

House Bill 2224

Sponsored by Representative HOYLE (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 for licensing of stabilization and crisis units that house persons with developmental disabilities. Specifies criteria.

Creates Office of Investigations in Department of Justice to conduct investigations and report on allegations of abuse committed against persons who are elderly or who have disabilities. Transfers responsibilities for abuse investigations involving persons who are elderly or have disabilities from Department of Human Services to office.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to vulnerable persons; creating new provisions; amending ORS 124.065, 124.070, 124.073,
3 124.077, 124.080, 124.085, 124.090, 409.025, 409.027, 411.320, 413.175, 430.216, 430.664, 430.731,
4 430.739, 430.743, 430.745, 430.747, 430.756, 430.757, 430.763, 430.768, 441.109, 441.117, 441.624,
5 441.630, 441.637, 441.645, 441.650, 441.660, 441.665, 441.671, 441.676, 441.677, 441.678, 441.680,
6 441.685, 441.690, 441.715, 441.995, 443.455, 443.500, 443.745, 443.765, 443.767, 443.769, 443.775,
7 443.875 and 443.991 and section 2, chapter 104, Oregon Laws 2014; repealing ORS 430.746; and
8 declaring an emergency.

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

10 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 443.400 to**
11 **443.455.**

12 **SECTION 2. (1) The Department of Human Services shall adopt rules for the licensing**
13 **of residential training homes and facilities that house individuals who have been found by a**
14 **court to have intellectual disabilities and to be in need of commitment for residential care,**
15 **treatment and training under ORS 427.290. The rules must do all of the following:**

16 (a) **Create a separate license classification for homes and facilities that house individuals**
17 **who exhibit violent or excessively aggressive behaviors to ensure that such homes and fa-**
18 **ilities offer adequate levels of security and staffing and have sufficient staff qualified to**
19 **address the needs of such residents.**

20 (b) **Require that each home or facility have an emergency preparedness plan and meet**
21 **minimum security, health and safety standards.**

22 (c) **Set minimum training standards for the staff of homes and facilities.**

23 (d) **Except as provided under paragraph (f) of this subsection, require at least 40 hours**
24 **of training for the staff of homes and facilities on how to handle safety concerns and resident**
25 **needs that arise in any of the following situations:**

26 (A) **Taking a resident to a retail establishment that predominantly sells pornography or**
27 **objects designed for sexual stimulation or gratification.**

28 (B) **Assisting a resident in purchasing pornography or objects designed for sexual stim-**

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 **ulation or gratification.**

2 **(C) Cleaning objects before or after their use by a resident for sexual stimulation or**
3 **gratification.**

4 **(D) Observing a resident masturbating, viewing pornography or using an object for the**
5 **purpose of sexual stimulation or gratification.**

6 **(e) Require homes and facilities to pay additional compensation to employees that un-**
7 **dergo the training and assist residents in one or more of the activities described in para-**
8 **graph (d) of this subsection.**

9 **(f) Require the accommodation of staff who express religious, moral or safety objections**
10 **to the activities described in paragraph (d) of this subsection, including objections based on**
11 **concern that a resident may become violent or sexually aggressive with the staff member**
12 **and concern that exposure to the activities could endanger the staff member's emotional**
13 **well-being.**

14 **(g) Prohibit homes and facilities from disciplining or taking other negative employment**
15 **action toward a staff member who expresses any objection under paragraph (f) of this sub-**
16 **section.**

17 **(h) Create at least three teams of staff qualified to respond to elevated incidents of vi-**
18 **olence and assist the homes and facilities to restore stability following a violent incident. The**
19 **teams must be located in the Portland, Salem and Eugene areas and any other areas where**
20 **homes or facilities described in paragraph (a) of this subsection are located. The teams must**
21 **also be available to provide back-up staffing for all such homes and facilities. The teams**
22 **must include at least one psychiatrist and one physical therapist and may include other**
23 **health care providers designated by the department.**

24 **(2) The state hospital located in Junction City must reserve 10 beds as follows:**

25 **(a) Five beds for individuals who, due to their tendency toward violent behavior, can no**
26 **longer be safely cared for in a home or facility licensed under this section; and**

27 **(b) Five beds for individuals who are in a severe crisis and require assessment and**
28 **transition services before returning to a home or facility described in paragraph (a) of this**
29 **subsection.**

30 **SECTION 3. (1) The Office of Investigations in created within the Department of Justice.**

31 **(2) The office is responsible for conducting investigations under ORS 124.070, 430.735 to**
32 **430.765, 441.630 to 441.680 and section 5 of this 2015 Act concerning abuse alleged to have been**
33 **committed against a person who is elderly or disabled and for preparing reports maintained**
34 **under ORS 124.085, 430.757, section 4, chapter 104, Oregon Laws 2014, and section 11 of this**
35 **2015 Act.**

36 **(3) The office shall be under the supervision and control of an administrator who is re-**
37 **sponsible for the performance of the duties, functions and powers of the office.**

38 **(4) The Attorney General shall appoint the administrator, who holds office at the pleas-**
39 **ure of the Attorney General.**

40 **(5) The administrator shall be paid a salary as provided by law or, if not so provided, as**
41 **prescribed by the Attorney General.**

42 **(6) For purposes of administration, subject to the approval of the Attorney General, the**
43 **administrator may organize and reorganize the office as the administrator considers neces-**
44 **sary to properly conduct the work of the office.**

45 **(7) The administrator may divide the functions of the office into administrative divisions.**

1 Subject to the approval of the Attorney General, the administrator may appoint an individual
 2 to manage each division. The manager of each division serves at the pleasure of the admin-
 3 istrator and is not subject to the provisions of ORS chapter 240. Each manager appointed
 4 under this subsection must be well qualified by technical training and experience in the
 5 functions to be performed by the manager.

6 (8) Subject to any applicable provisions of ORS chapter 240, the administrator shall ap-
 7 point all subordinate officers and employees of the office, prescribe their duties and fix their
 8 compensation.

9 **SECTION 4.** As used in sections 5 to 12 of this 2015 Act:

10 (1) "Adult foster home" has the meaning given that term in ORS 443.705.

11 (2) "Long term care facility" has the meaning given that term in ORS 442.015.

12 (3) "Residential facility" has the meaning given that term in ORS 443.400.

13 **SECTION 5.** (1) The Office of Investigations shall immediately begin an investigation
 14 upon receipt of a report under ORS 441.640 and 441.645 or a complaint of any person con-
 15 cerning a long term care facility, a residential facility or an adult foster home:

16 (a) That a resident has been injured, abused or neglected; or

17 (b) That there exists circumstances that could place a resident's health or safety in im-
 18 mminent danger.

19 (2) Not later than 60 days after receipt of a report or complaint, the office shall complete
 20 the investigation and shall prepare a written letter of determination that states the office's
 21 findings concerning each incident or problem alleged in the complaint. The office shall de-
 22 termine whether the alleged incident or problem was substantiated or unsubstantiated, or
 23 whether the office was unable to substantiate the alleged incident or problem. The Attorney
 24 General shall adopt by rule definitions for the terms "substantiated," "unsubstantiated" and
 25 "unable to substantiate." If abuse is substantiated, the letter of determination shall state
 26 whether the facility or home or an individual, or both, was responsible. The Attorney General
 27 shall adopt by rule criteria for determining responsibility for substantiated abuse.

28 (3) A copy of the letter of determination shall be placed in the facility's or home's com-
 29 plaint file. Copies shall be sent to the facility or home and the complainant. The facility or
 30 home and the complainant receiving the letter of determination shall be given 10 days to
 31 respond with additional information and shall be informed of the appeals process.

32 (4) If the office determines that an individual who holds a license or certificate for a
 33 health occupation is directly responsible for the abuse, the office shall send a copy of its
 34 letter of determination and investigation report to the state agency responsible for licensing
 35 or certifying the individual in the health occupation. If the individual identified under this
 36 section is a nursing assistant, the office shall give the nursing assistant 10 days to respond
 37 with additional information. The office also shall notify by mail the nursing assistant impli-
 38 cated in the investigation. The notification shall include a description of:

39 (a) The nature of the allegations;

40 (b) The date and time of occurrence;

41 (c) The right to a contested case hearing conducted in accordance with ORS chapter 183;

42 (d) The office's obligation under subsection (6) of this section to report the substantiated
 43 findings in the registry maintained under ORS 441.678 after the nursing assistant has had
 44 an opportunity for a contested case hearing; and

45 (e) The fact that if the nursing assistant fails to request a contested case hearing within

1 30 days from the date of the notice, the office will submit the substantiated findings in the
2 registry maintained under ORS 441.678.

3 (5) Notice sent to the nursing assistant's last-known address is sufficient to meet the
4 requirements of subsection (4) of this section.

5 (6) If a nursing assistant found to be responsible for abuse does not respond to the office
6 within 30 days after the date of the notice of the opportunity for a contested case hearing,
7 the office shall submit the substantiated findings in the registry maintained under ORS
8 441.678.

9 **SECTION 6.** (1) As used in this section:

10 (a) "Negative outcome" includes serious injury, rape, sexual abuse or death.

11 (b) "Rape" means rape in the first, second or third degree as described in ORS 163.355,
12 163.365 and 163.375.

13 (c) "Serious injury" means physical injury that creates a substantial risk of death or that
14 causes serious and protracted disfigurement, protracted impairment of health or protracted
15 loss or impairment of the function of any bodily organ.

16 (d) "Sexual abuse" means any form of sexual contact between an employee of a long term
17 care facility, residential facility or adult foster home or a person providing services in the
18 facility or home and a resident of that facility or home, including but not limited to sodomy,
19 sexual coercion, sexually explicit photographing and sexual harassment.

20 (2) If the Office of Investigations makes a finding of abuse arising from deliberate or
21 other than accidental action or inaction that is likely to cause a negative outcome by a per-
22 son with a duty of care toward a resident of a facility or home:

23 (a) The office shall immediately notify the agency responsible for licensing the facility
24 or home; and

25 (b) The office may impose a civil penalty of not more than \$1,000 per occurrence.

26 (3) If the abuse resulted in the death, serious injury, rape or sexual abuse of a resident,
27 the department shall impose a civil penalty of not less than \$2,500 for each occurrence of
28 substantiated abuse, not to exceed \$15,000 in any 90-day period, for a long term care facility
29 or a residential facility.

30 (4) A civil penalty under this section shall be imposed in the manner provided by ORS
31 183.745.

32 (5) All penalties recovered under this section shall be paid into the Long Term Care
33 Ombudsman Account established in ORS 441.153.

34 **SECTION 7.** In adopting criteria for imposing civil penalties on a long term care facility,
35 residential facility or adult foster home under section 6 of this 2015 Act, the Office of In-
36 vestigations shall consider:

37 (1) Any prior violations of laws or rules pertaining to facilities or homes;

38 (2) The financial benefits, if any, realized by the facility or home as a result of the vio-
39 lation;

40 (3) The gravity of the violation, including the actual or potential threat to the health,
41 safety and well-being of one or more residents;

42 (4) The severity of the actual or potential harm caused by the violation; and

43 (5) The facility's past history of correcting violations and preventing the recurrence of
44 violations.

45 **SECTION 8.** The administrator of the Office of Investigations and authorized represen-

1 tatives of the administrator may administer oaths, take depositions and issue subpoenas to
 2 compel the attendance of witnesses and the production of documents or other written in-
 3 formation necessary to carry out the provisions of sections 5 to 12 of this 2015 Act. If any
 4 person fails to comply with a subpoena issued under this section or refuses to testify on
 5 matters on which the person lawfully may be interrogated, the administrator or authorized
 6 representative may follow the procedure set out in ORS 183.440 to compel obedience.

7 **SECTION 9.** (1) The Office of Investigations, the Department of Human Services and the
 8 Oregon Health Authority may share confidential or protected health information with re-
 9 spect to recipients of public assistance or medical assistance as necessary for:

10 (a) The investigation and prosecution of abuse of a person who is elderly or who has a
 11 disability; and

12 (b) The imposition of civil penalties.

13 (2) Disclosure of confidential or protected health information under this section must be
 14 limited to the minimum amount of information necessary for an agency to carry out the
 15 agency's duties under law and must be protected from any unauthorized redisclosure.

