

# DRAFT

## SUMMARY

Modifies Elderly Persons and Persons With Disabilities Abuse Prevention Act to apply to elderly persons who are residents of long term care facilities.

### A BILL FOR AN ACT

Relating to abuse of elderly persons; amending ORS 124.005.

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

**SECTION 1.** ORS 124.005 is amended to read:

124.005. As used in ORS 124.005 to 124.040:

(1) "Abuse" means one or more of the following:

(a) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(b) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being.

(c) Abandonment, including desertion or willful forsaking of an elderly person or a person with a disability or the withdrawal or neglect of duties and obligations owed an elderly person or a person with a disability by a caregiver or other person.

(d) Willful infliction of physical pain or injury.

(e) Use of derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a nature as to threaten significant physical or emotional harm to the elderly person or person with a disability.

(f) Causing any sweepstakes promotion to be mailed to an elderly person or a person with a disability who had received sweepstakes promotional

1 material in the United States mail, spent more than \$500 in the preceding  
2 year on any sweepstakes promotions, or any combination of sweepstakes  
3 promotions from the same service, regardless of the identities of the origi-  
4 nators of the sweepstakes promotion and who represented to the court that  
5 the person felt the need for the court's assistance to prevent the person from  
6 incurring further expense.

7 (g) Wrongfully taking or appropriating money or property, or knowingly  
8 subjecting an elderly person or person with a disability to alarm by convey-  
9 ing a threat to wrongfully take or appropriate money or property, which  
10 threat reasonably would be expected to cause the elderly person or person  
11 with a disability to believe that the threat will be carried out.

12 (h) Sexual contact with a nonconsenting elderly person or person with a  
13 disability or with an elderly person or person with a disability considered  
14 incapable of consenting to a sexual act as described in ORS 163.315. As used  
15 in this paragraph, "sexual contact" has the meaning given that term in ORS  
16 163.305.

17 (2) "Declaration under penalty of perjury" means a declaration under  
18 penalty of perjury in the form required by ORCP 1 E.

19 (3) "Elderly person" means any person 65 years of age or older [*who is*  
20 *not subject to the provisions of ORS 441.640 to 441.665*].

21 (4) "Guardian petitioner" means a guardian or guardian ad litem for an  
22 elderly person or a person with a disability who files a petition under ORS  
23 124.005 to 124.040 on behalf of the elderly person or person with a disability.

24 (5) "Interfere" means to interpose in a way that hinders or impedes.

25 (6) "Intimidate" means to compel or deter conduct by a threat.

26 (7) "Menace" means to act in a threatening manner.

27 (8) "Molest" means to annoy, disturb or persecute with hostile intent or  
28 injurious effect.

29 (9) "Person with a disability" means a person described in:

30 (a) ORS 410.040 (7); or

31 (b) ORS 410.715.

1 (10) "Petitioner" means an elderly person or a person with a disability  
2 who files a petition under ORS 124.005 to 124.040.

3 (11) "Sweepstakes" means:

4 (a) A procedure for awarding a prize that is based on chance;

5 (b) A procedure in which a person is required to purchase anything, pay  
6 anything of value or make a donation as a condition of winning a prize or  
7 of receiving or obtaining information about a prize; or

8 (c) A procedure that is advertised in a way that creates a reasonable im-  
9 pression that a payment of anything of value, purchase of anything or mak-  
10 ing a donation is a condition of winning a prize or receiving or obtaining  
11 information about a prize.

12 (12) "Sweepstakes promotion" means an offer to participate in a  
13 sweepstakes.