

Senate Bill 417

Sponsored by Senator CLOSE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires corrections officer to report abuse of inmate to Department of Corrections or sheriff and to Attorney General. Requires department or sheriff to investigate report and notify Attorney General of results. Grants immunity from liability for corrections officer making report in good faith and with reasonable grounds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to reporting abuse of inmates; and declaring an emergency.

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

4 **SECTION 1. As used in sections 1 to 5 of this 2013 Act:**

5 (1)(a) **"Abuse" means:**

6 (A) **Physical injury that is caused by other than accidental means.**

7 (B) **Failure to provide basic care or services that results in physical injury.**

8 (C) **Nonconsensual sexual contact.**

9 (D) **Illegal or improper use of resources for personal profit or gain.**

10 (E) **Verbal or mental abuse.**

11 (F) **Corporal punishment.**

12 (b) **"Abuse" does not mean execution of a death sentence pursuant to a death warrant**
13 **issued under ORS 137.463.**

14 (2) **"Corrections officer" has the meaning given that term in ORS 181.610.**

15 (3) **"Inmate" means a person incarcerated in a correctional facility of the state or a**
16 **county.**

17 **SECTION 2. (1) A corrections officer having reasonable cause to believe that an inmate**
18 **with whom the corrections officer comes in contact has suffered abuse, or that a person with**
19 **whom the corrections officer comes in contact has abused an inmate, shall immediately**
20 **make a report in the manner required under section 3 of this 2013 Act.**

21 (2) **Notwithstanding subsection (1) of this section, a corrections officer is not required**
22 **to make a report under this section if the corrections officer acquires information relating**
23 **to abuse from a report made under this section, or from a proceeding arising out of a report**
24 **made under this section, and the corrections officer reasonably believes that the information**
25 **is already known by the Department of Corrections or the sheriff of the county, as applica-**
26 **ble.**

27 (3) **The duty to report under this section is personal to the corrections officer.**

28 (4) **A corrections officer who violates subsection (1) of this section commits a Class A**
29 **violation. Prosecution under this subsection may be commenced at any time within 18**
30 **months after commission of the offense.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) Failure to report as required under this section may be considered as a ground for
2 suspension or revocation of the certification of a corrections officer under ORS 181.662.

3 **SECTION 3.** (1) A corrections officer making a report of abuse as required under section
4 2 of this 2013 Act shall make an oral report, followed by a written report, to:

5 (a) The Attorney General; and

6 (b)(A) The Department of Corrections, if the abuse occurred in a state correctional fa-
7 cility; or

8 (B) The sheriff of the county, if the abuse occurred in a county correctional facility.

9 (2) A report made under this section shall contain, if known, the name of the inmate, the
10 name of the person who committed the abuse and the correctional facility in which the in-
11 mate is incarcerated.

12 **SECTION 4.** (1) When the Department of Corrections or a sheriff receives a report of
13 abuse under section 3 of this 2013 Act, the department or the sheriff shall immediately:

14 (a) Make arrangements within the correctional facility as necessary to prevent further
15 abuse of the inmate and similar abuse of other inmates in the correctional facility by the
16 person who committed the reported abuse or by any other person; and

17 (b) Cause an investigation to be made to determine the reliability of the report and, if
18 the report is determined to be reliable, the nature of the abuse of the inmate.

19 (2) If the person conducting the investigation finds reasonable cause to believe the abuse
20 occurred, the person shall make an oral report, followed by a written report, to the Attorney
21 General and to the department or the sheriff, as applicable.

22 (3)(a) As soon as practicable after the investigation required under this section is com-
23 pleted, the department or the sheriff shall notify the Attorney General of the results of the
24 investigation and of the steps taken to prevent future occurrences of the abuse.

25 (b) Identifying information about the corrections officer who made the report may not
26 be disclosed without the corrections officer's consent.

27 (c) A person to whom notification is made under this subsection may not release any
28 information contained in the notification.

29 (4)(a) If the Attorney General has not received notification under subsection (3) of this
30 section within 30 days after receiving a report under section 3 of this 2013 Act, the Attorney
31 General shall request information regarding the investigation from the department or the
32 sheriff and may conduct an independent investigation of the abuse alleged in the report.

33 (b) The department or the sheriff, as applicable, and the correctional facility in which the
34 abuse is alleged to have occurred shall cooperate with the Attorney General's investigation
35 under this subsection.

36 (5) Nothing in this section affects the ability of the Attorney General or the district at-
37 torney of the county, as applicable, to conduct a criminal investigation of the conduct alleged
38 in a report received by the department or the sheriff of the county, respectively.

39 **SECTION 5.** (1) The Attorney General shall:

40 (a) Designate at least one person to receive reports under section 3 of this 2013 Act and
41 notifications under section 4 (3) of this 2013 Act; and

42 (b) Distribute contact information for persons designated under this subsection to the
43 Department of Corrections and each county sheriff.

44 (2) The Department of Corrections shall:

45 (a) Designate at least one person working in each state correctional facility and at least

1 one person not working in a state correctional facility to receive reports under section 3 of
2 this 2013 Act; and

3 (b) Distribute contact information for persons designated under this subsection and
4 subsection (1) of this section to all state corrections officers.

5 (3) Each sheriff shall:

6 (a) Designate at least one person working in each correctional facility of the county and
7 at least one person not working in a county correctional facility to receive reports under
8 section 3 of this 2013 Act; and

9 (b) Distribute contact information for persons designated under this subsection and
10 subsection (1) of this section to all corrections officers of the county.

11 **SECTION 6.** (1) A corrections officer who makes a report of abuse as required under
12 section 2 of this 2013 Act in good faith and who has reasonable grounds for making the report
13 shall have immunity from any liability, civil or criminal, that might otherwise be incurred
14 or imposed with respect to making the report or the contents of the report.

15 (2) The corrections officer shall have the same immunity with respect to participating in
16 any judicial proceeding resulting from the report.

17 **SECTION 7.** This 2013 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
19 on its passage.
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