

SB 729 STAFF MEASURE SUMMARY

Carrier: Rep. McLane

House Committee On Judiciary

Action Date: 04/18/19

Action: Do Pass.

Vote: 11-0-0-0

Yeas: 11 - Barker, Bynum, Gorsek, Greenlick, Lewis, McLane, Piluso, Power, Sprenger, Stark, Williamson

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 4/18

WHAT THE MEASURE DOES:

Removes exclusion of residents of long term care nursing facility from definition of "elder" for purposes of Elderly Persons and Persons With Disabilities Abuse Prevention Act (EPDAPA), thereby including such persons within Act.

ISSUES DISCUSSED:

- Residents 65 years of age or older and residing in nursing facility cannot obtain elder abuse restraining order
- Individuals with disabilities residing in nursing facilities may use EPDAPA
- Elders residing in other categories of care facilities may use EPDAPA
- Other elder-abuse related causes of actions and legal remedies available
- Use of 65 years of age as trigger for additional protections or causes of action

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 1995, the Legislative Assembly enacted Oregon Revised Statutes 124.005 - 124.040, the Elderly Persons and Persons With Disabilities Abuse Prevention Act (EPDAPA). An EPDAPA is a type of restraining order that can be obtained by an elderly person, a person with a disability, or the guardian for a person, to prevent abuse. In order to obtain an EPDAPA, a person must show, by a preponderance of the evidence, that the person is in immediate and present danger of further abuse from the respondent and the abuse occurred within 180 days prior to filing the petition. An elderly person is defined as "any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665[,]" the abuse reporting statutes for residents of long term care nursing facilities.

Senate Bill 729 removes the reference to the abuse reporting for residents of long term care nursing facilities, thereby allowing that population access to use of the EPDAPA.