16 **SECTION 10.** (1)(a) The owner or operator of a long term care facility, residential facility
 17 or adult foster home may not prohibit, discourage or use intimidation against any person to
 18 prevent the filing of a complaint with the Office of Investigations.

19 (b) If a resident of a facility or home, or a person acting on the resident's behalf, files a
 20 complaint with the office, the owner or operator of a facility or home may not retaliate
 21 against the resident by:

22 (A) Increasing charges;

23 (B) Decreasing services, rights or privileges;

24 (C) Threatening to increase charges or decrease services, rights or privileges;

25 (D) Taking or threatening to take any action to coerce or compel the resident to leave
 26 the facility or home; or

27 (E) Harassing or abusing or threatening to abuse a resident in any manner.

28 (c) The owner or operator of a facility or home may not retaliate against any person who
 29 files a complaint or any witness or employee of a facility or home who is interviewed about
 30 the complaint, including but not limited to retaliation by restriction of otherwise lawful ac-
 31 cess to the facility or home or to any resident thereof, or, if an employee, to dismissal or
 32 harassment.

33 (2) Anyone participating in good faith in the filing of a complaint pursuant to this section
 34 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed
 35 with respect to the filing or substance of the complaint. Any such participant shall have the
 36 same immunity with respect to participating in any judicial proceeding resulting from the
 37 complaint. A person does not act in good faith for the purposes of this subsection if the
 38 substance of the complaint is false and:

39 (a) The person knows that the substance of the complaint is false; or

40 (b) The person makes the complaint with the intent to harm the facility or home, or the
 41 owner or operator of the facility or home, and the person shows a reckless disregard for the
 42 truth or falsity of the substance of the complaint.

43 **SECTION 11.** (1) The Office of Investigations shall maintain a proper record of reports
 44 under ORS 441.640 and 441.645 on residents in long term care facilities. Each incident of
 45 abuse alleged in a report shall be classified as substantiated, unsubstantiated or unable to

1 substantiate, or recorded as under appeal by the facility.

2 (2) All reports shall be cataloged under the name of the long term care facility associated
3 with the complaint.

4 **SECTION 12.** In accordance with applicable provisions of ORS chapter 183, the Attorney
5 General may adopt rules necessary for the administration of the laws that the Office of In-
6 vestigations is charged with administering.

7 **SECTION 13.** The duties, functions and powers of the Department of Human Services
8 relating to the investigation and reporting of allegations of abuse committed against persons
9 who are elderly or who have disabilities are imposed upon, transferred to and vested in the
10 Office of Investigations created in section 3 of this 2015 Act.

11 **SECTION 14.** (1) The Director of Human Services shall:

12 (a) Deliver to the Office of Investigations all records and property within the jurisdiction
13 of the director that relate to the duties, functions and powers transferred by section 13 of
14 this 2015 Act; and

15 (b) Transfer to the office those employees engaged primarily in the exercise of the duties,
16 functions and powers transferred by section 13 of this 2015 Act.

17 (2) The administrator of the office shall take possession of the records and property, and
18 shall take charge of the employees and employ them in the exercise of the duties, functions
19 and powers transferred by section 13 of this 2015 Act, without reduction of compensation but
20 subject to change or termination of employment or compensation as provided by law.

21 (3) The Governor shall resolve any dispute between the department and the office relat-
22 ing to transfers of records, property and employees under this section, and the Governor's
23 decision is final.

24 **SECTION 15.** (1) The unexpended balances of amounts authorized to be expended by the
25 Department of Human Services for the biennium beginning July 1, 2015, from revenues ded-
26 icated, continuously appropriated, appropriated or otherwise made available for the purpose
27 of administering and enforcing the duties, functions and powers transferred by section 13 of
28 this 2015 Act are transferred to and are available for expenditure by the Office of Investi-
29 gations for the biennium beginning July 1, 2015, for the purpose of administering and en-
30 forcing the duties, functions and powers transferred by section 13 of this 2015 Act.

31 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
32 expenditures by the department remain applicable to expenditures by the office under this
33 section.

34 **SECTION 16.** The transfer of duties, functions and powers to the Office of Investigations
35 by section 13 of this 2015 Act does not affect any action, proceeding or prosecution involving
36 or with respect to such duties, functions and powers begun before and pending at the time
37 of the transfer, except that the office is substituted for the Department of Human Services
38 in the action, proceeding or prosecution.

39 **SECTION 17.** (1) Nothing in sections 13 to 16 of this 2015 Act relieves a person of a li-
40 ability, duty or obligation accruing under or with respect to the duties, functions and powers
41 transferred by section 13 of this 2015 Act. The Office of Investigations may undertake the
42 collection or enforcement of any such liability, duty or obligation.

43 (2) The rights and obligations of the Department of Human Services legally incurred un-
44 der contracts, leases and business transactions executed, entered into or begun before the
45 operative date of section 13 of this 2015 Act accruing under or with respect to the duties,

1 functions and powers transferred by section 13 of this 2015 Act are transferred to the office.
 2 For the purpose of succession to these rights and obligations, the office is a continuation of
 3 the department and not a new authority.

4 **SECTION 18.** Notwithstanding the transfer of duties, functions and powers by section 13
 5 of this 2015 Act, the rules of the Department of Human Services with respect to such duties,
 6 functions or powers that are in effect on the operative date of section 13 of this 2015 Act
 7 continue in effect until superseded or repealed by rules of the Office of Investigations. Ref-
 8 erences in such rules of the department to the department or an officer or employee of the
 9 department are considered to be references to the office or an officer or employee of the
 10 office.

11 **SECTION 19.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 12 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 13 the context of the duties, functions and powers transferred by section 13 of this 2015 Act,
 14 reference is made to the Department of Human Services, or an officer or employee of the
 15 department, whose duties, functions or powers are transferred by section 13 of this 2015 Act,
 16 the reference is considered to be a reference to the Office of Investigations or an officer or
 17 employee of the office who by this 2015 Act is charged with carrying out such duties, func-
 18 tions and powers.

19 **SECTION 20.** The administrator of the Office of Investigations may be appointed before
 20 the operative date of section 13 of this 2015 Act and may take any action before that date
 21 that is necessary to enable the administrator to exercise, on and after the operative date of
 22 section 13 of this 2015 Act, the duties, functions and powers of the administrator pursuant
 23 to section 13 of this 2015 Act.

24 **SECTION 21.** ORS 124.065 is amended to read:

25 124.065. (1) When a report is required under ORS 124.060, an oral report shall be made imme-
 26 diately by telephone or otherwise to the [*local office of the Department of Human Services*] **Office**
 27 **of Investigations** or to a law enforcement agency within the county where the person making the
 28 report is at the time of contact. If known, such reports shall contain the names and addresses of the
 29 elderly person and any persons responsible for the care of the elderly person, the nature and the
 30 extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse
 31 and any other information which the person making the report believes might be helpful in estab-
 32 lishing the cause of the abuse and the identity of the perpetrator.

33 (2) When a report of a possible crime is received by the [*department*] **office** under ORS 124.060,
 34 the [*department or the designee of the department*] **office** shall notify the law enforcement agency
 35 having jurisdiction within the county where the report was made. If the [*department or the designee*
 36 *of the department*] **office** is unable to gain access to the allegedly abused elderly person, the [*de-*
 37 *partment or the designee of the department*] **office** may contact the law enforcement agency for as-
 38 sistance and the agency shall provide assistance.

39 (3) If the [*department or the designee of the department*] **office** determines that there is reason
 40 to believe a crime has been committed, the [*department or the designee of the department*] **office** shall
 41 immediately notify the law enforcement agency having jurisdiction within the county where the re-
 42 port was made. The law enforcement agency shall confirm to the [*department or the designee of the*
 43 *department*] **office** its receipt of the notification within two business days.

44 (4) When a report is received by a law enforcement agency, the agency shall immediately notify
 45 the law enforcement agency having jurisdiction if the receiving agency does not. The receiving

1 agency shall also immediately notify the [*local office of the department in the county where the report*
 2 *was made*] **office**.

3 **SECTION 22.** ORS 124.065, as amended by section 11, chapter 837, Oregon Laws 2009, is
 4 amended to read:

5 124.065. (1) When a report is required under ORS 124.060, an oral report shall be made imme-
 6 diately by telephone or otherwise to the [*local office of the Department of Human Services*] **Office**
 7 **of Investigations** or to a law enforcement agency within the county where the person making the
 8 report is at the time of contact. If known, such reports shall contain the names and addresses of the
 9 elderly person and any persons responsible for the care of the elderly person, the nature and the
 10 extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse
 11 and any other information which the person making the report believes might be helpful in estab-
 12 lishing the cause of the abuse and the identity of the perpetrator.

13 (2) When a report of a possible crime is received by the [*department*] **office** under ORS 124.060,
 14 the [*department or the designee of the department*] **office** shall notify the law enforcement agency
 15 having jurisdiction within the county where the report was made. If the [*department or the designee*
 16 *of the department*] **office** is unable to gain access to the allegedly abused elderly person, the [*de-*
 17 *partment or the designee of the department*] **office** may contact the law enforcement agency for as-
 18 sistance and the agency shall provide assistance.

19 (3) If the [*department or the designee of the department*] **office** determines that there is reason
 20 to believe a crime has been committed, the [*department or the designee of the department*] **office** shall
 21 immediately notify the law enforcement agency having jurisdiction within the county where the re-
 22 port was made. The law enforcement agency shall confirm to the [*department or the designee of the*
 23 *department*] **office** its receipt of the notification.

24 (4) When a report is received by a law enforcement agency, the agency shall immediately notify
 25 the law enforcement agency having jurisdiction if the receiving agency does not. The receiving
 26 agency shall also immediately notify the [*local office of the department in the county where the report*
 27 *was made*] **office**.

28 **SECTION 23.** ORS 124.070 is amended to read:

29 124.070. (1) Upon receipt of the report required under ORS 124.060, the [*Department of Human*
 30 *Services*] **Office of Investigations** or the law enforcement agency shall cause an investigation to
 31 be commenced promptly to determine the nature and cause of the abuse. The investigation shall
 32 include a visit to the named elderly person and communication with those individuals having
 33 knowledge of the facts of the particular case. If the alleged abuse occurs in a residential facility,
 34 the [*department*] **office** shall conduct an investigation regardless of whether the suspected abuser
 35 continues to be employed by the facility.

36 (2) If the [*department*] **office** finds reasonable cause to believe that a crime has occurred, the
 37 [*department*] **office** shall notify in writing the appropriate law enforcement agency. If the law
 38 enforcement agency conducting the investigation finds reasonable cause to believe that abuse has
 39 occurred, the agency shall notify the [*department*] **office** in writing. Upon completion of the evalu-
 40 ation of each case, the [*department*] **office** shall prepare written findings that include recommended
 41 action and a determination of whether protective services are needed.

42 (3) Within three business days of receiving notification from the [*department*] **office** that there
 43 is reasonable cause to believe that a crime has occurred, a law enforcement agency shall notify the
 44 [*department*] **office**:

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

1 no criminal investigation;

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

3 (c) That a criminal investigation will take place.

4 (4) If a law enforcement agency gives the findings of the [department] **office** to the district at-
 5 torney for review, within five business days the district attorney shall notify the [department] **office**
 6 that the district attorney has received the findings and shall inform the [department] **office** whether
 7 the findings have been received for review or for filing charges. A district attorney shall make the
 8 determination of whether to file charges within six months of receiving the findings of the [depart-
 9 ment] **office**.

10 (5) If a district attorney files charges stemming from the findings of the [department] **office** and
 11 the district attorney makes a determination not to proceed to trial, the district attorney shall notify
 12 the [department] **office** of the determination within five business days and shall include information
 13 explaining the basis for the determination.

14 **SECTION 24.** ORS 124.070, as amended by section 13, chapter 837, Oregon Laws 2009, is
 15 amended to read:

16 124.070. (1) Upon receipt of the report required under ORS 124.060, the [Department of Human
 17 Services] **Office of Investigations** or the law enforcement agency shall cause an investigation to
 18 be commenced promptly to determine the nature and cause of the abuse. The investigation shall
 19 include a visit to the named elderly person and communication with those individuals having
 20 knowledge of the facts of the particular case. If the alleged abuse occurs in a residential facility,
 21 the [department] **office** shall conduct an investigation regardless of whether the suspected abuser
 22 continues to be employed by the facility.

