

# House Bill 3578

Sponsored by Representative OSBORNE

## 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**.

Directs Department of Human Services to adopt by rule required procedures for investigations of reports of elder abuse involving allegations of financial exploitation.

Modifies list of mandatory reporters of elder abuse to include real estate licensees.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to financial exploitation of elderly persons; creating new provisions; amending ORS 124.050;  
3 and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 124.050 to**  
6 **124.095.**

7 **SECTION 2. (1) The Department of Human Services shall adopt, by rule, procedures for**  
8 **the investigation of elder abuse under ORS 124.050 to 124.095 when a report of abuse involves**  
9 **allegations of financial exploitation. The rules must, at a minimum:**

10 (a) **Require the department to immediately conduct a risk assessment, including an in-**  
11 **person meeting with the elderly person no more than 24 hours after the department receives**  
12 **the report of abuse, to determine whether there is reasonable cause to suspect that the el-**  
13 **derly person is at imminent or ongoing risk of suffering significant financial harm as a result**  
14 **of the alleged financial exploitation.**

15 (b) **If there is reasonable cause to suspect the elderly person is at imminent or ongoing**  
16 **risk of suffering significant financial harm and the elderly person appears unable to mitigate**  
17 **that risk, require the department to:**

18 (A) **In consultation with the elderly person, identify persons to nominate as temporary**  
19 **fiduciary for the elderly person, including individuals from among the elderly person's rela-**  
20 **tives or friends who are willing and able to serve, private fiduciaries or, if the elderly person**  
21 **qualifies under ORS 125.675 to 125.691, the Oregon Public Guardian and Conservator.**

22 (B) **Petition a court with jurisdiction over protective proceedings for the appointment of**  
23 **a temporary fiduciary for the elderly person under ORS 125.600 with the powers of a**  
24 **conservator.**

25 (2) **The rules adopted under this section are intended to supplement, not supersede, any**  
26 **other applicable rules or procedures regarding the department's investigations of reports of**  
27 **abuse under ORS 124.050 to 124.095.**

28 **SECTION 3. ORS 124.050, as amended by section 7, chapter 91, Oregon Laws 2022, is amended**  
29 **to read:**

30 124.050. As used in ORS 124.050 to 124.095:

**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 (1) "Abuse" means one or more of the following:
- 2 (a) Any physical injury to an elderly person caused by other than accidental means, or which
- 3 appears to be at variance with the explanation given of the injury.
- 4 (b) Neglect.
- 5 (c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal
- 6 or neglect of duties and obligations owed an elderly person by a caretaker or other person.
- 7 (d) Willful infliction of physical pain or injury upon an elderly person.
- 8 (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427,
- 9 163.465, 163.467 or 163.525.
- 10 (f) Verbal abuse.
- 11 (g) Financial exploitation.
- 12 (h) Sexual abuse.
- 13 (i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline
- 14 the person.
- 15 (j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of
- 16 restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities
- 17 that are consistent with an approved treatment plan or in connection with a court order.
- 18 (2) "Elderly person" means any person 65 years of age or older who is not subject to the pro-
- 19 visions of ORS 441.640 to 441.665.
- 20 (3) "Facility" means:
- 21 (a) A long term care facility as that term is defined in ORS 442.015.
- 22 (b) A residential facility as that term is defined in ORS 443.400, including but not limited to an
- 23 assisted living facility.
- 24 (c) An adult foster home as that term is defined in ORS 443.705.
- 25 (4) "Financial exploitation" means:
- 26 (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an
- 27 elderly person or a person with a disability.
- 28 (b) Alarming an elderly person or a person with a disability by conveying a threat to wrongfully
- 29 take or appropriate money or property of the person if the person would reasonably believe that the
- 30 threat conveyed would be carried out.
- 31 (c) Misappropriating, misusing or transferring without authorization any money from any ac-
- 32 count held jointly or singly by an elderly person or a person with a disability.
- 33 (d) Failing to use the income or assets of an elderly person or a person with a disability effec-
- 34 tively for the support and maintenance of the person.
- 35 (5) "Intimidation" means compelling or deterring conduct by threat.
- 36 (6) "Law enforcement agency" means:
- 37 (a) Any city or municipal police department.
- 38 (b) Any county sheriff's office.
- 39 (c) The Oregon State Police.
- 40 (d) Any district attorney.
- 41 (e) A police department established by a university under ORS 352.121 or 353.125.
- 42 (7) "Neglect" means failure to provide basic care or services that are necessary to maintain the
- 43 health or safety of an elderly person.
- 44 (8) "Person with a disability" means a person described in:
- 45 (a) ORS 410.040 (7); or

- 1 (b) ORS 410.715.
- 2 (9) “Public or private official” means:
- 3 (a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or  
4 chiropractor, including any intern or resident.
- 5 (b) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide  
6 or employee of an in-home health service.
- 7 (c) Employee of the Department of Human Services or community developmental disabilities  
8 program.
- 9 (d) Employee of the Oregon Health Authority, local health department or community mental  
10 health program.
- 11 (e) Peace officer.
- 12 (f) Member of the clergy.
- 13 (g) Regulated social worker.
- 14 (h) Physical, speech or occupational therapist.
- 15 (i) Senior center employee.
- 16 (j) Information and referral or outreach worker.
- 17 (k) Licensed professional counselor or licensed marriage and family therapist.
- 18 (L) Elected official of a branch of government of this state or a state agency, board, commission  
19 or department of a branch of government of this state or of a city, county or other political subdi-  
20 vision in this state.
- 21 (m) Firefighter or emergency medical services provider.
- 22 (n) Psychologist.
- 23 (o) Provider of adult foster care or an employee of the provider.
- 24 (p) Audiologist.
- 25 (q) Speech-language pathologist.
- 26 (r) Attorney.
- 27 (s) Dentist.
- 28 (t) Optometrist.
- 29 (u) Chiropractor.
- 30 (v) Personal support worker, as defined in ORS 410.600.
- 31 (w) Home care worker, as defined in ORS 410.600.
- 32 (x) Referral agent, as defined in ORS 443.370.
- 33 (y) A person providing agency with choice services under section 1, chapter 91, Oregon Laws  
34 2022.
- 35 **(z) Real estate licensee, as defined in ORS 696.010.**
- 36 (10) “Services” includes but is not limited to the provision of food, clothing, medicine, housing,  
37 medical services, assistance with bathing or personal hygiene or any other service essential to the  
38 well-being of an elderly person.
- 39 (11)(a) “Sexual abuse” means:
- 40 (A) Sexual contact with an elderly person who does not consent or is considered incapable of  
41 consenting to a sexual act under ORS 163.315;
- 42 (B) Verbal or physical harassment of a sexual nature, including but not limited to severe or  
43 pervasive exposure to sexually explicit material or language;
- 44 (C) Sexual exploitation;
- 45 (D) Any sexual contact between an employee of a facility or paid caregiver and an elderly per-

1 son served by the facility or caregiver; or

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

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

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

5 (B) A paid caregiver.

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

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

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

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

12 **SECTION 4. (1) Section 2 of this 2023 Act and the amendments to ORS 124.050 by section  
13 3 of this 2023 Act become operative on January 1, 2024.**

14 **(2) The Department of Human Services may take any action before the operative date  
15 specified in subsection (1) of this section that is necessary to enable the department, on and  
16 after the operative date specified in subsection (1) of this section, all of the duties, functions  
17 and powers conferred on the department by section 2 of this 2023 Act.**

18 **SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023  
19 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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