

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
SENATE BILL 105**

1 In line 2 of the printed bill, after “services” insert “; amending ORS
2 430.735”.

3 Delete lines 4 through 9 and insert:

4 **“SECTION 1.** ORS 430.735 is amended to read:

5 “430.735. As used in ORS 430.735 to 430.765:

6 “(1) ‘Abuse’ means one or more of the following:

7 “(a) Abandonment, including desertion or willful forsaking of an adult or
8 the withdrawal or neglect of duties and obligations owed an adult by a
9 caregiver or other person.

10 “(b) Any physical injury to an adult caused by other than accidental
11 means, or that appears to be at variance with the explanation given of the
12 injury.

13 “(c) Willful infliction of physical pain or injury upon an adult.

14 “(d) Sexual abuse.

15 “(e) Neglect.

16 “(f) Verbal abuse of an adult.

17 “(g) Financial exploitation of an adult.

18 “(h) Involuntary seclusion of an adult for the convenience of the caregiver
19 or to discipline the adult.

20 “(i) A wrongful use of a physical or chemical restraint upon an adult,
21 excluding an act of restraint prescribed by a physician licensed under ORS

1 chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
2 naturopathic physician licensed under ORS chapter 685 or nurse practitioner
3 licensed under ORS 678.375 to 678.390 and any treatment activities that are
4 consistent with an approved treatment plan or in connection with a court
5 order.

6 “(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,
7 163.415, 163.425, 163.427, 163.465 or 163.467.

8 “(k) Any death of an adult caused by other than accidental or natural
9 means.

10 “(L) **The restraint or seclusion of an adult with a developmental**
11 **disability in violation of ORS 339.288, 339.291 or 339.308.**

12 “(m) **The infliction of corporal punishment on an adult with a de-**
13 **velopmental disability in violation of ORS 339.250 (9).**

14 “(2) ‘Adult’ means a person 18 years of age or older:

15 “(a) With a developmental disability who is currently receiving services
16 from a community program or facility or who was previously determined el-
17 igible for services as an adult by a community program or facility;

18 “(b) With a severe and persistent mental illness who is receiving mental
19 health treatment from a community program; or

20 “(c) Who is receiving services for a substance use disorder or a mental
21 illness in a facility or a state hospital.

22 “(3) ‘Adult protective services’ means the necessary actions taken to pre-
23 vent abuse or exploitation of an adult, to prevent self-destructive acts and
24 to safeguard the adult’s person, property and funds, including petitioning for
25 a protective order as defined in ORS 125.005. Any actions taken to protect
26 an adult shall be undertaken in a manner that is least intrusive to the adult
27 and provides for the greatest degree of independence.

28 “(4) ‘Caregiver’ means an individual, whether paid or unpaid, or a facility
29 that has assumed responsibility for all or a portion of the care of an adult
30 as a result of a contract or agreement.

1 “(5) ‘Community program’ includes:

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

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

6 “(6) ‘Facility’ means a residential treatment home or facility, residential
7 care facility, adult foster home, residential training home or facility or crisis
8 respite facility.

9 “(7) ‘Financial exploitation’ means:

10 “(a) Wrongfully taking the assets, funds or property belonging to or in-
11 tended for the use of an adult.

12 “(b) Alarming an adult by conveying a threat to wrongfully take or ap-
13 propriate money or property of the adult if the adult would reasonably be-
14 lieve that the threat conveyed would be carried out.

15 “(c) Misappropriating, misusing or transferring without authorization any
16 money from any account held jointly or singly by an adult.

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

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

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

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

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

24 “(c) Any county sheriff’s office;

25 “(d) The Oregon State Police; or

26 “(e) Any district attorney.

27 “(10) ‘Neglect’ means:

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

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

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

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

6 “(a) Physician licensed under ORS chapter 677, physician assistant li-
7 censed under ORS 677.505 to 677.525, naturopathic physician, psychologist
8 or chiropractor, including any intern or resident;

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

11 “(c) Employee of the Department of Human Services or Oregon Health
12 Authority, local health department, community mental health program or
13 community developmental disabilities program or private agency contracting
14 with a public body to provide any community mental health service;

15 “(d) Peace officer;

16 “(e) Member of the clergy;

17 “(f) Regulated social worker;

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

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

20 “(i) Attorney;

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

23 “(k) Any public official;

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

25 “(m) Elected official of a branch of government of this state or a state
26 agency, board, commission or department of a branch of government of this
27 state or of a city, county or other political subdivision in this state;

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

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

30 “(p) Individual paid by the Department of Human Services to provide a

1 service identified in an individualized service plan of an adult with a devel-
2 opmental disability.

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

6 “(13)(a) ‘Sexual abuse’ means:

7 “(A) Sexual contact with a nonconsenting adult or with an adult consid-
8 ered incapable of consenting to a sexual act under ORS 163.315;

9 “(B) Sexual harassment, sexual exploitation or inappropriate exposure to
10 sexually explicit material or language;

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

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

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

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

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

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

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

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

27 “(b) Harassment, coercion, threats, intimidation, humiliation, mental cru-
28 elty or inappropriate sexual comments.”.

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