

# D R A F T

## SUMMARY

Digest: The Act creates a new exception to laws that allow the state to take back medical assistance paid to a person from the person's estate. (Flesch Readability Score: 63.0).

Prohibits the recovery of medical assistance from an individual's estate under circumstances in which a child had been living in the individual's home and providing care to the individual.

Removes the prohibition against the transfer of real or personal property without adequate consideration by recipients of medical assistance or recipients of assistance under the Oregon Supplemental Income Program.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the recovery of public assistance; creating new provisions;  
3 amending ORS 411.620, 411.708 and 416.350; and prescribing an effective  
4 date.

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

6 **SECTION 1.** ORS 416.350 is amended to read:

7 416.350. (1) The Department of Human Services or the Oregon Health  
8 Authority may recover from any person the amounts of medical assistance  
9 the department or the authority incorrectly paid to or on behalf of the per-  
10 son.

11 (2) Except as prohibited by ORS 178.380, medical assistance pursuant to  
12 ORS chapter 414 paid to or on behalf of an individual who was 55 years of  
13 age or older when the individual received the assistance, or paid to or on  
14 behalf of a person of any age who was a permanently institutionalized inpa-  
15 tient in a nursing facility, intermediate care facility for persons with intel-

1 lectual disabilities or other medical institution, may be recovered from the  
2 estate of the individual or from any recipient of property or other assets held  
3 by the individual at the time of death including the estate of the surviving  
4 spouse. Claim for such medical assistance correctly paid to or on behalf of  
5 the individual may be established against the estate, but the claim may not  
6 be adjusted or recovered until after the death of the surviving spouse, if any,  
7 and only at a time when the individual has no surviving child who is under  
8 21 years of age or who is blind or permanently and totally disabled. [*Trans-*  
9 *fers of real or personal property by recipients of such aid without adequate*  
10 *consideration are voidable and may be set aside under ORS 411.620 (2).]*

11 (3) Nothing in this section authorizes the recovery of the amount of any  
12 aid from the estate or surviving spouse of a recipient to the extent that:

13 (a) The need for aid resulted from a crime committed against the  
14 recipient[.]; or

15 (b)(A) **For two consecutive years immediately before the recipient**  
16 **was determined eligible for medical assistance or immediately before**  
17 **the recipient's death, a child of the recipient:**

18 (i) **Lived in the recipient's home; and**

19 (ii) **Provided to the recipient a level of care that eliminated the need**  
20 **for the recipient to receive medical assistance; and**

21 (B)(i) **Title to the recipient's home was transferred to the child**  
22 **during the recipient's life; or**

23 (ii) **The child inherited an interest in the recipient's home.**

24 (4) In any action or proceeding under this section to recover medical as-  
25 sistance paid, it is the legal burden of the person who receives the property  
26 or other assets from a medical assistance recipient to establish the extent  
27 and value of the recipient's legal title or interest in the property or assets  
28 in accordance with rules established by the authority.

29 (5) Amounts recovered under this section do not include the value of  
30 benefits paid to or on behalf of a beneficiary under a policy or certificate  
31 of qualified long term care insurance as defined in ORS 743.652, that were

1 disregarded in determining eligibility for or the amount of medical assistance  
2 provided to the beneficiary.

3 (6) As used in this section:

4 (a) "Estate" includes all real and personal property and other assets in  
5 which the deceased individual had any legal title or interest at the time of  
6 death including assets conveyed to a survivor, heir or assign of the deceased  
7 individual through joint tenancy, tenancy in common, survivorship, life es-  
8 tate, living trust or other similar arrangement.

9 (b) "Medical assistance" includes the state's monthly contribution to the  
10 federal government to defray the costs of outpatient prescription drug cov-  
11 erage provided to a person who is eligible for Medicare Part D prescription  
12 drug coverage and who receives medical assistance.

13 **SECTION 2.** ORS 411.708 is amended to read:

14 411.708. (1) The amount of any assistance paid under ORS 411.706 is a  
15 claim against the property or interest in the property belonging to and a part  
16 of the estate of any deceased recipient. If the deceased recipient has no es-  
17 tate, the estate of the surviving spouse of the deceased recipient, if any, shall  
18 be charged for assistance granted under ORS 411.706 to the deceased recipi-  
19 ent or the surviving spouse. There shall be no adjustment or recovery of  
20 assistance correctly paid on behalf of any deceased recipient under ORS  
21 411.706 except after the death of the surviving spouse of the deceased recipi-  
22 ent, if any, and only at a time when the deceased recipient has no surviving  
23 child who is under 21 years of age or who is blind or has a disability.  
24 [*Transfers of real or personal property by recipients of assistance without ad-*  
25 *equate consideration are voidable and may be set aside under ORS 411.620*  
26 (2).]

27 (2) Except when there is a surviving spouse, or a surviving child who is  
28 under 21 years of age or who is blind or has a disability, the amount of any  
29 assistance paid under ORS 411.706 is a claim against the estate in any con-  
30 servatorship proceedings and may be paid pursuant to ORS 125.495.

31 (3) Nothing in this section authorizes the recovery of the amount of any

1 assistance from the estate or surviving spouse of a recipient to the extent  
2 that the need for assistance resulted from a crime committed against the  
3 recipient.

4 **SECTION 3.** ORS 411.620 is amended to read:

5 411.620. (1) The Department of Human Services or the Oregon Health  
6 Authority may prosecute a civil suit or action against any person who has  
7 obtained, for personal benefit or for the benefit of any other person, any  
8 amount or type of public assistance or medical assistance, or has aided any  
9 other person to obtain public assistance or medical assistance, in violation  
10 of any provision of ORS 411.630 or in violation of ORS 411.640. In such suit  
11 or action, the department or the authority may recover the amount or value  
12 of public assistance or medical assistance obtained in violation of ORS  
13 411.630 or in violation of ORS 411.640, with interest, together with costs and  
14 disbursements incurred in recovering the public assistance or medical as-  
15 sistance.

16 (2) Except with respect to bona fide purchasers for value, the department,  
17 the authority, the conservator for the recipient or the personal represen-  
18 tative of the estate of a deceased recipient may prosecute a civil suit or  
19 action to set aside the transfer, gift or other disposition of any money or  
20 property made in violation of any provisions of ORS 411.630[, *411.708 and*  
21 *416.350*] and the department or the authority may recover out of such money  
22 or property, or otherwise, the amount or value of any public assistance or  
23 medical assistance obtained as a result of the violation, with interest, to-  
24 gether with costs and disbursements incurred in recovering the public as-  
25 sistance or medical assistance.

26 **SECTION 4.** (1) **The amendments to ORS 416.350 by section 1 of this**  
27 **2025 Act apply to claims for medical assistance adjusted or recovered**  
28 **on or after the effective date of this 2025 Act.**

29 (2) **The amendments to ORS 411.620 by section 3 of this 2025 Act**  
30 **apply to civil proceedings commenced on or after the effective date of**  
31 **this 2025 Act.**

1        **SECTION 5. This 2025 Act takes effect on the 91st day after the date**  
2        **on which the 2025 regular session of the Eighty-third Legislative As-**  
3        **sembly adjourns sine die.**

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