

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3323**

1 On page 1 of the printed A-engrossed bill, line 2, after the first semicolon  
2 insert “creating new provisions;”.

3 Delete lines 4 through 27.

4 On page 2, delete lines 1 through 21 and insert:

5 **“SECTION 1. ORS 124.125 is amended to read:**

6 “124.125. (1) The Attorney General, the Department of Human Services,  
7 **a type B area agency, a designee** or [any] a district attorney may bring  
8 an action against [any] a person who engages in conduct described in ORS  
9 124.105 and 124.110. In addition to remedies otherwise provided in ORS  
10 124.100 to 124.140, upon prevailing in the action, the court shall award to the  
11 Attorney General, Department of Human Services, **type B area agency,**  
12 **designee** or district attorney costs of investigation and penalties. Penalties  
13 awarded under this section may not exceed \$25,000 per occurrence.

14 “(2) The Attorney General may intervene in [any] a civil action brought  
15 under ORS 124.100 if the Attorney General certifies that, in the opinion of  
16 the Attorney General, the action is of general public importance. In the  
17 action, the state [shall be] **is** entitled to the same relief as if the Attorney  
18 General instituted the action under the provisions of this section.

19 “(3) When it appears that a person is engaging in conduct described in  
20 ORS 124.105 or 124.110, the Attorney General, [or any] a district attorney,  
21 **an attorney representing a type B area agency or a designee** may exe-  
22 cute in writing and cause to be served an investigative demand upon [any]

1 a person who is believed to have information, documentary material or  
2 physical evidence relevant to the alleged or suspected violation. The inves-  
3 tigative demand shall require the person, under oath or otherwise, to appear  
4 and testify, to answer written interrogatories or to produce relevant docu-  
5 mentary material or physical evidence for examination, at a reasonable time  
6 and place as stated in the investigative demand.

7 “(4) At any time before the return date specified in an investigative de-  
8 mand, or within 20 days after the demand has been served, whichever period  
9 is shorter, a petition to extend the return date, or to modify or set aside the  
10 demand, stating good cause, including a request for privileged material, may  
11 be filed in the appropriate court.

12 “(5) Service of an investigative demand under subsection (3) of this sec-  
13 tion shall be made personally within this state. If personal service within  
14 this state cannot be made, substituted service may be made by any of the  
15 following methods:

16 “(a) Personal service outside of this state;

17 “(b) Mailing the investigative demand by registered or certified mail to  
18 the last-known place of business, residence or abode within or outside of this  
19 state of the person for whom service is intended;

20 “(c) As to any person other than a natural person, in the manner provided  
21 for service of summons in an action or suit; or

22 “(d) Such service as the court may direct.

23 “(6) If [*any*] a person, after being served with an investigative demand  
24 under subsection (3) of this section, fails or refuses to obey an investigative  
25 demand issued by the Attorney General, [*or*] a district attorney, **an attorney**  
26 **representing a type B area agency or a designee**, the Attorney General,  
27 [*or*] district attorney, **attorney representing a type B area agency or**  
28 **designee** may, after notice to an appropriate court and after a hearing, re-  
29 quest an order:

30 “(a) Granting injunctive relief to restrain the person from engaging in

1 conduct that is involved in the alleged or suspected violation; or

2 “(b) Granting other relief as may be required, until the person obeys the  
3 investigative demand.

4 “(7) [Any] Disobedience of [any] a final order of a court under subsection  
5 (6) of this section shall be punished as a contempt of court.

6 “(8) ORS 192.583 to 192.607 apply to the disclosure of financial records  
7 by a financial institution pursuant to the service of an investigative demand  
8 under subsection (3) of this section.”.

9 After line 23, insert:

10 “(a) ‘Designee’ means a person designated by the Department of Human  
11 Services to conduct investigations under ORS 430.731 in a county with a  
12 population of 650,000 or more persons.”.