23 (2) If the [department] **office** finds reasonable cause to believe that a crime has occurred, the
 24 [department] **office** shall notify in writing the appropriate law enforcement agency. If the law
 25 enforcement agency conducting the investigation finds reasonable cause to believe that abuse has
 26 occurred, the agency shall notify the [department] **office** in writing. Upon completion of the evalu-
 27 ation of each case, the [department] **office** shall prepare written findings that include recommended
 28 action and a determination of whether protective services are needed.

29 (3) After receiving notification from the [department] **office** that there is reasonable cause to
 30 believe that a crime has occurred, a law enforcement agency shall notify the [department] **office**:

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

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

34 (c) That a criminal investigation will take place.

35 (4) If a law enforcement agency gives the findings of the [department] **office** to the district at-
 36 torney for review, the district attorney shall notify the [department] **office** that the district attorney
 37 has received the findings and shall inform the [department] **office** whether the findings have been
 38 received for review or for filing charges. A district attorney shall make the determination of
 39 whether to file charges within six months of receiving the findings of the [department] **office**.

40 (5) If a district attorney files charges stemming from the findings of the [department] **office** and
 41 the district attorney makes a determination not to proceed to trial, the district attorney shall notify
 42 the [department] **office** of the determination and shall include information explaining the basis for
 43 the determination.

44 **SECTION 25.** ORS 124.073 is amended to read:

45 124.073. [(1) *The Department of Human Services shall:*]

1 (1)(a) Using new or existing materials, **the Office of Investigations shall** develop and **the**
 2 **Department of Human Services shall** implement a training and continuing education curriculum
 3 for persons other than law enforcement officers required by law to investigate allegations of abuse
 4 under ORS 124.070 or 441.650. The curriculum shall address the areas of training and education
 5 necessary to facilitate the skills required to investigate reports of abuse, including, but not limited
 6 to, risk assessment, investigatory technique, evidence gathering and report writing.

7 (b) Using new or existing materials, **the office shall** develop and **the department shall** imple-
 8 ment training for persons that provide care to vulnerable persons to facilitate awareness of the dy-
 9 namics of abuse, abuse prevention strategies and early detection of abuse.

10 (2) For purposes of this section, “vulnerable person” means a person 65 years of age or older.

11 **SECTION 26.** ORS 124.077 is amended to read:

12 124.077. A person who has personal knowledge that an employee or former employee of the
 13 person was found by the [*Department of Human Services*] **Office of Investigations**, a law enforce-
 14 ment agency or a court to have committed abuse under ORS 124.005 to 124.040, 124.050 to 124.095
 15 or 124.100 to 124.140, is immune from civil liability for the disclosure to a prospective employer of
 16 the employee or former employee of known facts concerning the abuse.

17 **SECTION 27.** ORS 124.080 is amended to read:

18 124.080. (1) In carrying out its duties under ORS 124.070 a law enforcement agency or the [*De-*
 19 *partment of Human Services*] **Office of Investigations** may photograph or cause to have photo-
 20 graphed any victim who is the subject of the investigation for purposes of preserving evidence of the
 21 condition of the victim at the time of the investigation.

22 (2) For purposes of ORS 124.090, photographs taken under authority of subsection (1) of this
 23 section shall be considered records.

24 **SECTION 28.** ORS 124.085 is amended to read:

25 124.085. A proper record of complaints made under ORS 124.060 and 124.065 shall be maintained
 26 by the [*Department of Human Services*] **Office of Investigations**. The [*department*] **office** shall pre-
 27 pare reports in writing when investigation has shown that the condition of the elderly person was
 28 the result of abuse even if the cause remains unknown. The complaints and investigative reports
 29 shall be cataloged under the name of the victim but shall be treated as confidential information
 30 subject to ORS 124.090, and shall be disclosed only with the consent of that person or by judicial
 31 process.

32 **SECTION 29.** ORS 124.090 is amended to read:

33 124.090. (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public
 34 or private official or any other person who made the complaint, the witnesses and the elderly per-
 35 sons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are
 36 confidential and are not accessible for public inspection.

37 (2) Notwithstanding subsection (1) of this section, the [*Department of Human Services or the*
 38 *department’s designee*] **Office of Investigations** may, if appropriate, make the names of the wit-
 39 nesses and the elderly persons, and the reports and records compiled under ORS 124.050 to 124.095,
 40 available to:

41 (a) A law enforcement agency;

42 (b) A public agency that licenses or certifies residential facilities or licenses or certifies the
 43 persons practicing in the facilities;

44 (c) A public agency or private nonprofit agency or organization providing protective services for
 45 the elderly person;

1 (d) The Long Term Care Ombudsman;

2 (e) A public agency that licenses or certifies a person that has abused or is alleged to have
3 abused an elderly person;

4 (f) A court pursuant to a court order or as provided in ORS 125.012; and

5 (g) An administrative law judge in an administrative proceeding when necessary to provide
6 protective services as defined in ORS 410.040 to an elderly person, when in the best interests of the
7 elderly person or when necessary to investigate, prevent or treat abuse of an elderly person.

8 (3) Information made available under subsection (2) of this section, and the recipient of the in-
9 formation, are otherwise subject to the confidentiality provisions of ORS 124.050 to 124.095.

10 **SECTION 30.** ORS 409.025 is amended to read:

11 409.025. As used in this section and ORS 409.027:

12 (1) "Abuse and neglect report" means a report retained by the Department of Human Services
13 in accordance with ORS [124.085,] 419B.030, [or 430.757] **a report retained by the Office of In-**
14 **vestigations in accordance with ORS 124.085 or 430.757**, or a similar report filed in another state.

15 (2) "Care" means treatment, education, training, instruction, placement services, recreational
16 opportunities or case management, supervision of such services for clients of the department or de-
17 partment administration and support services for clients.

18 (3) "Subject individual" means a person who is:

19 (a) Employed or who seeks to be employed by the department to provide care;

20 (b) A volunteer or who seeks to be a volunteer to provide care on behalf of the department; or

21 (c) Providing care or who seeks to provide care on behalf of the department or another person.

22 **SECTION 31.** ORS 409.027 is amended to read:

23 409.027. (1) The Department of Human Services may use abuse and neglect reports [*maintained*
24 *by the department*] for the purpose of providing protective services or screening subject individuals.

25 (2) The department shall adopt rules to carry out the provisions of subsection (1) of this section.

26 (3) The rules adopted in subsection (2) of this section may include:

27 (a) Notice and opportunity for due process for a department employee found to be unfit; and

28 (b) Notice and opportunity for hearing in accordance with ORS chapter 183 for a subject indi-
29 vidual described in ORS 409.025 (3)(c).

30 (4) Reports [*maintained*] **used** under this section are confidential and may not be disclosed for
31 any purpose other than in accordance with this section or any other provision of law.

32 **SECTION 32.** ORS 411.320 is amended to read:

33 411.320. (1) For the protection of applicants for and recipients of public assistance, except as
34 otherwise provided in this section, the Department of Human Services may not disclose or use the
35 contents of any public assistance records, files, papers or communications for purposes other than
36 those directly connected with the administration of the public assistance programs or necessary to
37 assist public assistance applicants and recipients in accessing and receiving other governmental or
38 private nonprofit services, and these records, files, papers and communications are considered con-
39 fidential subject to the rules of the department. In any judicial or administrative proceeding, except
40 proceedings directly connected with the administration of public assistance or child support
41 enforcement laws, their contents are considered privileged communications.

42 (2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers
43 or communications for purposes directly connected with the establishment and enforcement of sup-
44 port obligations pursuant to the Title IV-D program.

45 (3) Nothing in this section prohibits the disclosure of the address, Social Security number and

1 photograph of any applicant or recipient to a law enforcement officer at the request of the officer.
 2 To receive information pursuant to this section, the officer must furnish the agency the name of the
 3 applicant or recipient and advise that the applicant or recipient:

4 (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;

5 (b) Is violating a condition of probation or parole; or

6 (c) Has information that is necessary for the officer to conduct the official duties of the officer
 7 and the location or apprehension of the applicant or recipient is within such official duties.

8 (4) Nothing in this section prohibits disclosure of information between the department and the
 9 Oregon Health Authority for the purpose of administering public assistance programs **or between**
 10 **the department and the Office of Investigations, for the purpose of investigating an**
 11 **allegation of abuse committed against a person who is elderly or who has a disability.**

12 **SECTION 33.** ORS 413.175 is amended to read:

13 413.175. (1) For the protection of applicants for and recipients of public assistance and medical
 14 assistance, as defined in ORS 414.025, except as otherwise provided in this section, the Oregon
 15 Health Authority may not disclose or use the contents of any public assistance or medical assistance
 16 records, files, papers or communications for purposes other than those directly connected with the
 17 administration of the public assistance and medical assistance programs or necessary to assist public
 18 assistance or medical assistance applicants and recipients in accessing and receiving other govern-
 19 mental or private nonprofit services, and these records, files, papers and communications are con-
 20 sidered confidential subject to the rules of the authority. In any judicial or administrative
 21 proceeding, except proceedings directly connected with the administration of public assistance,
 22 medical assistance or child support enforcement, their contents are considered privileged communi-
 23 cations.

24 (2) *[Nothing in this section prohibits]* **This section does not prohibit** the disclosure or use of
 25 contents of records, files, papers or communications for purposes directly connected with the es-
 26 tablishment and enforcement of support obligations pursuant to Title IV-D of the Social Security
 27 Act.

28 (3) *[Nothing in this section prohibits]* **This section does not prohibit** the disclosure of the ad-
 29 dress, Social Security number and photograph of any applicant or recipient to a law enforcement
 30 officer at the request of the officer. To receive information pursuant to this section, the officer must
 31 furnish the agency the name of the applicant or recipient and advise that the applicant or recipient:

32 (a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;

33 (b) Is violating a condition of probation or parole; or

34 (c) Has information that is necessary for the officer to conduct the official duties of the officer
 35 and the location or apprehension of the applicant or recipient is within such official duties.

36 (4) *[Nothing in this section prohibits]* **This section does not prohibit** disclosure of information
 37 between the authority and the Department of Human Services for the purpose of administering
 38 public assistance and medical assistance programs that the authority and the department are re-
 39 sponsible for administering.

40 **(5) This section does not prohibit the disclosure of the contents of records, files, papers**
 41 **and communications to the Office of Investigations in connection with an investigation of**
 42 **abuse alleged to have been committed against a person who is elderly or who has a disability.**

43 **SECTION 34.** ORS 430.216 is amended to read:

44 430.216. (1) The Department of Human Services shall report to each odd-numbered year regular
 45 session of the Legislative Assembly:

1 (a) On the safety of individuals receiving developmental disability services including, but not
2 limited to:

3 (A) The average turnover of direct care workers in service settings.

4 (B) A summary of the training provided by the department or its contractors to direct care
5 workers in service settings.

6 (C) A summary of the core competencies required of direct care workers in service settings by
7 the state for licensing or certification.

8 (D) A summary of the average wages of direct care workers in service settings, presented by
9 type of services provided.

10 (E) The number of complaints of abuse filed as required by ORS 430.765 and received by the
11 [department] **Office of Investigations** under ORS 430.743, reported by type of allegation.

12 (F) The number of direct care workers in service settings who were subject to criminal or civil
13 action involving an individual with a developmental disability.

14 (G) The number of deaths, serious injuries, sexual assaults and rapes alleged to have occurred
15 in service settings.

16 (b) A schedule of all license fees and civil penalties established by the department by rule pur-
17 suant to ORS 441.995, 443.455 and 443.790.

18 (c) **A schedule of all civil penalties established by the Office of Investigations pursuant**
19 **to section 6 of this 2015 Act.**

20 (2) The department shall provide the report described in subsection (1)(a) of this section to the
21 appropriate legislative committees, the Oregon Council on Developmental Disabilities and to the
22 agency designated to administer the state protection and advocacy system under ORS 192.517.

23 (3) As used in this section, “service settings” means any of the following that provide develop-
24 mental disability services:

25 (a) An adult foster home as defined in ORS 443.705;

26 (b) A residential facility as defined in ORS 443.400;

27 (c) A location where home health services, as defined in ORS 443.005, are received by a resident;

28 (d) A location where in-home care services, as defined in ORS 443.305, are received by a resi-
29 dent; and

30 (e) A domiciliary care facility as defined in ORS 443.205.

