

# Senate Bill 783

Sponsored by Senator TAYLOR, Representative BONHAM

## 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**.

Modifies requirement to notify Attorney General of elder abuse proceeding, making failure to notify not jurisdictional defect. Conditions entry of judgment for plaintiff on proof of notice.

## A BILL FOR AN ACT

1 Relating to elder abuse proceedings; creating new provisions; and amending ORS 124.100.

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

3 **SECTION 1.** ORS 124.100 is amended to read:

4 124.100. (1) As used in ORS 124.100 to 124.140:

5 (a) "Elderly person" means a person 65 years of age or older.

6 (b) "Financially incapable" has the meaning given that term in ORS 125.005.

7 (c) "Incapacitated" has the meaning given that term in ORS 125.005.

8 (d) "Person with a disability" means a person with a physical or mental impairment that:

9 (A) Is likely to continue without substantial improvement for no fewer than 12 months or to  
10 result in death; and

11 (B) Prevents performance of substantially all the ordinary duties of occupations in which an  
12 individual not having the physical or mental impairment is capable of engaging, having due regard  
13 to the training, experience and circumstances of the person with the physical or mental impairment.

14 (e) "Vulnerable person" means:

15 (A) An elderly person;

16 (B) A financially incapable person;

17 (C) An incapacitated person; or

18 (D) A person with a disability who is susceptible to force, threat, duress, coercion, persuasion  
19 or physical or emotional injury because of the person's physical or mental impairment.

20 (2) A vulnerable person who suffers injury, damage or death by reason of physical abuse or fi-  
21 nancial abuse may bring an action against any person who has caused the physical or financial  
22 abuse or who has permitted another person to engage in physical or financial abuse. The court shall  
23 award the following to a plaintiff who prevails in an action under this section:

24 (a) An amount equal to three times all economic damages, as defined in ORS 31.710, resulting  
25 from the physical or financial abuse, or \$500, whichever amount is greater.

26 (b) An amount equal to three times all noneconomic damages, as defined by ORS 31.710, result-  
27 ing from the physical or financial abuse.

28 (c) Reasonable attorney fees incurred by the plaintiff.

29 (d) Reasonable fees for the services of a conservator or guardian ad litem incurred by reason  
30 of the litigation of a claim brought under this section.  
31

**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 (3) An action may be brought under this section only by:

2 (a) A vulnerable person;

3 (b) A guardian, conservator or attorney-in-fact for a vulnerable person;

4 (c) A personal representative for the estate of a decedent who was a vulnerable person at the  
5 time the cause of action arose; or

6 (d) A trustee for a trust on behalf of the trustor or the spouse of the trustor who is a vulnerable  
7 person.

8 (4) An action may be brought under this section only for physical abuse described in ORS  
9 124.105 or for financial abuse described in ORS 124.110.

10 (5) An action may be brought under this section against a person for permitting another person  
11 to engage in physical or financial abuse if the person knowingly acts or fails to act under circum-  
12 stances in which a reasonable person should have known of the physical or financial abuse.

13 (6) A person commencing an action under this section [*must serve*] **shall mail** a copy of the  
14 complaint [*on*] **or other initial pleading to** the Attorney General [*within 30 days after the action is*  
15 *commenced*] **at the time the action commences. Failure to mail a copy of the complaint or**  
16 **pleading is not a jurisdictional defect, but a court may not enter judgment for the plaintiff**  
17 **until proof of mailing is filed with the court. Proof of mailing may be by declaration or by**  
18 **return receipt of mailing.**

19 **SECTION 2. The amendments to ORS 124.100 by section 1 of this 2019 Act apply to**  
20 **actions under ORS 124.100 commenced on or after the effective date of this 2019 Act.**

21 \_\_\_\_\_