13 In line 24, delete “(a)” and insert “(b)”.

14 In line 25, delete “(b)” and insert “(c)”.

15 In line 26, delete “(c)” and insert “(d)”.

16 In line 27, delete “(d)” and insert “(e)”.

17 In line 33, delete “(e)” and insert “(f)”.

18 In line 34, delete the first “or” and insert “of”.

19 In line 35, delete “(f)” and insert “(g)”.

20 On page 3, after line 20 insert:

21 **“SECTION 3. No later than December 31, 2017, type B area agencies**  
22 **and designees, as defined in ORS 124.100, shall report to the Legislative**  
23 **Assembly, in the manner provided in ORS 192.245, on the actions**  
24 **brought under the authority granted to type B area agencies and**  
25 **designees by the amendments to ORS 124.125 by section 1 of this 2015**  
26 **Act. The report must include the number of actions filed, including**  
27 **the number of actions filed on behalf of elderly individuals and the**  
28 **number of actions filed on behalf of individuals with intellectual or**  
29 **developmental disabilities, and the outcomes of the actions.**

30 **“SECTION 4. ORS 124.125, as amended by section 1 of this 2015 Act, is**

1 amended to read:

2 “124.125. (1) The Attorney General, the Department of Human Services[,  
3 *a type B area agency, a designee*] or a district attorney may bring an action  
4 against a person who engages in conduct described in ORS 124.105 and  
5 124.110. In addition to remedies otherwise provided in ORS 124.100 to 124.140,  
6 upon prevailing in the action, the court shall award to the Attorney General,  
7 Department of Human Services[, *type B area agency, designee*] or district at-  
8 torney costs of investigation and penalties. Penalties awarded under this  
9 section may not exceed \$25,000 per occurrence.

10 “(2) The Attorney General may intervene in a civil action brought under  
11 ORS 124.100 if the Attorney General certifies that, in the opinion of the At-  
12 torney General, the action is of general public importance. In the action, the  
13 state is entitled to the same relief as if the Attorney General instituted the  
14 action under the provisions of this section.

15 “(3) When it appears that a person is engaging in conduct described in  
16 ORS 124.105 or 124.110, the Attorney General[,] **or** a district attorney[, *an*  
17 *attorney representing a type B area agency or a designee*] may execute in  
18 writing and cause to be served an investigative demand upon a person who  
19 is believed to have information, documentary material or physical evidence  
20 relevant to the alleged or suspected violation. The investigative demand shall  
21 require the person, under oath or otherwise, to appear and testify, to answer  
22 written interrogatories or to produce relevant documentary material or  
23 physical evidence for examination, at a reasonable time and place as stated  
24 in the investigative demand.

25 “(4) At any time before the return date specified in an investigative de-  
26 mand, or within 20 days after the demand has been served, whichever period  
27 is shorter, a petition to extend the return date, or to modify or set aside the  
28 demand, stating good cause, including a request for privileged material, may  
29 be filed in the appropriate court.

30 “(5) Service of an investigative demand under subsection (3) of this sec-

1 tion shall be made personally within this state. If personal service within  
2 this state cannot be made, substituted service may be made by any of the  
3 following methods:

4 “(a) Personal service outside of this state;

5 “(b) Mailing the investigative demand by registered or certified mail to  
6 the last-known place of business, residence or abode within or outside of this  
7 state of the person for whom service is intended;

8 “(c) As to any person other than a natural person, in the manner provided  
9 for service of summons in an action or suit; or

10 “(d) Such service as the court may direct.

11 “(6) If a person, after being served with an investigative demand under  
12 subsection (3) of this section, fails or refuses to obey an investigative demand  
13 issued by the Attorney General[,] **or** a district attorney, [*an attorney repre-*  
14 *senting a type B area agency or a designee,*] the Attorney General[,] **or** dis-  
15 trict attorney[, *attorney representing a type B area agency or designee*] may,  
16 after notice to an appropriate court and after a hearing, request an order:

17 “(a) Granting injunctive relief to restrain the person from engaging in  
18 conduct that is involved in the alleged or suspected violation; or

19 “(b) Granting other relief as may be required, until the person obeys the  
20 investigative demand.

