

House Bill 2227

Sponsored by Representatives HOYLE, GILLIAM (at the request of Oregon Elder Abuse Prevention Work Group)
(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**.

Exempts from definition of "sexual abuse" consensual sexual contact between elderly person and facility employee who is also spouse of elderly person.

A BILL FOR AN ACT

1
2 Relating to abuse of elderly persons; amending ORS 124.050.

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

4 **SECTION 1.** ORS 124.050, as amended by section 5, chapter 352, Oregon Laws 2013, and section
5 9, chapter 104, Oregon Laws 2014, is amended to read:

6 124.050. As used in ORS 124.050 to 124.095:

7 (1) "Abuse" means one or more of the following:

8 (a) Any physical injury to an elderly person caused by other than accidental means, or which
9 appears to be at variance with the explanation given of the injury.

10 (b) Neglect.

11 (c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal
12 or neglect of duties and obligations owed an elderly person by a caretaker or other person.

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

14 (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
15 163.465, 163.467 or 163.525.

16 (f) Verbal abuse.

17 (g) Financial exploitation.

18 (h) Sexual abuse.

19 (i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline
20 the person.

21 (j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of
22 restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities
23 that are consistent with an approved treatment plan or in connection with a court order.

24 (2) "Elderly person" means any person 65 years of age or older who is not subject to the pro-
25 visions of ORS 441.640 to 441.665.

26 (3) "Facility" means:

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

28 (b) A residential facility as that term is defined in ORS 443.400, including but not limited to an
29 assisted living facility.

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

31 (4) "Financial exploitation" means:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an
2 elderly person or a person with a disability.

3 (b) Alarming an elderly person or a person with a disability by conveying a threat to wrongfully
4 take or appropriate money or property of the person if the person would reasonably believe that the
5 threat conveyed would be carried out.

6 (c) Misappropriating, misusing or transferring without authorization any money from any ac-
7 count held jointly or singly by an elderly person or a person with a disability.

8 (d) Failing to use the income or assets of an elderly person or a person with a disability effec-
9 tively for the support and maintenance of the person.

10 (5) "Intimidation" means compelling or deterring conduct by threat.

11 (6) "Law enforcement agency" means:

12 (a) Any city or municipal police department.

13 (b) Any county sheriff's office.

14 (c) The Oregon State Police.

15 (d) Any district attorney.

16 (e) A police department established by a university under ORS 352.383 or 353.125.

17 (7) "Neglect" means failure to provide basic care or services that are necessary to maintain the
18 health or safety of an elderly person.

19 (8) "Person with a disability" means a person described in:

20 (a) ORS 410.040 (7); or

21 (b) ORS 410.715.

22 (9) "Public or private official" means:

23 (a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or
24 chiropractor, including any intern or resident.

25 (b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
26 or employee of an in-home health service.

27 (c) Employee of the Department of Human Services or community developmental disabilities
28 program.

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

31 (e) Peace officer.

32 (f) Member of the clergy.

33 (g) Regulated social worker.

34 (h) Physical, speech or occupational therapist.

35 (i) Senior center employee.

36 (j) Information and referral or outreach worker.

37 (k) Licensed professional counselor or licensed marriage and family therapist.

38 (L) Member of the Legislative Assembly.

39 (m) Firefighter or emergency medical services provider.

40 (n) Psychologist.

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

42 (p) Audiologist.

43 (q) Speech-language pathologist.

44 (r) Attorney.

45 (s) Dentist.

1 (t) Optometrist.

2 (u) Chiropractor.

3 (10) "Services" includes but is not limited to the provision of food, clothing, medicine, housing,
4 medical services, assistance with bathing or personal hygiene or any other service essential to the
5 well-being of an elderly person.

6 (11)(a) "Sexual abuse" means:

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

9 (B) Verbal or physical harassment of a sexual nature, including but not limited to severe or
10 pervasive exposure to sexually explicit material or language;

11 (C) Sexual exploitation;

12 (D) Any sexual contact between an employee of a facility or paid caregiver and an elderly per-
13 son served by the facility or caregiver; or

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

15 (b) "Sexual abuse" does not mean consensual sexual contact between an elderly person and:

16 **(A) An employee of a facility who is also the spouse of the elderly person; or**

17 **(B) A paid caregiver.**

18 (12) "Sexual contact" has the meaning given that term in ORS 163.305.

19 (13) "Verbal abuse" means to threaten significant physical or emotional harm to an elderly
20 person or a person with a disability through the use of:

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

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

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