31 **SECTION 35.** ORS 430.664 is amended to read:

32 430.664. (1) In addition to any other requirements that may be established by rule by the De-
33 partment of Human Services, each community developmental disabilities program may contract with
34 the department to provide or arrange for the provision of the following basic services to persons
35 with developmental disabilities:

36 (a) Eligibility determination for developmental disability services.

37 (b) Access to developmental disability services in homes, work sites or other locations that
38 promote independence, productivity and integration into the community.

39 (c) Case management services.

40 (d) [Abuse investigation and] Protective services.

41 (e) Planning and coordination of activities with other agencies or organizations to ensure the
42 effective and efficient service delivery and use of resources.

43 (f) Establishing and implementing a process to respond to complaints and grievances.

44 (g) Other alternative services as prescribed by the department by rule.

45 (2) Each community developmental disabilities program shall have a written management plan

1 that governs the program's operating structure, goals and activities.

2 (3) Each community developmental disabilities program shall have a developmental disability
3 advisory committee.

4 (4) Subject to the review and approval of the department, a community developmental disabili-
5 ties program may initiate additional services after the services described in this section are pro-
6 vided.

7 **SECTION 36.** ORS 430.731 is amended to read:

8 430.731. (1) The *[Department of Human Services or a designee of the department]* **Office of In-**
9 **vestigations** shall conduct the investigations and make the findings required by ORS 430.735 to
10 430.765.

11 (2) The *[department]* **Attorney General** shall prescribe by rule policies and procedures for the
12 investigations of allegations of abuse of a person with a developmental disability as described in
13 ORS 430.735 (2)(a) to ensure that the investigations are conducted in a uniform, objective and thor-
14 ough manner in every county of the state including, but not limited to, policies and procedures that:

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

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

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

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

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

25 *[(4) The department shall monitor investigations conducted by a designee of the department.]*

26 **SECTION 37.** ORS 430.739 is amended to read:

27 430.739. (1) The district attorney in each county shall be responsible for developing county
28 multidisciplinary teams to consist of but not be limited to personnel from the community mental
29 health program, the community developmental disabilities program, the Department of Human Ser-
30 vices *[or a designee of the department]*, the Oregon Health Authority or a designee of the authority,
31 the local area agency on aging, **the Office of Investigations**, the district attorney's office, law
32 enforcement and an agency that advocates on behalf of individuals with disabilities, as well as oth-
33 ers specially trained in the abuse of adults. A district attorney may delegate the responsibility to
34 develop a county multidisciplinary team under this subsection to a designee or administrator who
35 is or will be a member of the team pursuant to a written agreement.

36 (2) The teams shall develop a written protocol for immediate investigation of and notification
37 procedures for cases of abuse of adults and for interviewing the victims. Each team also shall de-
38 velop written agreements signed by member agencies that are represented on the team that specify:

39 (a) The role of each member agency;

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

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

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

43 (3) Each team member shall have access to training in risk assessment, dynamics of abuse of
44 adults and legally sound interview and investigatory techniques.

45 (4) All investigations of abuse of adults by the *[department or its designee or the authority or its*

1 *designee*] **Office of Investigations** and by law enforcement shall be carried out in a manner con-
 2 sistent with the protocols and procedures called for in this section.

3 (5) All information obtained by the team members in the exercise of their duties is confidential.

4 (6) Each team shall develop and implement procedures for evaluating and reporting compliance
 5 of member agencies with the protocols and procedures required under this section.

6 (7) Each team shall report to [*the Department of Justice and*] the Oregon Criminal Justice Com-
 7 mission, no later than July 1 of each year, the number of:

8 (a) Substantiated allegations of abuse of adults in the county for the preceding calendar year.

9 (b) Substantiated allegations of abuse referred to law enforcement because there was reasonable
 10 cause found that a crime had been committed.

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

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

13 (e) Allegations of abuse that led to prosecution.

14 (f) Allegations of abuse that led to conviction.

15 **SECTION 38.** ORS 430.743 is amended to read:

16 430.743. (1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be
 17 made immediately by telephone or otherwise to the [*Department of Human Services, the designee of*
 18 *the department*] **Office of Investigations** or a law enforcement agency within the county where the
 19 person making the report is at the time of contact. If known, the report shall include:

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

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

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

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

26 (e) The date of the incident.

27 (2)(a) When a report is received by the [*department's designee*] **office** under this section, the
 28 [*designee*] **office** shall immediately determine whether abuse occurred and if the reported victim has
 29 sustained any serious injury. If so, the [*designee*] **office** shall immediately notify the Department of
 30 **Human Services**. If there is reason to believe a crime has been committed, the [*designee*] **office**
 31 shall immediately notify the law enforcement agency having jurisdiction within the county where the
 32 report was made. If the [*designee*] **office** is unable to gain access to the allegedly abused adult, the
 33 [*designee*] **office** may contact the law enforcement agency for assistance and the agency shall pro-
 34 vide assistance.

35 (b) When a report is received by a law enforcement agency **under this section**, the agency
 36 shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does
 37 not. The receiving agency shall also immediately notify the [*department*] **office** in cases of serious
 38 injury or death.

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

41 (a) The agency providing primary case management services to the adult; and

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

44 **SECTION 39.** ORS 430.745 is amended to read:

45 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or upon receipt of a report

1 of a death of an adult that may have been caused by other than accidental or natural means, the
2 [Department of Human Services or its designee] **Office of Investigations** shall investigate promptly
3 to determine if abuse occurred or whether a death was caused by abuse. If the [department or its
4 designee] **office** determines that a law enforcement agency is conducting an investigation of the
5 same incident, the [department or its designee] **office** need not conduct its own investigation.

6 (2) The [department or its designee] **office** may enter a facility and inspect and copy records of
7 a facility or community program if necessary for the completion of the investigation.

8 (3) In cases in which the [department, its designee] **office** or the law enforcement agency con-
9 ducting the investigation finds reasonable cause to believe that an adult has died as a result of
10 abuse, [it] **the office or law enforcement agency** shall report that information to the appropriate
11 medical examiner. The medical examiner shall complete an investigation as required under ORS
12 chapter 146 and report the findings to the [department, its designee] **office** or the law enforcement
13 agency.

14 (4) Upon completion of an investigation conducted by a law enforcement agency, that agency
15 shall provide the [department or its designee] **office** with a report of its findings and supporting ev-
16 idence.

17 (5) If the [department or its designee] **office** determines that there is reasonable cause to believe
18 that abuse occurred at a facility or that abuse was caused or aided by a person licensed by a li-
19 censing agency to provide care or services, the [department or its designee] **office** shall immediately
20 notify each appropriate licensing agency and provide each licensing agency with a copy of its in-
21 vestigative findings.

22 (6) Upon completion of the investigation, the [department or its designee] **office** shall prepare
23 written findings that include recommended actions and a determination of whether protective ser-
24 vices are needed. The [department or its designee] **office** shall **instruct the Department of Human**
25 **Services to** provide appropriate protective services as necessary to prevent further abuse of the
26 adult. Any protective services provided shall be undertaken in a manner that is least intrusive to
27 the adult and provides for the greatest degree of independence that is available within existing re-
28 sources.

29 (7) If the [department or its designee] **office** determines that there is reason to believe a crime
30 has occurred, the [department or its designee] **office** shall report the findings to the appropriate law
31 enforcement agency. The law enforcement agency must confirm its receipt of the report to the [de-
32 partment or its designee] **office** within two business days. Within three business days of receipt of
33 the findings, the agency shall notify the [department or its designee] **office**:

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

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

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

38 (8) If a law enforcement agency gives the findings of the [department or its designee] **office** to
39 the district attorney for review, within five business days the district attorney shall notify the [de-
40 partment or its designee] **office** that the district attorney has received the findings and shall inform
41 the [department or its designee] **office** whether the findings have been received for review or for
42 filing charges. A district attorney shall make the determination of whether to file charges within
43 six months of receiving the findings of the [department or its designee] **office**.

44 (9) If a district attorney files charges stemming from a report from the [department or its
45 designee] **office** and the district attorney makes a determination not to proceed to trial, the district

1 attorney shall notify the [*department or its designee*] **office** of the determination within five business
2 days and shall include information explaining the basis for the determination.

3 **SECTION 40.** ORS 430.745, as amended by section 18, chapter 837, Oregon Laws 2009, is
4 amended to read:

5 430.745. (1) Upon receipt of any report of alleged abuse of an adult, or upon receipt of a report
6 of a death of an adult that may have been caused by other than accidental or natural means, the
7 [*Department of Human Services or its designee*] **Office of Investigations** shall investigate promptly
8 to determine if abuse occurred or whether a death was caused by abuse. If the [*department or its*
9 *designee*] **office** determines that a law enforcement agency is conducting an investigation of the
10 same incident, the [*department or its designee*] **office** need not conduct its own investigation.

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

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

19 (4) Upon completion of an investigation conducted by a law enforcement agency, that agency
20 shall provide the [*department or its designee*] **office** with a report of its findings and supporting ev-
21 idence.

22 (5) If the [*department or its designee*] **office** determines that there is reasonable cause to believe
23 that abuse occurred at a facility or that abuse was caused or aided by a person licensed by a li-
24 censing agency to provide care or services, the [*department or its designee*] **office** shall immediately
25 notify each appropriate licensing agency and provide each licensing agency with a copy of its in-
26 vestigative findings.

27 (6) Upon completion of the investigation, the [*department or its designee*] **office** shall prepare
28 written findings that include recommended actions and a determination of whether protective ser-
29 vices are needed. The [*department or its designee*] **office** shall **instruct the Department of Human**
30 **Services to** provide appropriate protective services as necessary to prevent further abuse of the
31 adult. Any protective services provided shall be undertaken in a manner that is least intrusive to
32 the adult and provides for the greatest degree of independence that is available within existing re-
33 sources.

34 (7) If the [*department or its designee*] **office** determines that there is reason to believe a crime
35 has occurred, the [*department or its designee*] **office** shall report the findings to the appropriate law
36 enforcement agency. The law enforcement agency must confirm its receipt of the report to the [*de-*
37 *partment or its designee*] **office**. The agency shall notify the [*department or its designee*] **office** of its
38 determination:

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

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

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

43 (8) If a law enforcement agency gives the findings of the [*department or its designee*] **office** to
44 the district attorney for review, the district attorney shall notify the [*department or its designee*]
45 **office** that the district attorney has received the findings and shall inform the [*department or its*

1 *designee*] **office** whether the findings have been received for review or for filing charges. A district
 2 attorney shall make the determination of whether to file charges within six months of receiving the
 3 findings of the [*department or its designee*] **office**.

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

8 **SECTION 41.** ORS 430.747 is amended to read:

9 430.747. (1) In carrying out its duties under ORS 430.735 to 430.765, a law enforcement agency
 10 or the [*Department of Human Services' designee*] **Office of Investigations** may photograph or cause
 11 to have photographed any victim who is the subject of the investigation for purposes of preserving
 12 evidence of the condition of the victim at the time of investigation unless the victim knowingly re-
 13 fuses to be photographed.

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

16 **SECTION 42.** ORS 430.756 is amended to read:

17 430.756. A person who has personal knowledge that an employee or former employee of the
 18 person was found by the [*Department of Human Services*] **Office of Investigations** or a law
 19 enforcement agency to have committed abuse under ORS 430.735 to 430.765, is immune from civil
 20 liability for the disclosure to a prospective employer of the employee or former employee of known
 21 facts concerning the abuse.

22 **SECTION 43.** ORS 430.757 is amended to read:

23 430.757. A proper record of all reports of abuse made under ORS 430.743 and 430.765 (1) and (2)
 24 shall be maintained by the [*Department of Human Services*] **Office of Investigations**.

25 **SECTION 44.** ORS 430.763 is amended to read:

26 430.763. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of persons who
 27 made reports of abuse, witnesses of alleged abuse and the affected adults and materials under ORS
 28 430.747 maintained under the provisions of ORS 430.757 are confidential and are not accessible for
 29 public inspection. However, the [*Department of Human Services*] **Office of Investigations** shall
 30 make this information and any investigative report available to any law enforcement agency, to any
 31 public agency that licenses or certifies facilities or licenses or certifies the persons practicing
 32 therein and to any public agency providing protective services for the adult, if appropriate. The
 33 [*department*] **office** shall also make this information and any investigative report available to any
 34 private agency providing protective services for the adult and to the system described in ORS
 35 192.517 (1). When this information and any investigative report is made available to a private
 36 agency, the confidentiality requirements of this section apply to the private agency.

