

## SENATE AMENDMENTS TO SENATE BILL 105

By COMMITTEE ON HUMAN SERVICES

April 11

- 1 In line 2 of the printed bill, after “services” insert “; amending ORS 430.735”.
- 2 Delete lines 4 through 9 and insert:
- 3 “**SECTION 1.** ORS 430.735 is amended to read:
- 4 “430.735. As used in ORS 430.735 to 430.765:
- 5 “(1) ‘Abuse’ means one or more of the following:
- 6 “(a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or  
7 neglect of duties and obligations owed an adult by a caregiver or other person.
- 8 “(b) Any physical injury to an adult caused by other than accidental means, or that appears to  
9 be at variance with the explanation given of the injury.
- 10 “(c) Willful infliction of physical pain or injury upon an adult.
- 11 “(d) Sexual abuse.
- 12 “(e) Neglect.
- 13 “(f) Verbal abuse of an adult.
- 14 “(g) Financial exploitation of an adult.
- 15 “(h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the  
16 adult.
- 17 “(i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of re-  
18 straint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under  
19 ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practi-  
20 tioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with  
21 an approved treatment plan or in connection with a court order.
- 22 “(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425,  
23 163.427, 163.465 or 163.467.
- 24 “(k) Any death of an adult caused by other than accidental or natural means.
- 25 “**(L) The restraint or seclusion of an adult with a developmental disability in violation of**  
26 **ORS 339.288, 339.291 or 339.308.**
- 27 “**(m) The infliction of corporal punishment on an adult with a developmental disability in**  
28 **violation of ORS 339.250 (9).**
- 29 “(2) ‘Adult’ means a person 18 years of age or older:
- 30 “(a) With a developmental disability who is currently receiving services from a community pro-  
31 gram or facility or who was previously determined eligible for services as an adult by a community  
32 program or facility;
- 33 “(b) With a severe and persistent mental illness who is receiving mental health treatment from  
34 a community program; or
- 35 “(c) Who is receiving services for a substance use disorder or a mental illness in a facility or

1 a state hospital.

2 “(3) ‘Adult protective services’ means the necessary actions taken to prevent abuse or exploi-  
3 tation of an adult, to prevent self-destructive acts and to safeguard the adult’s person, property and  
4 funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to  
5 protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides  
6 for the greatest degree of independence.

7 “(4) ‘Caregiver’ means an individual, whether paid or unpaid, or a facility that has assumed re-  
8 sponsibility for all or a portion of the care of an adult as a result of a contract or agreement.

9 “(5) ‘Community program’ includes:

10 “(a) A community mental health program or a community developmental disabilities program as  
11 established in ORS 430.610 to 430.695; or

12 “(b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide  
13 mental health treatment in the community.

14 “(6) ‘Facility’ means a residential treatment home or facility, residential care facility, adult fos-  
15 ter home, residential training home or facility or crisis respite facility.

16 “(7) ‘Financial exploitation’ means:

17 “(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an  
18 adult.

19 “(b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or  
20 property of the adult if the adult would reasonably believe that the threat conveyed would be car-  
21 ried out.

22 “(c) Misappropriating, misusing or transferring without authorization any money from any ac-  
23 count held jointly or singly by an adult.

24 “(d) Failing to use the income or assets of an adult effectively for the support and maintenance  
25 of the adult.

26 “(8) ‘Intimidation’ means compelling or deterring conduct by threat.

27 “(9) ‘Law enforcement agency’ means:

28 “(a) Any city or municipal police department;

29 “(b) A police department established by a university under ORS 352.121 or 353.125;

30 “(c) Any county sheriff’s office;

31 “(d) The Oregon State Police; or

32 “(e) Any district attorney.

33 “(10) ‘Neglect’ means:

34 “(a) Failure to provide the care, supervision or services necessary to maintain the physical and  
35 mental health of an adult that may result in physical harm or significant emotional harm to the  
36 adult;

37 “(b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or

38 “(c) Withholding of services necessary to maintain the health and well-being of an adult that  
39 leads to physical harm of the adult.

40 “(11) ‘Public or private official’ means:

41 “(a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505  
42 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

43 “(b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of  
44 an in-home health service;

45 “(c) Employee of the Department of Human Services or Oregon Health Authority, local health

1 department, community mental health program or community developmental disabilities program or  
2 private agency contracting with a public body to provide any community mental health service;

3 “(d) Peace officer;

4 “(e) Member of the clergy;

5 “(f) Regulated social worker;

6 “(g) Physical, speech or occupational therapist;

7 “(h) Information and referral, outreach or crisis worker;

8 “(i) Attorney;

9 “(j) Licensed professional counselor or licensed marriage and family therapist;

10 “(k) Any public official;

11 “(L) Firefighter or emergency medical services provider;

12 “(m) Elected official of a branch of government of this state or a state agency, board, commis-  
13 sion or department of a branch of government of this state or of a city, county or other political  
14 subdivision in this state;

15 “(n) Personal support worker, as defined in ORS 410.600;

16 “(o) Home care worker, as defined in ORS 410.600; or

17 “(p) Individual paid by the Department of Human Services to provide a service identified in an  
18 individualized service plan of an adult with a developmental disability.

19 “(12) ‘Services’ includes but is not limited to the provision of food, clothing, medicine, housing,  
20 medical services, assistance with bathing or personal hygiene or any other service essential to the  
21 well-being of an adult.

22 “(13)(a) ‘Sexual abuse’ means:

23 “(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of con-  
24 senting to a sexual act under ORS 163.315;

25 “(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit ma-  
26 terial or language;

27 “(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served  
28 by the facility or caregiver;

29 “(D) Any sexual contact between an adult and a relative of the adult other than a spouse;

30 “(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

31 “(F) Any sexual contact between an individual receiving mental health or substance abuse  
32 treatment and the individual providing the mental health or substance abuse treatment.

33 “(b) ‘Sexual abuse’ does not mean consensual sexual contact between an adult and a paid  
34 caregiver who is the spouse of the adult.

35 “(14) ‘Sexual contact’ has the meaning given that term in ORS 163.305.

36 “(15) ‘Verbal abuse’ means to threaten significant physical or emotional harm to an adult  
37 through the use of:

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

39 “(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate  
40 sexual comments.”.

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