

House Bill 4013

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rural Communities, Land Use and Water)

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**.

Authorizes county governing body to establish multidisciplinary elderly or vulnerable person fatality review team to assist local organizations and agencies in identifying and reviewing fatalities involving abuse or neglect of elderly or vulnerable persons.

Authorizes Department of Human Services to form statewide interdisciplinary team to review elderly or vulnerable person fatality cases, identify trends, make recommendations to multidisciplinary elderly or vulnerable person fatality review teams and conduct reviews in cases involving multiple jurisdictions or when county does not have multidisciplinary elderly or vulnerable person fatality review team.

A BILL FOR AN ACT

1 Relating to vulnerable person fatality review teams.

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

SECTION 1. As used in sections 1 to 3 of this 2016 Act:

4 (1) **"Elderly or vulnerable person" means:**

5 (a) **A person 65 years of age or older;**

6 (b) **A financially incapable person;**

7 (c) **An incapacitated person; or**

8 (d) **A person with a disability who is susceptible to force, threat, duress, coercion, persuasion or physical or emotional injury because of the person's physical or mental impairment.**

9 (2) **"Financially incapable" has the meaning given that term in ORS 125.005.**

10 (3) **"Incapacitated" has the meaning given that term in ORS 125.005.**

11 (4) **"Neglect" means self-neglect or failure to provide basic care or services that are necessary to maintain the health or safety of an elderly or vulnerable person.**

12 (5) **"Person with a disability" means a person with a physical or mental impairment that:**

13 (a) **Is likely to continue without substantial improvement for no fewer than 12 months or to result in death; and**

14 (b) **Prevents performance of substantially all the ordinary duties of occupations in which an individual not having the physical or mental impairment is capable of engaging, having due regard to the training, experience and circumstances of the person with the physical or mental impairment.**

15 **SECTION 2. (1) A governing body of a county may establish a multidisciplinary elderly or vulnerable person fatality review team to assist local organizations and agencies in identifying and reviewing fatalities involving the abuse or neglect of an elderly or vulnerable person.**

16 (2) **The purpose of an elderly or vulnerable person fatality review team is to review**

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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 fatalities involving the abuse or neglect of elderly or vulnerable persons and to make rec-
2 ommendations to prevent such fatalities by:

3 (a) Improving communication between public and private organizations and agencies;

4 (b) Determining the number of elderly or vulnerable person fatalities occurring in the
5 team's county and the factors associated with those fatalities;

6 (c) Identifying ways in which community response might have intervened to prevent a
7 fatality;

8 (d) Providing accurate information about elderly or vulnerable person abuse or neglect
9 to the community; and

10 (e) Generating recommendations for improving community response to and prevention
11 of elderly or vulnerable person abuse or neglect and fatalities.

12 (3) An elderly or vulnerable person fatality review team shall include but is not limited
13 to the following members, if available:

14 (a) Elderly or vulnerable person program service staff or other advocates for elderly or
15 vulnerable persons;

16 (b) Medical personnel with expertise in the field of abuse or neglect of elderly or vulner-
17 able persons;

18 (c) Local health department staff;

19 (d) The local district attorney or the district attorney's designees;

20 (e) Law enforcement personnel;

21 (f) Civil legal services attorneys;

22 (g) Protective services workers;

23 (h) Community corrections professionals;

24 (i) Judges, court administrators or their representatives;

25 (j) Perpetrator treatment providers;

26 (k) A survivor of elderly or vulnerable person abuse or neglect; and

27 (L) Medical examiners or other experts in the field of forensic pathology.

28 (4) Other individuals may, with the unanimous consent of an elderly or vulnerable person
29 fatality review team, be included in the team on an ad hoc basis.

30 (5) Upon formation and before reviewing its first case, an elderly or vulnerable person
31 fatality review team shall adopt a written protocol for review of fatalities involving the abuse
32 or neglect of an elderly or vulnerable person. The protocol must be designed to facilitate
33 communication among organizations and agencies involved in elderly or vulnerable person
34 abuse or neglect cases. The protocol must have as one of its goals the identification and
35 prevention of incidents of elderly or vulnerable person fatalities. The protocol must define
36 procedures for case review and preservation of confidentiality, and must identify team
37 members.