37 **SECTION 45.** ORS 430.768 is amended to read:

38 430.768. (1) When the [*Department of Human Services*] **Office of Investigations** investigates a
 39 report of abuse under ORS 430.735 to 430.765 at a residential training home as defined in ORS
 40 443.400 [*that is operated by the department*] or the **Oregon Health Authority** investigates a report
 41 of abuse at a state hospital described in ORS 426.010, the [*department*] **office or the authority** shall
 42 address in the written report of its findings whether the person alleged to be responsible for the
 43 abuse was acting in self-defense.

44 (2) The [*department*] **office or the authority** shall make a finding that the allegation of abuse
 45 is unsubstantiated if the [*department*] **office or the authority** finds that:

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

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

5 (c) The person used the least restrictive procedures necessary under the circumstances in ac-
6 cordance with an approved behavior management plan or other method of response approved by the
7 Department **of Human Services or the authority** by rule.

8 (3) Notwithstanding ORS 179.505, the [*department*] **office or the authority** shall disclose to the
9 person alleged to be responsible for the abuse a copy of its findings under subsection (1) of this
10 section if the allegation of abuse is substantiated.

11 (4) If a person makes a claim of self-defense during an investigation of a report of abuse and the
12 allegation is found to be substantiated, the person may ask the [*Director of Human Services*] **At-**
13 **torney General or the Director of the Oregon Health Authority** to review the finding. The **At-**
14 **torney General or the** director shall appoint a review team to conduct the review and make a
15 recommendation to the **Attorney General or the** director under procedures adopted by the **At-**
16 **torney General or the** director by rule.

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

19 **SECTION 46.** ORS 441.109, as amended by section 10, chapter 117, Oregon Laws 2014, is
20 amended to read:

21 441.109. (1) The office of the Long Term Care Ombudsman shall carry out the following duties:

22 (a) Investigate and resolve complaints made by or for residents of residential facilities about
23 administrative actions that may adversely affect their health, safety, welfare or rights, including
24 subpoenaing any person to appear, give sworn testimony or to produce documentary or other evi-
25 dence that is reasonably material to any matter under investigation.

26 (b) Undertake, participate in or cooperate with persons and agencies in such conferences, in-
27 quiries, meetings or studies as may lead to improvements in the functioning of residential facilities.

28 (c) Monitor the development and implementation of federal, state and local laws, regulations and
29 policies that relate to residential facilities in this state.

30 (d) Provide information to public agencies about the problems of residents of residential facili-
31 ties.

32 (e) Work closely with cooperative associations and citizen groups in this state and the state
33 protection and advocacy system under ORS 192.517.

34 (f) Widely publicize the Long Term Care Ombudsman's service, purpose and mode of operation.

35 (g) Collaborate with the Oregon Health Authority, the Department of Human Services, the
36 Nursing Home Administrators Board, **the Office of Investigations** and any other appropriate
37 agencies and organizations to establish a statewide system to collect and analyze information on
38 complaints and conditions in residential facilities for the purpose of publicizing improvements and
39 resolving significant problems.

40 (h)(A) Identify and coordinate programs, services and other assistance for persons receiving
41 public guardian and conservator services under sections 2 to 7, chapter 117, Oregon Laws 2014, that
42 are available statewide;

43 (B) Contract with qualified individuals and entities to provide programs, services and assistance
44 to persons receiving public guardian and conservator services under sections 2 to 7, chapter 117,
45 Oregon Laws 2014, who are located in areas of this state where such programs, services and other

1 assistance are inadequate or nonexistent; and

2 (C) Contract with the state protection and advocacy system described in ORS 192.517 (1) to
3 provide services and assistance to persons who are prospective or current residents of a mental
4 health treatment facility or of a residential facility for individuals with developmental disabilities
5 when the system has received a notice regarding the person pursuant to ORS 125.060 (7)(c) or (8)(c).

6 (i) Appoint designees to serve as local representatives of the office **of the Long Term Care**
7 **Ombudsman** in various districts of the state and regularly monitor their functions.

8 (j) Specify qualifications and duties of designees.

9 (k) Adopt rules necessary for carrying out ORS 441.100 to 441.133, after consultation with the
10 Residential Facilities Advisory Committee.

11 (L) Provide periodically, or at least annually, a report to the Governor, **Oregon Health Au-**
12 **thority, Department of Human Services, Office of Investigations** and Legislative Assembly.

13 (m) Prepare necessary reports with the assistance of the authority, [*and the*] department **and**
14 **office**.

15 (n) Supervise, monitor, advise and support the Oregon Public Guardian and Conservator ap-
16 pointed under section 3, chapter 117, Oregon Laws 2014.

17 (2) At least quarterly, the Oregon Health Authority and the Department of Human Services shall
18 provide the Long Term Care Ombudsman with a list of the number of licensed or certified beds in
19 each residential facility for which the ombudsman has responsibilities under this section.

20 (3) As used in this section, "administrative action" means any action or decision made by an
21 owner, employee or agent of a residential facility or by a public agency that affects the services to
22 residents of the facility.

23 **SECTION 47.** ORS 441.117 is amended to read:

24 441.117. (1) The Long Term Care Ombudsman and each designee shall have the right of entry
25 into residential facilities at any time considered necessary and reasonable by the ombudsman or the
26 designee for the purpose of:

27 (a) Investigating and resolving complaints made by residents or made on their behalf;

28 (b) Interviewing residents, with their consent, in private;

29 (c) Offering the services of the ombudsman or the designee to any resident, in private;

30 (d) Interviewing employees or agents of the facility;

31 (e) Consulting regularly with the facility administration; and

32 (f) Providing services authorized by law or by rule.

33 (2) The Long Term Care Ombudsman shall have access to any resident's records, and to records
34 of any public agency necessary to the duties of the ombudsman, including records on patient abuse
35 complaints made pursuant to ORS 430.735 to 430.765, 441.630 to 441.680 and [441.995] **section 10 of**
36 **this 2015 Act**. The provisions of ORS 192.553 to 192.581 are not intended to limit the access of the
37 Long Term Care Ombudsman to medical records of residents of residential facilities. Designees may
38 have access to individual resident's records, including medical records as authorized by the resident
39 or resident's legal representative, if needed to investigate a complaint.

40 (3) Entry and investigation authorized by this section shall be done in a manner that does not
41 disrupt significantly the providing of nursing, residential or other personal care or treatment to
42 residents.

43 (4) The ombudsman or the designee must show identification to the person in charge of the fa-
44 cility. The resident shall have the right to refuse to communicate with the ombudsman or the
45 designee. The refusal shall be made directly to the ombudsman or the designee and not through an

1 intermediary.

2 (5) The resident shall have the right to participate in planning any course of action to be taken
3 on behalf of the resident by the ombudsman or the designee.

4 **SECTION 48.** ORS 441.624 is amended to read:

5 441.624. (1) ORS [124.050, 124.080, 410.190,] 441.020 to 441.057, 441.060, 441.061, 441.067, 441.073,
6 441.087, 441.277 to 441.289, 441.303, 441.316, 441.318, 441.331 to 441.341, 441.367, 441.600, 441.610,
7 [441.630, 441.650 to] 441.665, 441.685, 441.690, 441.703 and 441.705 to 441.720 address the consol-
8 idation of the regulatory functions of licensing, certification, inspection of care[,] **and** utilization
9 review[, *abuse reporting and abuse investigation*].

10 (2) It is legislative intent that:

11 (a) The Department of Human Services focus administrative effort on the integration and con-
12 sistent application and interpretation of the regulatory functions at the nursing facility level;

13 (b) Surveys and other reports, especially with respect to client assessment, be consistently and
14 reliably performed throughout the state;

15 (c) Positive and negative findings and sanctions be proportional to the strengths and problems
16 identified, within the limits of federal statute and regulations; and

17 (d) The interpretation of regulatory criteria be independent of influence from budgetary limita-
18 tions.

19 **SECTION 49.** ORS 441.630 is amended to read:

20 441.630. As used in ORS 441.630 to 441.680 [*and 441.995*]:

21 (1) "Abuse" means:

22 (a) Any physical injury to a resident of a long term care facility which has been caused by other
23 than accidental means.

24 (b) Failure to provide basic care or services, which failure results in physical harm or unrea-
25 sonable discomfort or serious loss of human dignity.

26 (c) Sexual contact with a resident caused by an employee, agent or other resident of a long term
27 care facility by force, threat, duress or coercion.

28 (d) Illegal or improper use of a resident's resources for the personal profit or gain of another
29 person.

30 (e) Verbal or mental abuse as prohibited by federal law.

31 (f) Corporal punishment.

32 (g) Involuntary seclusion for convenience or discipline.

33 (2) "Abuse complaint" means any oral or written communication to the Department of **Human**
34 **Services**, one of its agents, [*or*] a law enforcement agency **or the Office of Investigations** alleging
35 abuse.

36 [(3) "*Department*" means the Department of Human Services or a designee of the department.]

37 [(4) (3) "Facility" means a long term care facility, as defined in ORS 442.015.

38 [(5) (4) "Law enforcement agency" means:

39 (a) Any city or municipal police department.

40 (b) A police department established by a university under ORS 352.383 or 353.125.

41 (c) Any county sheriff's office.

42 (d) The Oregon State Police.

43 (e) Any district attorney.

44 [(6) (5) "Public or private official" means:

45 (a) Physician, including any intern or resident.

1 (b) Licensed practical nurse or registered nurse.

2 (c) Employee of the Department of Human Services, a community developmental disabilities
3 program or a long term care facility or person who contracts to provide services to a long term care
4 facility.

5 (d) Employee of the Oregon Health Authority, county health department or community mental
6 health program.

7 (e) Peace officer.

8 (f) Member of the clergy.

9 (g) Regulated social worker.

10 (h) Physical, speech and occupational therapists.

11 (i) Legal counsel for a resident or guardian or family member of the resident.

12 **SECTION 50.** ORS 441.637 is amended to read:

13 441.637. (1) The [*Department of Human Services*] **Office of Investigations** shall implement the
14 provisions of ORS 441.630 to 441.680 [*and 441.995*] and **the Attorney General** shall adopt such rules
15 as are reasonably necessary for the enforcement of ORS 441.630 to 441.680 [*and 441.995*].

16 (2) Prior to proceeding with the procedures for notice prescribed under ORS 183.335, the [*de-*
17 *partment*] **Attorney General** shall submit any proposed rules to an advisory [*group consisting of*
18 *representatives of long term care providers, long term care advocates, relevant licensing boards and the*
19 *department. The department shall consider and respond to the comments of the advisory group that*
20 *pertain to any proposed rules before the department adopts the rules*] **committee appointed in ac-**
21 **cordance with ORS 183.333.**

22 **SECTION 51.** ORS 441.645 is amended to read:

23 441.645. (1) An oral report shall be made immediately by telephone or otherwise to the [*local*
24 *office of the area agency on aging or of the Department of Human Services*] **Office of Investigations**
25 or to a law enforcement agency within the county where the person making the report is at the time
26 of contact. If known, such reports shall contain the names and addresses of the resident and any
27 persons responsible for the care of the resident, the nature and the extent of the abuse, including
28 any evidence of previous abuse, the explanation given for the abuse and any other information which
29 the person making the report believes might be helpful in establishing the cause of the abuse and
30 the identity of the perpetrator.

31 (2) When a report is received by the [*area agency or department, the area agency or the depart-*
32 *ment*] **office, the office** may notify the law enforcement agency having jurisdiction within the
33 county where the report was made. When a report is received by a law enforcement agency, the
34 agency shall immediately notify the law enforcement agency having jurisdiction, if the receiving
35 agency does not, and the [*local office of the area agency or the department in the county where the*
36 *report was made*] **office.**

37 **(3) If a report under ORS 441.640 is received by the Department of Human Services or**
38 **an area agency on aging, the department or the agency shall immediately notify the office.**

39 **SECTION 52.** ORS 441.650 is amended to read:

40 441.650. (1) Upon receipt of the oral or written report required under ORS 441.640, or of an
41 abuse complaint **made by any person or referred to the Office of Investigations by the De-**
42 **partment of Human Services or an area agency on aging,** the [*area agency on aging, the De-*
43 *partment of Human Services*] **office** or the law enforcement agency shall cause an investigation to
44 be commenced as follows:

45 (a) Within two hours, if the complaint alleges that a resident's health or safety is in imminent

1 danger or that the resident has recently died, been hospitalized or been treated in an emergency
2 room; or

3 (b) Prior to the end of the next working day, if the complaint alleges that circumstances exist
4 that could result in abuse and that the circumstances could place a resident's health or safety in
5 imminent danger.

