

Enrolled
House Bill 2291

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Oregon State Bar Elder Law Section)

CHAPTER

AN ACT

Relating to civil actions by trustees for abuse of persons; creating new provisions; and amending ORS 124.100.

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

SECTION 1. ORS 124.100 is amended to read:

124.100. (1) An elderly or incapacitated person who suffers injury, damage or death by reason of physical abuse or financial abuse may bring an action against any person who has caused the physical or financial abuse or who has permitted another person to engage in physical or financial abuse. The court shall award the following to a plaintiff who prevails in an action under this section:

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

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

(c) Reasonable attorney fees incurred by the plaintiff.

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

(2) An action may be brought under the provisions of this section only by:

(a) A person who is 65 or more years of age[,];

(b) [by] An incapacitated person[,];

(c) [by] A guardian, conservator or attorney-in-fact for a person who is incapacitated or 65 or more years of age;

(d) [or by] A personal representative for the estate of a decedent who was incapacitated or 65 or more years of age at the time the cause of action arose; **or**

(e) **A trustee for a trust on behalf of the trustor or the spouse of the trustor who is incapacitated or 65 or more years of age.**

(3) A person [shall be] **is** considered incapacitated for the purposes of ORS 124.100 to 124.140 if the person is either incapacitated as defined in ORS 125.005 or financially incapable as defined in ORS 125.005.

[(3)] (4) An action may [only] be brought under the provisions of this section **only** for physical abuse described in ORS 124.105 or for financial abuse described in ORS 124.110.

[(4)] (5) An action may be brought under this section against a person for permitting another person to engage in physical or financial abuse if the person knowingly acts or fails to act under circumstances in which a reasonable person should have known of the physical or financial abuse.

[(5)] (6) A person commencing an action under this section must serve a copy of the complaint on the Attorney General within 30 days after the action is commenced.

SECTION 2. The amendments to ORS 124.100 by section 1 of this 2005 Act apply to actions for injury, damage or death occurring before, on or after the effective date of this 2005 Act.

Passed by House February 16, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate May 6, 2005

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President of Senate

Received by Governor:

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Approved:

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State