
26 elder abuse no later than [January 15, 2013] **February 1, 2014**.

27 “[(13)] **(12)** The work group may accept donations of staff support, office
28 space and equipment from advocacy or service provider organizations to as-
29 sist the work group in the performance of its functions.

30 “[(14)] **(13)** Notwithstanding ORS 171.072, members of the work group who

1 are members of the Legislative Assembly are not entitled to mileage expenses
2 or a per diem and serve as volunteers on the work group. Other members of
3 the work group are not entitled to compensation or reimbursement for ex-
4 penses and serve as volunteers on the work group.

5 “[~~(15)~~] (14) All agencies of state government as defined in ORS 174.111
6 are directed to assist the work group in the performance of its duties and,
7 to the extent permitted by laws relating to confidentiality, to furnish such
8 information and advice as the members of the work group consider necessary
9 to perform their duties.

10 “**SECTION 10.** Section 24, chapter 70, Oregon Laws 2012, is amended to
11 read:

12 “**Sec. 24.** Section 23 [*of this 2012 Act*], **chapter 70, Oregon Laws 2012,**
13 is repealed on June 30, [2013] **2015.**

14 “**SECTION 11.** Section 8, chapter 837, Oregon Laws 2009, as amended by
15 section 83, chapter 828, Oregon Laws 2009, is amended to read:

16 “**Sec. 8.** (1) The district attorney in each county shall be responsible for
17 developing county multidisciplinary teams to consist of but not be limited
18 to personnel from the community mental health program, the community
19 developmental disabilities program, the Department of Human Services or a
20 designee of the department, the Oregon Health Authority or a designee of
21 the authority, the local area agency on aging, the district attorney’s office,
22 law enforcement and an agency that advocates on behalf of individuals with
23 disabilities, as well as others specially trained in the abuse of adults. **A**
24 **district attorney may delegate the responsibility to develop a county**
25 **multidisciplinary team under this subsection to a designee or admin-**
26 **istrator who is or will be a member of the team pursuant to a written**
27 **agreement.**

28 “(2) The teams shall develop a written protocol for immediate investi-
29 gation of and notification procedures for cases of abuse of adults and for
30 interviewing the victims. Each team also shall develop written agreements

1 signed by member agencies that are represented on the team that specify:

2 “(a) The role of each member agency;

3 “(b) Procedures to be followed to assess risks to the adult;

4 “(c) Guidelines for timely communication between member agencies; and

5 “(d) Guidelines for completion of responsibilities by member agencies.

6 “(3) Each team member shall have access to training in risk assessment,

7 dynamics of abuse of adults and legally sound interview and investigatory

8 techniques.

9 “(4) All investigations of abuse of adults by the department or its designee

10 or the authority or its designee and by law enforcement shall be carried out

11 in a manner consistent with the protocols and procedures called for in this

12 section.

13 “(5) All information obtained by the team members in the exercise of their

14 duties is confidential.

15 “(6) Each team shall develop and implement procedures for evaluating and

16 reporting compliance of member agencies with the protocols and procedures

17 required under this section.

18 “(7) Each team shall [*annually*] report to the Department of Justice and

19 the Oregon Criminal Justice Commission, **no later than July 1 of each**

20 **year**, the number of:

21 “(a) Substantiated allegations of abuse of adults in the county for the

22 preceding [*12 months*] **calendar year**.

23 “(b) Substantiated allegations of abuse referred to law enforcement be-

24 cause there was reasonable cause found that a crime had been committed.

25 “(c) Allegations of abuse that were not investigated by law enforcement.

26 “(d) Allegations of abuse that led to criminal charges.

27 “(e) Allegations of abuse that led to prosecution.

28 “(f) Allegations of abuse that led to conviction.

29 “**SECTION 12.** Section 10, chapter 70, Oregon Laws 2012, is amended to

30 read:

1 **“Sec. 10.** (1) Notwithstanding ORS 192.596, a financial institution shall
2 disclose and provide copies of the financial records of a person who is the
3 alleged victim in an investigation under ORS 124.070 or 441.650 in accord-
4 ance with a subpoena issued by a court or on behalf of a grand jury under
5 ORS 136.563.