6 (2) If the law enforcement agency conducting the investigation finds reasonable cause to believe
7 that abuse has occurred, the law enforcement agency shall notify **the office** in writing. *[the local*
8 *office of the area agency or the department as appropriate. Except in cases where the investigation is*
9 *part of nursing facility surveyor activity pursuant to federal law, the area agency or the department]*
10 **The office** shall complete an initial status report within two working days of the start of the in-
11 vestigation that includes:

12 (a) A summary of the complaint that identifies each alleged incident or problem;

13 (b) The status of the investigation;

14 (c) Whether an abuse complaint was initially filed at the direction of the administration of the
15 facility;

16 (d) A determination of whether protection of the resident is needed and whether the facility
17 must take action;

18 (e) The name and telephone number of the investigator; and

19 (f) The projected date that the investigation report will be completed and a statement that the
20 report will be available upon request after the *[department]* **office** issues a letter of determination.

21 (3) The initial status report described in subsection (2) of this section shall be provided either
22 in person or by mail to the following individuals as soon as practicable, but no later than two
23 working days after its completion:

24 (a) The complainant, unless the complainant waives the requirement;

25 (b) If the complaint involves a specific resident, the resident or a person designated to receive
26 information concerning the resident;

27 (c) A representative of the Long Term Care Ombudsman, upon request; and

28 (d) The long term care facility.

29 (4) The initial status report described in subsection (2) of this section shall be available for
30 public inspection.

31 (5) When copies of the initial status report described in subsection (2) of this section are made
32 available to individuals listed in subsection (3) of this section, the names of the resident involved,
33 the complainant and any individuals interviewed by the investigator shall be deleted from the copies.

34 (6) In investigating an abuse complaint, the investigator shall:

35 (a) Make an unannounced visit to the facility, except as provided by ORS 441.690, to determine
36 the nature and cause of the abuse of the resident;

37 (b) Interview all available witnesses identified by any source as having personal knowledge rel-
38 evant to the abuse complaint, such interviews to be private unless the witness expressly requests
39 the interview not to be private;

40 (c) Make personal inspection of all physical circumstances that are relevant and material and
41 that are susceptible to objective observation; and

42 (d) Write an investigation report that includes:

43 (A) The investigator's personal observations;

44 (B) A review of documents and records;

45 (C) A summary of all witness statements; and

1 (D) A statement of the factual basis for the findings for each incident or problem alleged in the
2 complaint.

3 (7) Within five working days of completion of the investigation and not later than 60 days from
4 completion of the initial status report described in subsection (2) of this section, the investigator
5 shall provide the [department] **office** with the written report required by subsection (6) of this sec-
6 tion. The [department] **office** shall make the investigation report available upon request after the
7 letter of determination is complete. When copies of the report are made available, the names of the
8 resident involved, the complainant and any individuals interviewed by the investigator shall be de-
9 leted from the copies.

10 **SECTION 53.** ORS 441.660 is amended to read:

11 441.660. (1) In carrying out its duties under ORS 441.650, **the Office of Investigations** or the
12 law enforcement agency[, *the Department of Human Services or the area agency on aging*] may pho-
13 tograph or cause to have photographed any resident subject of the investigation for purposes of
14 preserving evidence of the condition of the resident at the time of the investigation.

15 (2) Notwithstanding the provisions of ORS 192.410 to 192.505, photographs taken under authority
16 of subsection (1) of this section shall not be considered records.

17 **SECTION 54.** ORS 441.665 is amended to read:

18 441.665. (1) A proper record of reports under ORS [441.640, 441.645 and] 441.676 on residents in
19 long term care facilities shall be maintained by the Department of Human Services. Each [problem
20 or incident alleged in a report shall be determined to be abuse, other licensing violation or no violation.
21 Each incident of abuse or other] licensing violation alleged in a report shall be classified as sub-
22 stantiated, unsubstantiated or unable to substantiate or recorded as under appeal by the facility.

23 (2) All reports shall be cataloged under the name of the long term care facility associated with
24 the complaint.

25 **SECTION 55.** ORS 441.671 is amended to read:

26 441.671. (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of
27 complainants, witnesses and residents, and the reports and records compiled under the provisions
28 of ORS 441.630 to 441.680, are confidential and are not accessible for public inspection.

29 (2) Notwithstanding subsection (1) of this section, the [Department of Human Services or the
30 department's designee] **Office of Investigations** may, if appropriate, make the names of witnesses
31 and residents, and the reports and records compiled under ORS 441.630 to 441.680, available to:

32 (a) A law enforcement agency;

33 (b) A public agency that licenses or certifies long term care facilities;

34 (c) A public agency that licenses or certifies the persons practicing the healing arts in long term
35 care facilities;

36 (d) The Long Term Care Ombudsman;

37 (e) A public agency that licenses or certifies a person that has abused or is alleged to have
38 abused a resident;

39 (f) A court pursuant to a court order or as provided in ORS 125.012; and

40 (g) An administrative law judge in an administrative proceeding when necessary to provide
41 protective services as defined in ORS 410.040 to a resident, when in the best interests of the resident
42 or when necessary to investigate, prevent or treat abuse of a resident.

43 (3) Information made available under subsection (2) of this section, and the recipient of the in-
44 formation, are otherwise subject to the confidentiality provisions of ORS 441.630 to 441.680.

45 **SECTION 56.** ORS 441.665, 441.676, 441.677 and 441.678 are added to and made a part of

1 **ORS 441.600 to 441.625.**

2 **SECTION 57.** ORS 441.676 is amended to read:

3 441.676. (1) For complaints of licensing violations [*other than abuse*], the Department of Human
4 Services shall cause an investigation to be completed within 90 days of the receipt of the complaint.

5 (2) Except in cases where the investigation is part of nursing facility surveyor activity pursuant
6 to federal law, an investigator investigating a complaint [*other than a complaint of abuse*] shall:

7 (a) Make an unannounced visit to the facility, while complying with ORS 441.690;

8 (b) Interview all available witnesses identified by any source as having personal knowledge rel-
9 evant to the complaint, such interviews to be private unless the witness expressly requests the
10 interview not to be private;

11 (c) Make personal inspection of all physical circumstances that are relevant and material and
12 that are susceptible to objective observation; and

13 (d) Write an investigation report that includes:

14 (A) The investigator's personal observations;

15 (B) A review of documents and records;

16 (C) A summary of all witness statements; and

17 (D) A statement of the factual basis for the findings for each incident or problem alleged in the
18 complaint.

19 **SECTION 58.** ORS 441.677, as amended by section 3, chapter 104, Oregon Laws 2014, is
20 amended to read:

21 441.677. (1) Within 60 days of receipt of the investigation documents and the written report de-
22 scribed in ORS [*441.650 (6)(d) and*] 441.676 (2)(d), but in no case longer than 120 days after an in-
23 vestigation has been commenced pursuant to ORS [*441.650 or*] 441.676, the investigation shall be
24 completed and the Department of Human Services shall prepare a written letter of determination
25 that states the department's determinations concerning each incident or problem alleged in the
26 complaint. The department shall determine whether the alleged incident or problem was substanti-
27 ated or unsubstantiated or whether the department was unable to substantiate the alleged incident
28 or problem. The department shall adopt by rule definitions for the terms "substantiated," "unsub-
29 substantiated" and "unable to substantiate." [*If the department determines that an incident or problem*
30 *alleged in the complaint is substantiated, the letter of determination shall state whether the substanti-*
31 *ated incident was abuse or violation of another rule. If abuse is substantiated, the letter of determi-*
32 *nation shall state whether the facility or an individual, or both, was responsible. The department shall*
33 *adopt by rule criteria for determining responsibility for substantiated abuse.*]

34 (2) A copy of the letter of determination shall be placed in the facility's complaint file. Copies
35 shall be sent to the facility, the complainant and the local office of the department. The facility and
36 the complainant receiving the letter of determination shall be given 10 days to respond with addi-
37 tional information and shall be informed of the appeals process.

38 [*(3) If the department determines that an individual who holds a license or certificate for a health*
39 *occupation is directly responsible for the abuse, the department shall send a copy of its letter of deter-*
40 *mination and investigation report to the state agency responsible for licensing or certifying the indi-*
41 *vidual in the health occupation. In instances involving conduct of a nursing assistant, the department*
42 *shall give the nursing assistant 10 days to respond with additional information. The department also*
43 *shall notify by mail the nursing assistant implicated in the investigation of:]*

44 [(a) *The nature of the allegations;*]

45 [(b) *The date and time of occurrence;*]

1 *[(c) The right to a contested case hearing conducted in accordance with ORS chapter 183;]*

2 *[(d) The department's obligation to report the substantiated findings in the registry maintained*
 3 *under ORS 441.678 after the nursing assistant has had an opportunity for a contested case hearing;*
 4 *and]*

5 *[(e) The fact that the nursing assistant's failure to request a contested case hearing within 30 days*
 6 *from the date of the notice will result in the department's reporting the substantiated findings in the*
 7 *registry maintained under ORS 441.678.]*

8 *[(4) Notice sent to the nursing assistant's last-known address is sufficient to meet the requirements*
 9 *of subsection (3) of this section.]*

10 **SECTION 59.** ORS 441.678 is amended to read:

11 441.678. *[(1) If a nursing assistant found by the Department of Human Services to be responsible*
 12 *for abuse does not respond to the department within 30 days after notice of the opportunity for a con-*
 13 *tested case hearing, the department shall place the abuse finding in the registry maintained under this*
 14 *section.]*

15 *[(2) If a nursing assistant is found to be responsible for abuse, the nursing assistant is entitled to*
 16 *a contested case hearing under ORS chapter 183. Upon a finding of abuse in a final order, the de-*
 17 *partment shall place the finding in the registry maintained under this section.]*

18 *[(3)]* The Department of **Human Services** shall maintain a nursing assistant registry that con-
 19 tains, at a minimum, the information required by 42 C.F.R. 483.156.

20 **SECTION 60.** ORS 441.680 is amended to read:

21 441.680. A resident who in good faith is under treatment solely by spiritual means through
 22 prayer in accordance with the tenets and practices of a recognized church or religious denomination
 23 by a duly accredited practitioner thereof shall, for this reason alone, not be considered an abused
 24 resident within the meaning of ORS 441.630 to 441.680 *[and 441.995]*.

25 **SECTION 61.** ORS 441.685 is amended to read:

26 441.685. (1) Upon receipt of a report under ORS *[441.645 to 441.680]* **441.676, a finding of sub-**
 27 **stantiated abuse by the Office of Investigations** or *[upon receipt of]* a complaint by a resident or
 28 legal guardian of a resident, or other *[public or private official, as defined in ORS 441.630]* **person**
 29 by the Department of Human Services, the Director of Human Services may designate monitors who
 30 shall observe the activities of the facility and report to the director. The monitors may be designated
 31 without prior notice to the operator or owner of the facility. The monitors shall observe the oper-
 32 ations of the facility for a period of not to exceed 10 days, assist the facility by advising it on how
 33 to comply with state requirements and shall submit a written report periodically to the director on
 34 the operation and condition of the facility.

35 (2) The monitors shall have access to the facilities to the extent necessary to carry out their
 36 duties. The monitors shall also have access to all records pertaining to the operation of the facility.

37 (3) Upon completion of their investigations, the monitors shall file a final report with the di-
 38 rector and may:

39 (a) Find that problems in the facility have been resolved and recommend that further action by
 40 the department is unnecessary;

41 (b) Find that the problems in the facility are continuing but the facility owner, operator or other
 42 controlling person can resolve them within a period of not more than three months, and that during
 43 the three-month period the health and welfare of the residents of the facility are not jeopardized
 44 thereby; or

45 (c) Find that the problems of the facility have not been resolved and the department should take

1 steps to obtain compliance with resident care standards and continue monitoring for an additional
2 period.

