

Senate Bill 546

Sponsored by Senator RILEY (at the request of Citizens Commission on Human Rights International) (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**.

Creates crime of unlawful administration of electroconvulsive therapy. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. Creates civil cause of action when person under 18 years of age receives electroconvulsive therapy.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the unlawful use of electroconvulsive therapy; creating new provisions; amending ORS
3 161.005; and prescribing an effective date.

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

5 **SECTION 1. (1) Electroconvulsive therapy may not be administered to a person under 18**
6 **years of age.**

7 **(2) A person commits the crime of unlawful administration of electroconvulsive therapy**
8 **if the person intentionally causes a person under 18 years of age to be administered**
9 **electroconvulsive therapy.**

10 **(3) Unlawful administration of electroconvulsive therapy is a Class C felony.**

11 **(4) As used in this section, "electroconvulsive therapy" means a procedure during which**
12 **an electric current is passed through the brain in order to trigger a seizure.**

13 **SECTION 2. (1) Notwithstanding the existence or result of any criminal prosecution, a**
14 **person under 18 years of age who receives electroconvulsive therapy in violation of section**
15 **1 of this 2019 Act, or the person's parent or guardian, shall have a civil action for damages**
16 **against:**

17 **(a) Any person whose actions are unlawful under section 1 of this 2019 Act; and**

18 **(b) The medical facility in which the person described in paragraph (a) of this subsection**
19 **committed the unlawful actions.**

20 **(2) Upon prevailing in such action, the plaintiff may recover:**

21 **(a) Special and general damages, including damages for emotional distress; and**

22 **(b) Punitive damages.**

23 **(3) The court may award reasonable attorney fees to the prevailing plaintiff in an action**
24 **under this section.**

25 **(4) A civil action under this section does not affect a right or remedy available under any**
26 **other law of this state.**

27 **(5) As used in this section:**

28 **(a) "Electroconvulsive therapy" has the meaning given that term in section 1 of this 2019**
29 **Act.**

30 **(b) "Medical facility" has the meaning given that term in ORS 164.365.**

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 **SECTION 3.** ORS 161.005 is amended to read:

2 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
3 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,
4 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
5 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to
6 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,
7 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 163.715, 164.005, 164.015 to 164.135,
8 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886,
9 165.002 to 165.102, 165.109, 165.118, 165.805, 165.815, 166.005 to 166.095, 166.350, 166.382, 166.384,
10 166.660, 167.002 to 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252,
11 167.310 to 167.340, 167.350, 167.810 and 167.820 **and section 1 of this 2019 Act** shall be known and
12 may be cited as Oregon Criminal Code of 1971.

13 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
14 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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