

REPORTING OF ABUSE OF ELDERLY PERSONS

124.050 Definitions for ORS 124.050 to 124.095. As used in ORS 124.050 to 124.095:

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

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

(b) Neglect which 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 the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury.

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

(f) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly person or person with disabilities to alarm by conveying a threat to wrongfully take or appropriate money or property, which threat reasonably would be expected to cause the elderly person or person with disabilities to believe that the threat will be carried out.

(2) "Elderly person" means any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665.

(3) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(4) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, chiropractor or podiatric physician and surgeon, including any intern or resident.

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service.

(c) Employee of the Department of Human Services, county health department or community mental health and developmental disabilities program.

(d) Peace officer.

(e) Member of the clergy.

(f) Licensed clinical social worker.

(g) Physical, speech or occupational therapists.

(h) Senior center employee.

(i) Information and referral or outreach worker.

(j) Licensed professional counselor or licensed marriage and family therapist.

(k) Any public official who comes in contact with elderly persons in the performance of the official's official duties.

(L) Firefighter or emergency medical technician. [Formerly 410.610; 1999 c.463 §6; 2001 c.104 §36; 2005 c.671 §4]

124.055 Policy. The Legislative Assembly finds that for the purpose of preventing abuse, safeguarding and enhancing the welfare of elderly persons, it is necessary and in the public interest to require mandatory reports and investigations of allegedly abused elderly persons. [Formerly 410.620]

124.060 Duty of officials to report. Any public or private official having reasonable cause to believe that any person 65 years of age or older with whom the official comes in contact, while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused a person 65 years of age or older shall report or cause a report to be made in the manner required in ORS 124.065. [Formerly 410.630]

124.065 Method of reporting; content; notice to law enforcement agency and to department. (1) When a report is required under ORS 124.060, an oral report shall be made immediately by telephone or otherwise to the local office of the Department of Human Services or to a law enforcement agency within the county where the person making the report is at the time of contact. If known, such reports shall contain the names and addresses of the elderly person and any persons responsible for the care of the elderly person, the nature and the extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(2) When a report is received by the department under ORS 124.060, the department may notify the law enforcement agency having jurisdiction within the county where the report was made. If the department is unable to gain access to the allegedly abused elderly person, the department may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the local office of the department in the county where the report was made. [Formerly 410.640]

124.070 Duty to investigate; notice to department; evaluation. (1) Upon receipt of the report required under ORS 124.060, the Department of Human Services or the law enforcement agency shall cause an investigation to be commenced promptly to determine the nature and cause of the abuse.

(2) If the department or law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the department or law enforcement agency shall notify in writing the appropriate law enforcement agency or the local office of the department, respectively. The investigation shall include a visit to the named elderly person and consultation with those individuals having knowledge of the facts of the particular case. Upon completion of the evaluation of each case, written findings shall be prepared which shall include recommended action and a determination of whether protective services are needed. [Formerly 410.650]

124.075 Immunity of person making report in good faith; identity confidential.

(1) Anyone participating in good faith in the making of a report of elder abuse and who has reasonable grounds for making the report shall have immunity from any civil liability that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person or by judicial process, or as required to perform the functions under ORS 124.070. [Formerly 410.660; 2005 c.671 §5]

124.080 Photographing of victim; photograph as record. (1) In carrying out its duties under ORS 124.070 a law enforcement agency or the Department of Human Services may photograph or cause to have photographed any victim who is the subject of the investigation for purposes of preserving evidence of the condition of the victim at the time of the investigation.

(2) For purposes of ORS 124.090, photographs taken under authority of subsection (1) of this section shall be considered records. [Formerly 410.670]

124.085 Catalogue of abuse records; confidentiality. A proper record of complaints made under ORS 124.060 and 124.065 shall be maintained by the Department of Human Services. The department shall prepare reports in writing when investigation has shown that the condition of the elderly person was the result of abuse even if the cause remains unknown. The complaints and investigative reports shall be catalogued under the name of the victim but shall be treated as confidential information, and shall be disclosed only with the consent of that person or by judicial process. [Formerly 410.680]

124.090 Confidentiality of records; exceptions. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public or private official who made the complaint, witnesses and the elderly persons compiled under the provisions of ORS 124.050 to 124.095 are confidential and are not accessible for public inspection. However, the Department of Human Services shall make the information and any investigative report available to any law enforcement agency, to any public agency that licenses or certifies residential facilities or licenses or certifies the persons practicing therein, to any public agency providing protective services for the elderly person and to the Long Term Care Ombudsman, if appropriate. The department shall also make the information and any investigative report available to any private nonprofit agency providing protective services for the elderly person. When this information and any investigative report is made available to the private agency, ORS 124.050 to 124.095 relating to confidentiality apply to the private agency. [Formerly 410.690; 2001 c.900 §21]

124.095 Spiritual treatment not abuse. An elderly person who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly

accredited practitioner thereof shall, for this reason alone, not be considered subjected to abuse by reason of neglect under ORS 124.050 to 124.095. [Formerly 410.700]