3 (4) Associations representing long term care facilities may initiate a peer review process for any
4 facility that is a member of the association and that is the subject of any complaint filed against it
5 under ORS [441.630 to 441.685, 678.155 and 678.445] **441.676** or any other provision of law. The report
6 of the peer review process shall be submitted to the department. The peer review described in this
7 subsection is in addition to and not in lieu of any other investigation, observation or report of the
8 monitors otherwise required or authorized by ORS [441.630 to 441.685, 678.155 and 678.445] **441.676,**
9 **441.677 and 678.150.** The association and persons conducting the peer review process acting in good
10 faith shall not be subject to an action for civil damages as a result thereof.

11 (5) As used in this section:

12 [(a) "Department" means the Department of Human Services.]

13 [(b) "Director" means the Director of Human Services.]

14 [(c)] (a) "Facility" means a long term care facility as defined in ORS 442.015.

15 [(d)] (b) "Monitor" means an agent of the director designated by the director to observe the
16 operation of a facility.

17 **SECTION 62.** ORS 441.690 is amended to read:

18 441.690. Upon the request of any person filing a complaint to be investigated by the Department
19 of Human Services against a long term care facility, as defined in ORS 442.015, [or] against a resi-
20 dential care facility, as defined in ORS 443.400, **or a complaint alleging abuse to be investigated**
21 **by the Office of Investigations,** the complainant or a designee thereof, or both, shall be allowed
22 to accompany an investigator to the site of the alleged violation.

23 **SECTION 63.** ORS 441.715, as amended by section 10, chapter 104, Oregon Laws 2014, is
24 amended to read:

25 441.715. (1)(a) After public hearing, the Director of Human Services by rule shall adopt objective
26 criteria for establishing the civil penalty that may be imposed under ORS 441.710 (1) and the Di-
27 rector of the Oregon Health Authority by rule shall adopt objective criteria for establishing the civil
28 penalty that may be imposed under ORS 441.710 (2). However, the civil penalty may not exceed \$500
29 for each violation, except as otherwise provided in this subsection and ORS 441.995 or as otherwise
30 required by federal law.

31 (b) Notwithstanding the limitations on the civil penalty in paragraph (a) of this subsection, for
32 any violation involving direct resident care or feeding, an adequate staff to resident ratio, sanitation
33 involving direct resident care or a violation of ORS 441.605 or rules required to be adopted under
34 ORS 441.610, a penalty may be imposed for each day the violation occurs in an amount not to exceed
35 \$500 per day or as otherwise required by federal law.

36 [(c) If the Department of Human Services investigates and makes a finding of abuse arising from
37 deliberate or other than accidental action or inaction that is likely to cause a negative outcome by a
38 person with a duty of care toward a resident of a long term care facility and if the abuse resulted in
39 the death, serious injury, rape or sexual abuse of a resident, the department shall impose a civil penalty
40 of not less than \$2,500 for each occurrence of substantiated abuse, not to exceed \$15,000 in any 90-day
41 period. As used in this paragraph:]

42 [(A) "Negative outcome" includes serious injury, rape, sexual abuse or death.]

43 [(B) "Rape" means rape in the first, second or third degree as described in ORS 163.355, 163.365
44 and 163.375.]

45 [(C) "Serious injury" means physical injury that creates a substantial risk of death or that causes

1 *serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment*
 2 *of the function of any bodily organ.]*

3 *[(D) "Sexual abuse" means any form of sexual contact between an employee of a long term care*
 4 *facility or a person providing services in the long term care facility and a resident of that facility, in-*
 5 *cluding but not limited to sodomy, sexual coercion, sexually explicit photographing and sexual*
 6 *harassment.]*

7 (2) The penalties assessed under subsection (1)[(a) or (b)] of this section may not exceed \$7,500
 8 in the aggregate or as otherwise required by federal law with respect to a single long term care
 9 facility within any 90-day period.

10 **SECTION 64.** ORS 441.995 is amended to read:

11 441.995. (1) In adopting criteria for establishing the amount of civil penalties for violations of
 12 ORS [441.630 to 441.680] **441.676 and 441.677**, the Department of Human Services shall consider:

13 (a) Any prior violations of laws or rules pertaining to facilities;

14 (b) The financial benefits, if any, realized by the facility as a result of the violation;

15 (c) The gravity of the violation, including the actual or potential threat to the health, safety and
 16 well-being of one or more residents;

17 (d) The severity of the actual or potential harm caused by the violation; and

18 (e) The facility's past history of correcting violations and preventing the recurrence of vio-
 19 lations.

20 *[(2) The department may impose a civil penalty for abuse in accordance with rules adopted under*
 21 *ORS 441.637 (1).]*

22 *[(3) If the department finds the facility is responsible for abuse and if the abuse resulted in a*
 23 *resident's death or serious injury, the department shall impose a civil penalty of not less than \$500 nor*
 24 *more than \$1,000 for each violation, or as otherwise required by federal law or ORS 441.715 (1)(c),*
 25 *443.455 or 443.775.]*

26 *[(4) (2) Nothing in [ORS 441.637 and] this section is intended to expand, replace or supersede*
 27 *the department's authority to impose civil penalties pursuant to ORS 441.710 or 441.715 [for vio-*
 28 *lations that do not constitute abuse].*

29 *[(5) (3) Facilities assessed civil penalties under this section are entitled to a contested case*
 30 *hearing under ORS chapter 183.*

31 **SECTION 65.** ORS 443.455, as amended by section 11, chapter 104, Oregon Laws 2014, is
 32 amended to read:

33 443.455. (1) Except as provided in subsection [(5)] (4) of this section, for purposes of imposing
 34 civil penalties, residential facilities approved under ORS 443.400 to 443.455 are subject to ORS
 35 441.705 to 441.745.

36 (2) The Director of Human Services shall by rule prescribe a schedule of penalties for residential
 37 care facilities, residential training facilities and residential training homes that are not in compli-
 38 ance with ORS 443.400 to 443.455.

39 (3) The Director of the Oregon Health Authority shall by rule prescribe a schedule of penalties
 40 for residential treatment facilities and residential treatment homes that are not in compliance with
 41 ORS 443.400 to 443.455.

42 *[(4) If the department or authority investigates and makes a finding of abuse arising from deliber-*
 43 *ate or other than accidental action or inaction that is likely to cause a negative outcome by a person*
 44 *with a duty of care toward a resident of a residential facility and if the abuse resulted in the death,*
 45 *serious injury, rape or sexual abuse of a resident, the department or authority shall impose a civil*

1 *penalty of not less than \$2,500 for each occurrence of substantiated abuse, not to exceed \$15,000 in any*
 2 *90-day period. As used in this subsection:]*

3 [(a) "Negative outcome" includes serious injury, rape, sexual abuse or death.]

4 [(b) "Rape" means rape in the first, second or third degree as described in ORS 163.355, 163.365
 5 and 163.375.]

6 [(c) "Serious injury" means physical injury that creates a substantial risk of death or that causes
 7 serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment
 8 of the function of any bodily organ.]

9 [(d) "Sexual abuse" means any form of sexual contact between an employee of a residential facility
 10 or a person providing services in the residential facility and a resident of that facility, including but
 11 not limited to sodomy, sexual coercion, sexually explicit photographing and sexual harassment.]

12 [(5)] (4) Civil penalties recovered from a residential training facility, residential training home,
 13 residential treatment facility or residential treatment home shall be deposited in the Long Term
 14 Care Ombudsman Account established in ORS 441.153.

15 **SECTION 66.** ORS 443.500 is amended to read:

16 443.500. (1) The Department of Human Services staff shall be permitted access to enter and in-
 17 vestigate complaints [of abuse] in all facilities registered under ORS 443.480 to 443.500 for purposes
 18 of ascertaining compliance with applicable rules, statutes, ordinances and regulations. If the de-
 19 partment has reasonable cause to believe any facility is operating without registration in violation
 20 of ORS 443.480 to 443.500, it may apply to the circuit court for a search warrant.

21 (2) Upon complaint of any person:

22 (a) The state or local fire inspectors shall be permitted access to enter and inspect facilities
 23 registered under ORS 443.480 to 443.500 regarding fire safety.

24 (b) The state or local health officers shall be permitted access to enter and inspect facilities
 25 registered under ORS 443.480 to 443.500 regarding health and sanitation.

26 **SECTION 67.** ORS 443.745 is amended to read:

27 443.745. (1) A license may be denied, suspended, revoked or have conditions attached upon a
 28 finding by the licensing agency of any of the following:

29 (a) There exists a threat to the health, safety or welfare of any resident.

30 (b) There is [*reliable evidence of abuse, neglect or exploitation of any resident*] **a finding of abuse**
 31 **by the Office of Investigations under section 5 of this 2015 Act.**

32 (c) The facility is not operated in compliance with ORS 443.705 to 443.825 or the rules adopted
 33 thereunder.

34 (d) Such other circumstances as may be established by the licensing agency by rule.

35 (2) Conditions attached to a license shall be effective upon order of the director of the licensing
 36 agency.

37 (3) Suspension or revocation of a license authorized by this section for any reason other than
 38 abuse, neglect or exploitation of the resident shall be preceded by a hearing under ORS chapter 183
 39 if requested by the provider.

40 (4) If the license is suspended or revoked for the reason of abuse, neglect or exploitation of a
 41 resident, the provider may request a review in writing within 10 days after notice of the suspension
 42 or revocation. If a request is made, the Director **of Human Services** shall review all material re-
 43 lating to the allegation of abuse, neglect or exploitation and to the suspension or revocation within
 44 10 days of the request. The director shall determine, based on review of the material, whether or
 45 not to sustain the decision to suspend or revoke. If the director determines not to sustain the deci-

1 sion, the license shall be restored immediately. The decision of the director is subject to judicial
 2 review as a contested case under ORS chapter 183.

3 (5) In the event the license to maintain an adult foster home is ordered suspended or revoked,
 4 the licensing agency may withhold service payments until the defective situation is corrected. For
 5 protection of residents, the licensing agency may arrange for them to move.

6 (6) A provider whose license has been revoked or whose application has been denied shall not
 7 be permitted to make a new application for one year from the date the revocation or denial is final,
 8 or for a longer period specified in the order revoking or denying the license.

9 (7) The licensing agency shall deny the application or revoke the license of any person who
 10 falsely represents that the person has not been convicted of a crime.

11 **SECTION 68.** ORS 443.765 is amended to read:

12 443.765. (1) Complaints against adult foster homes may be filed with the licensing agency by any
 13 person, whether or not a resident of the home. The licensing agency shall investigate complaints
 14 regarding adult foster homes and shall adopt by rule standards governing investigations pursuant
 15 to this section.

16 (2) The licensing agency shall prepare a notice which must be posted in a conspicuous place in
 17 each adult foster home stating the telephone number of the agency **and of the Office of Investi-**
 18 **gations**, and the procedure for making complaints.

19 (3) The licensing agency shall maintain a file of all complaints and the action taken on the
 20 complaint, indexed by the name of the owner or operator. When the licensing agency concludes the
 21 investigation of a complaint, the agency shall clearly designate the outcome of the complaint in-
 22 vestigation in the complaint file. The filed complaint forms shall protect the privacy of the
 23 complainant, the resident and the witnesses.

24 (4) Any person has a right to inspect and photocopy the complaint files maintained by the li-
 25 censing agency.

26 (5)(a) The owner or operator of an adult foster home may not prohibit, discourage or use in-
 27 timidation against any person to prevent the filing of a complaint with the licensing agency.

28 (b) If a resident, or a person acting on the resident's behalf, files a complaint with the licensing
 29 agency, the owner or operator of an adult foster home may not retaliate against the resident by:

- 30 (A) Increasing charges;
- 31 (B) Decreasing services, rights or privileges;
- 32 (C) Threatening to increase charges or decrease services, rights or privileges;
- 33 (D) Taking or threatening to take any action to coerce or compel the resident to leave the fa-
 34 cility; or
- 35 (E) **Harassing or** abusing or threatening to [*harass or*] abuse a resident in any manner.