38 (6) Consistent with recommendations provided by the statewide interdisciplinary team
39 under section 3 of this 2016 Act, an elderly or vulnerable person fatality review team shall
40 provide the statewide interdisciplinary team with information regarding elderly and vulner-
41 able person fatalities.

42 (7) To ensure consistent and uniform results, elderly or vulnerable person fatality review
43 teams may collect and summarize data to show the statistical occurrence of elderly or vul-
44 nerable person fatalities in the team's county.

45 (8) An elderly or vulnerable person fatality review team shall have access to and

1 subpoena power to obtain all medical records, hospital records and records maintained by
 2 any state, county or local agency, including, but not limited to, police investigative data,
 3 coroner or medical examiner investigative data and social services records, as necessary to
 4 complete an elderly or vulnerable person fatality review.

5 (9) Each organization or agency represented on an elderly or vulnerable person fatality
 6 review team may share with other members of the team information concerning the victim
 7 who is the subject of the review. Any information shared between team members is confi-
 8 dential.

9 (10) An individual who is a member of an organization or agency that is represented on
 10 an elderly or vulnerable person fatality review team is not required to disclose information.
 11 The intent of this section and section 3 of this 2016 Act is to allow the voluntary disclosure
 12 of information.

13 (11) An oral or written communication or a document related to an elderly or vulnerable
 14 person fatality review that is shared within or produced by an elderly or vulnerable person
 15 fatality review team, and all information and records acquired by the team in the exercise
 16 of its duties, are confidential, not subject to disclosure and not discoverable by a third party.
 17 An oral or written communication or a document provided by a third party to a team is
 18 confidential, not subject to disclosure and not discoverable by a third party. All information
 19 and records acquired by a team in the exercise of its duties are confidential and may be
 20 disclosed only as necessary to carry out the purposes of the fatality review. However, rec-
 21 ommendations of a team upon the completion of a review may be disclosed without personal
 22 identifiers at the discretion of two-thirds of the members of the team.

23 (12) Notwithstanding subsection (11) of this section, information, documents and records
 24 otherwise available from other sources are not immune from discovery or introduction into
 25 evidence solely because the information, documents or records were presented to or reviewed
 26 by an elderly or vulnerable person fatality review team.

27 (13) ORS 192.610 to 192.690 do not apply to meetings of an elderly or vulnerable person
 28 fatality review team.

29 (14) Each elderly or vulnerable person fatality review team shall develop written agree-
 30 ments signed by member organizations and agencies that specify the organizations' and
 31 agencies' understanding of and agreement with the principles outlined in this section.

32 **SECTION 3.** (1) The Department of Human Services may form a statewide interdiscipli-
 33 nary team to meet twice a year to review elderly or vulnerable person fatality cases, identify
 34 elderly or vulnerable person abuse or neglect trends, make recommendations and take
 35 actions involving statewide issues.

36 (2) The statewide interdisciplinary team may recommend specific cases to a multidisci-
 37 plinary elderly or vulnerable person fatality review team established under section 2 of this
 38 2016 Act for review under that section.

39 (3) The statewide interdisciplinary team shall provide recommendations to multidiscipli-
 40 nary elderly or vulnerable person fatality review teams established under section 2 of this
 41 2016 Act in the development of protocols. The recommendations must be designed to facili-
 42 tate communication among organizations and agencies involved in elderly or vulnerable per-
 43 son fatality cases so that incidents of elderly or vulnerable person abuse or neglect and
 44 fatalities related to elderly or vulnerable person abuse or neglect are identified and pre-
 45 vented. The recommendations must include procedures relevant for both urban and rural

1 **counties.**

2 **(4) The statewide interdisciplinary team may identify and review cases involving elderly**
3 **or vulnerable person fatalities where the events surrounding the fatality occurred across**
4 **multiple counties or jurisdictions or where a multidisciplinary elderly or vulnerable person**
5 **fatality review team has not been established in a county by the local governing body. When**
6 **the statewide interdisciplinary team undertakes a fatality review under this subsection, the**
7 **principles, purposes and confidentiality provisions contained in section 2 of this 2016 Act ap-**
8 **ply.**

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