21 “(7) Disobedience of a final order of a court under subsection (6) of this  
22 section shall be punished as a contempt of court.

23 “(8) ORS 192.583 to 192.607 apply to the disclosure of financial records  
24 by a financial institution pursuant to the service of an investigative demand  
25 under subsection (3) of this section.

26 “**SECTION 5.** ORS 124.100, as amended by section 2 of this 2015 Act, is  
27 amended to read:

28 “124.100. (1) As used in ORS 124.100 to 124.140:

29 “[*(a) ‘Designee’ means a person designated by the Department of Human*  
30 *Services to conduct investigations under ORS 430.731 in a county with a pop-*

1 *ulation of 650,000 or more persons.]*

2 “[*(b)*] **(a)** ‘Elderly person’ means a person 65 years of age or older.

3 “[*(c)*] **(b)** ‘Financially incapable’ has the meaning given that term in ORS  
4 125.005.

5 “[*(d)*] **(c)** ‘Incapacitated’ has the meaning given that term in ORS 125.005.

6 “[*(e)*] **(d)** ‘Person with a disability’ means a person with a physical or  
7 mental impairment that:

8 “(A) Is likely to continue without substantial improvement for no fewer  
9 than 12 months or to result in death; and

10 “(B) Prevents performance of substantially all the ordinary duties of oc-  
11 cupations in which an individual not having the physical or mental impair-  
12 ment is capable of engaging, having due regard to the training, experience  
13 and circumstances of the person with the physical or mental impairment.

14 “[*(f)*] ‘Type B area agency’ means a type B area agency, as defined in ORS  
15 410.040, that is designated to operate in a geographic area with a population  
16 or 650,000 or more persons.]

17 “[*(g)*] **(e)** ‘Vulnerable person’ means:

18 “(A) An elderly person;

19 “(B) A financially incapable person;

20 “(C) An incapacitated person; or

21 “(D) A person with a disability who is susceptible to force, threat, duress,  
22 coercion, persuasion or physical or emotional injury because of the person’s  
23 physical or mental impairment.

24 “(2) A vulnerable person who suffers injury, damage or death by reason  
25 of physical abuse or financial abuse may bring an action against any person  
26 who has caused the physical or financial abuse or who has permitted another  
27 person to engage in physical or financial abuse. The court shall award the  
28 following to a plaintiff who prevails in an action under this section:

29 “(a) An amount equal to three times all economic damages, as defined in  
30 ORS 31.710, resulting from the physical or financial abuse, or \$500, which-

1 ever amount is greater.

2 “(b) An amount equal to three times all noneconomic damages, as defined  
3 by ORS 31.710, resulting from the physical or financial abuse.

4 “(c) Reasonable attorney fees incurred by the plaintiff.

5 “(d) Reasonable fees for the services of a conservator or guardian ad litem  
6 incurred by reason of the litigation of a claim brought under this section.

7 “(3) An action may be brought under this section only by:

8 “(a) A vulnerable person;

9 “(b) A guardian, conservator or attorney-in-fact for a vulnerable person;

10 “(c) A personal representative for the estate of a decedent who was a  
11 vulnerable person at the time the cause of action arose; or

12 “(d) A trustee for a trust on behalf of the trustor or the spouse of the  
13 trustor who is a vulnerable person.

14 “(4) An action may be brought under this section only for physical abuse  
15 described in ORS 124.105 or for financial abuse described in ORS 124.110.

16 “(5) An action may be brought under this section against a person for  
17 permitting another person to engage in physical or financial abuse if the  
18 person knowingly acts or fails to act under circumstances in which a rea-  
19 sonable person should have known of the physical or financial abuse.

20 “(6) A person commencing an action under this section must serve a copy  
21 of the complaint on the Attorney General within 30 days after the action is  
22 commenced.

23 **“SECTION 6. The amendments to ORS 124.100 and 124.125 by  
24 sections 4 and 5 of this 2015 Act become operative July 1, 2018.”.**

25 In line 21, delete “3” and insert “7”.

26