6 “(2) A subpoena issued under this section shall specify:

7 “(a) The name and Social Security number of the person about whom fi-
8 nancial records are sought; and

9 “(b) That the person about whom financial records are sought is the al-
10 leged victim in an abuse investigation under ORS 124.070 or 441.650.

11 “(3) Disclosure and provision of copies under this section shall be made:

12 “(a) Without the consent of the person who is the alleged victim in the
13 abuse investigation, or of the person’s caretaker, fiduciary or other legal
14 representative; and

15 “(b) When made under subsection (7)(b) of this section, without the con-
16 sent of the person who is not the alleged victim in the abuse investigation.

17 “(4) A copy of the subpoena issued under this section may be served upon
18 the person or the person’s caretaker, fiduciary or other legal representative,
19 in the discretion of the court or the district attorney that issued the
20 subpoena.

21 “(5) Except when specifically directed by the court or district attorney
22 issuing the subpoena not to, a financial institution that discloses and pro-
23 vides copies of financial records under this section may, but is not required
24 to:

25 “(a) Inform the person about whom financial records have been sought
26 about the disclosure; or

27 “(b) Inform the person’s caretaker, fiduciary or other legal representative,
28 about the disclosure.

29 “(6) A financial institution that provides copies of financial records under
30 this section may be reimbursed for costs incurred as provided in ORS 192.602.

1 “(7)(a) Financial records may be subpoenaed under this section only with
2 respect to a person who is the alleged victim of abuse in an investigation
3 under ORS 124.070 or 441.650.

4 “(b) Notwithstanding paragraph (a) of this subsection, financial records
5 may be subpoenaed under this section when the financial records pertain to
6 an account, loan or other financial relationship owned, held or maintained
7 by a person who is the alleged victim in an abuse investigation under ORS
8 124.070 or 441.650 together with one or more other persons who are not al-
9 leged victims in the abuse investigation.

10 “(8) A financial institution that discloses and provides copies of financial
11 records under this section is not liable to any person for any loss, damage
12 or injury arising out of or in any way pertaining to the disclosure and pro-
13 vision of the copies.

14 **“(9)(a) Copies provided by a financial institution under this section**
15 **must be accompanied by an affidavit or declaration of a custodian of**
16 **records for the financial institution that states the following:**

17 **“(A) That the affiant or declarant is a duly authorized custodian**
18 **of the financial records and has authority to certify the financial re-**
19 **ords;**

20 **“(B) That the copies are true copies of all of the financial records**
21 **responsive to the subpoena; and**

22 **“(C) That the financial records were prepared by the personnel of**
23 **the financial institution acting under the control of the financial in-**
24 **stitution in the ordinary course of the financial institution’s business.**

25 **“(b) If the financial institution has none of the financial records**
26 **described in the subpoena, or only part of the financial records de-**
27 **scribed in the subpoena, the affiant or declarant shall state in the af-**
28 **fidavit or declaration that none or only a part of the financial records**
29 **described in the subpoena are in the financial institution’s possession**
30 **and control and shall disclose and provide only those financial records**

1 of which the affiant or declarant has custody.

2 “(c) When more than one person has knowledge of the facts re-
3 quired to be stated in the affidavit or declaration under this sub-
4 section, more than one affidavit or declaration may be used.

5 “(d) Copies provided under this subsection are admissible in evi-
6 dence in a proceeding before a court in which testimony may be com-
7 pelled to the same extent as though the original financial records were
8 offered and a custodian of the financial records had been present and
9 testified to the matters stated in the affidavit or declaration. The af-
10 fidavit or declaration is admissible as evidence of the matters stated
11 in the affidavit or declaration. The matters stated in the affidavit or
12 declaration are presumed to be true. The presumption established by
13 this paragraph is a presumption affecting the burden of producing ev-
14 idence.

15 “SECTION 13. The amendments to ORS 9.114, 124.050 and 124.060 by
16 sections 6 to 8 of this 2013 Act become operative on January 1, 2015.

17 “SECTION 14. This 2013 Act being necessary for the immediate
18 preservation of the public peace, health and safety, an emergency is
19 declared to exist, and this 2013 Act takes effect on its passage.”.

20