36 (c) The owner or operator of an adult foster home may not retaliate against any person who files
 37 a complaint or any witness or employee of a facility interviewed about the complaint, including but
 38 not limited to retaliation by restriction of otherwise lawful access to the adult foster home or to any
 39 resident thereof, or, if an employee, to dismissal or harassment.

40 (6) The provider shall give all residents, upon admission, a notice of the monthly rates and the
 41 house rules.

42 (7) Anyone participating in good faith in the filing of a complaint pursuant to this section is
 43 immune from any liability, civil or criminal, that might otherwise be incurred or imposed with re-
 44 spect to the filing or substance of the complaint. Any such participant shall have the same immunity
 45 with respect to participating in any judicial proceeding resulting from the complaint. A person does

1 not act in good faith for the purposes of this subsection if the substance of the complaint is false
 2 and:

3 (a) The person knows that the substance of the complaint is false; or

4 (b) The person makes the complaint with the intent to harm the owner or operator of the adult
 5 foster home, or the adult foster home, and the person shows a reckless disregard for the truth or
 6 falsity of the substance of the complaint.

7 **SECTION 69.** ORS 443.767 is amended to read:

8 443.767. (1) When the licensing agency receives a complaint that alleges that a resident of a li-
 9 censed adult foster home has been injured, abused or neglected, and that the resident's health or
 10 safety is in imminent danger, or that the resident has died or been hospitalized, the [*investigation*
 11 *shall begin immediately after the complaint is received. If the investigator determines that the complaint*
 12 *is substantiated, the licensing agency shall take appropriate corrective action immediately*] **licensing**
 13 **agency shall immediately notify the Office of Investigations.**

14 (2) When the licensing agency receives a complaint that alleges the existence of any circum-
 15 stance that could result in injury, abuse or neglect of a resident of a licensed adult foster home, and
 16 that the circumstance could place the resident's health or safety in imminent danger, the agency
 17 shall [*investigate the complaint promptly. If the investigator determines that the complaint is substan-*
 18 *tiated, the agency shall take appropriate corrective action promptly*] **immediately notify the Office**
 19 **of Investigations.**

20 [*(3) After public hearing, the licensing agency shall by rule set standards for the procedure, content*
 21 *and time limits for the initiation and completion of investigations of complaints. The time limits shall*
 22 *be as short as possible and shall vary in accordance with the severity of the circumstances alleged in*
 23 *the complaint. In no event shall the investigation exceed a duration of 60 days, unless there is an on-*
 24 *going concurrent criminal investigation, in which case the licensing agency may take a reasonable*
 25 *amount of additional time in which to complete the investigation.*]

26 [(4)] **(3)** The licensing agency shall take no longer than 60 days from the [*completion*] **receipt**
 27 of the investigation report **from the office** to take appropriate corrective action in the case of any
 28 complaint that the [*investigator*] **office** determines to be substantiated.

29 [(5)(a)] **(4)(a)** The licensing agency shall mail a copy of the investigation report within seven
 30 days of the [*completion*] **receipt** of the report to:

31 (A) The complainant, unless the complainant requests anonymity;

32 (B) The resident, and any person designated by the resident to receive information concerning
 33 the resident;

34 (C) The facility; and

35 (D) The Long Term Care Ombudsman.

36 (b) The copy of the report shall be accompanied by a notice that informs the recipient of the
 37 right to submit additional evidence **to the office.**

38 [(6)] **(5)** The complaint and the investigation report shall be available to the public at the local
 39 office of the licensing agency or the type B area agency on aging, if appropriate. [*When the licensing*
 40 *agency or type B area agency on aging concludes the investigation of a complaint, the licensing agency*
 41 *or type B area agency on aging shall clearly designate the outcome of the complaint investigation*] **The**
 42 **licensing agency shall describe the corrective action taken by the agency** and make the [*des-*
 43 *ignation*] **description** available to the public together with the complaint and the investigation re-
 44 port.

45 [(7)] **(6)** A copy of the report shall be forwarded to the licensing agency whether or not the in-

1 investigation report concludes that the complaint is substantiated.

2 **SECTION 70.** ORS 443.769 is amended to read:

3 443.769. (1) When the Department of Human Services or a type B area agency on aging discloses
4 a file, form or report to the public pursuant to ORS 443.740[,] **or** 443.765 [*or* 443.767], the department
5 or agency may not disclose information about residents that is protected from disclosure by state
6 or federal law or information that is described in subsection (2) of this section unless the resident
7 has provided a written authorization for disclosure of the information.

8 (2) This section applies to:

9 (a) The name of a resident and to demographic or other information that can be used to identify
10 a resident.

11 (b) Any health information that relates to:

12 (A) The past, present or future physical or mental health or condition of a resident;

13 (B) The provision of health care to a resident; or

14 (C) The past, present or future payment for the provision of health care to a resident.

15 (3) As used in this section, “resident” means an individual receiving care in an adult foster
16 home.

17 **SECTION 71.** ORS 443.775 is amended to read:

18 443.775. (1) The licensing agency shall adopt rules governing adult foster homes and the level
19 of care provided in such homes, including the provision of care to more than one person with
20 nursing care needs under specified conditions and agency approval, such as are necessary to protect
21 the health, safety or welfare of the residents and to provide for an appropriate continuum of care,
22 but shall not be inconsistent with the residential nature of the living accommodations and the family
23 atmosphere of the home. The rules shall be consistent with rules adopted by the Oregon State Board
24 of Nursing under ORS 678.150 (8).

25 (a) An exception to the limit of one resident with nursing care needs may be granted if the
26 provider proves to the licensing agency by clear and convincing evidence that such an exception
27 will not jeopardize the care, health, safety or welfare of the residents and that the provider is ca-
28 pable of meeting the additional care needs of the new resident.

29 (b) The licensing agency, and the counties acting under the exemption granted pursuant to ORS
30 443.780, shall report on a quarterly basis to the Legislative Assembly on the number of exceptions
31 granted during the quarter pursuant to paragraph (a) of this subsection.

32 (2) The provider may not employ a resident manager who does not meet the classification
33 standard for the adult foster home.

34 (3) The provider shall be able to meet the night care needs of a resident before admitting the
35 resident. The provider shall include night care needs in the resident’s care plan.

36 (4) The provider shall screen a prospective resident before admitting the resident. The screening
37 shall include but is not limited to diagnosis, medications, personal care needs, nursing care needs,
38 night care needs, nutritional needs, activities and lifestyle preferences. A copy of the screening shall
39 be given to the prospective resident or the prospective resident’s representative.

40 (5) The licensing agency shall make rules to ensure that any employee who makes a complaint
41 pursuant to ORS 443.755 shall be protected from retaliation.

42 (6) For adult foster homes in which clients reside for whom the licensing agency pays for care,
43 including homes in which the provider and the resident are related, the agency may require sub-
44 stantial compliance with its rules relating to standards for care of the client as a condition for
45 paying for care.

1 (7) By order the director of the licensing agency may delegate authority under this section to
 2 personnel other than of the licensing agency.

3 (8) The licensing agency may commence a suit in equity to enjoin maintenance of an adult foster
 4 home if:

5 (a) The home is operated without a valid license under this section; or

6 (b) After the license to maintain the home is ordered suspended or revoked, a reasonable time
 7 for placement of residents in other facilities has been allowed but such placement has not been ac-
 8 complished.

9 (9) The licensing agency shall establish by rule the maximum capacity of adult foster homes,
 10 including all nonrelated and related persons receiving residential care and day care.

11 (10) *[Except as provided in subsection (11) of this section,]* Any person who violates a provision
 12 of ORS 443.705 to 443.825 or the rules adopted thereunder may be subjected to the imposition of a
 13 civil penalty, to be fixed by the licensing agency by rule, not to exceed \$100 per violation, to a
 14 maximum of \$250 *[or, per occurrence of substantiated abuse, a maximum of \$1,000].*

15 *[(11)(a) If the licensing agency determines that there is reasonable cause to believe that abuse oc-
 16 curred in an adult foster home licensed by the licensing agency and if the abuse resulted in the death,
 17 serious injury, rape, sexual abuse or sexual exploitation of a resident, the licensing agency shall impose
 18 a civil penalty on the adult foster home of not less than \$2,500 for each violation.]*

19 *[(b) This subsection does not apply to adult foster homes licensed by the licensing agency to serve
 20 only persons with mental illness or with alcohol or drug addiction.]*

21 *[(c) The licensing agency shall by rule define "serious injury," "rape," "sexual abuse" and "sexual
 22 exploitation" for purposes of this subsection.]*

23 *[(12)]* (11) All penalties recovered pursuant to this section shall be deposited in the Quality Care
 24 Fund established in ORS 443.001.

25 **SECTION 72.** ORS 443.875 is amended to read:

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

29 *[(2) Upon receipt of the notice described in subsection (1) of this section, a facility shall provide
 30 written notice of the findings to the individual found to have committed abuse, residents of the facility,
 31 the residents' case managers and the residents' guardians.]*

32 *[(3)]* (1) An application for employment at a facility must inquire whether the applicant has been
 33 found by **the Office of Investigations** to have committed abuse.

34 *[(4)]* (2) As used in this section:

35 (a) "Abuse" has the meaning given that term in ORS 430.735.

36 (b) "Facility" means:

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

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

39 **SECTION 73.** ORS 443.991 is amended to read:

40 443.991. (1) Violation of ORS 443.015 is punishable as a Class C misdemeanor.

41 (2) Violation of **section 6 of this 2015 Act** or any provision of ORS 443.400 to 443.455 is a Class
 42 B misdemeanor.

43 (3) The Department of Human Services may commence an action to enjoin operation of a resi-
 44 dential care facility, residential training facility or residential training home:

45 (a) If the facility or home is operated without valid licensure; or

1 (b) After notice of revocation has been given and a reasonable time for placement of individuals
2 in other facilities or homes has been allowed.

3 (4) The Oregon Health Authority may commence an action to enjoin operation of a residential
4 treatment facility or residential treatment home:

5 (a) If the facility or home is operated without valid licensure; or

6 (b) After notice of revocation has been given and a reasonable time for placement of individuals
7 in other facilities or homes has been allowed.

8 (5) Violation of ORS 443.725 is punishable as a Class C misdemeanor.

9 (6) Violation of any provision of ORS 443.755 is a Class B misdemeanor. In addition, the de-
10 partment may commence an action to enjoin operation of an adult foster home:

11 (a) When an adult foster home is operated without a valid license; or

12 (b) After notice of revocation has been given and a reasonable time for placement of individuals
13 in other facilities has been allowed.

14 (7) Violation of ORS 443.881 is punishable as a Class C misdemeanor.

15 **SECTION 74.** Section 2, chapter 104, Oregon Laws 2014, is amended to read:

16 **Sec. 2.** (1) Investigations commenced by the [*Department of Human Services*] **Office of Investi-**
17 **gations** pursuant to ORS 124.070 must be completed by the [*department*] **office** on or before 120 days
18 after receipt of the report of abuse made under ORS 124.060, unless there is an ongoing concurrent
19 criminal investigation, in which case the [*department*] **office** may take a reasonable amount of ad-
20 ditional time in which to complete the investigation.

21 (2) Upon completion of an investigation in accordance with subsection (1) of this section, a
22 written report shall be prepared that includes information as required by rule adopted by the [*de-*
23 *partment*] **Attorney General**, including but not limited to the following:

24 (a) The date and location of the report of abuse and of the incident of abuse that was reported;

25 (b) The dates that the investigation was commenced and completed and by what entity;

26 (c) A description of documents and records reviewed during the investigation;

27 (d) An identification of any witness statements that were obtained during the investigation; and

28 (e) A statement of the factual basis for any findings and a summary of the findings made as a
29 result of the investigation.

30 **SECTION 75.** ORS 430.746 is repealed.

31 **SECTION 76.** Sections 2 to 19 and 56 of this 2015 Act, the amendments to statutes and
32 session law by sections 21 to 55 and 57 to 74 of this 2015 Act and the repeal of ORS 430.746
33 by section 75 of this 2015 Act become operative on January 1, 2016.

34 **SECTION 77.** The Attorney General and the Department of Human Services may take
35 any action prior to January 1, 2016, necessary to enable the Attorney General and the de-
36 partment to carry out the provisions of this 2015 Act on and after January 1, 2016.

37 **SECTION 78.** This 2015 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
39 on its passage.