

# House Bill 2351

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Representative Gary Hansen for Gabrielle Ferrara)

## 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**.

Permits certain public or private officials to report abuse of hospital patients.

## A BILL FOR AN ACT

1  
2 Relating to reporting of abuse of hospital patients.

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

4 **SECTION 1. As used in sections 1 to 6 of this 2005 Act:**

5 (1) **"Abuse" means sexual contact with a hospital patient caused by an employee, an**  
6 **agent or a person who is also a patient of the hospital by force, threat, duress or coercion**  
7 **or when the hospital patient is mentally incapacitated or physically helpless.**

8 (2) **"Hospital" has the meaning given that term in ORS 442.015.**

9 (3) **"Law enforcement agency" has the meaning given that term in ORS 441.630.**

10 (4) **"Public or private official" means:**

11 (a) **A physician, a naturopathic physician, an osteopathic physician, a chiropractor or a**  
12 **podiatric physician and surgeon, including any intern or resident.**

13 (b) **A licensed practical nurse, a registered nurse or a nurse's aide.**

14 (c) **An employee of the Department of Human Services, a county health department or**  
15 **a hospital or a person who contracts to provide services to a hospital.**

16 **SECTION 2. Any public or private official having reasonable cause to believe that a hos-**  
17 **pital patient with whom the official comes in contact while acting in an official capacity has**  
18 **suffered abuse or that a person with whom the official comes in contact has abused a patient**  
19 **in a hospital may report or cause a report to be made in the manner described in section 3**  
20 **of this 2005 Act if the patient authorizes the disclosure of the information.**

21 **SECTION 3. (1) If a public or private official reports or causes a report to be made under**  
22 **section 2 of this 2005 Act, the report shall be made by telephone or otherwise to the local**  
23 **office of the Department of Human Services or to a law enforcement agency within the**  
24 **county where the person making the report is located at the time the report is made. The**  
25 **report shall include, if the information is known:**

26 (a) **The name, age and present location of the alleged abused patient;**

27 (b) **The nature and extent of the alleged abuse, and any evidence of previous abuse;**

28 (c) **Any information that leads the person making the report to suspect that abuse has**  
29 **occurred, and any other information that the person making the report believes may be**  
30 **helpful in establishing the cause of the abuse and the identity of the perpetrator; and**

31 (d) **The date of the incident.**

**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 (2) When the department receives a report, if there is reason to believe that a crime has  
 2 been committed, the department shall notify the law enforcement agency having jurisdiction  
 3 at the location of the alleged abuse. When a law enforcement agency that does not have ju-  
 4 risdiction receives a report, the agency shall immediately notify the law enforcement agency  
 5 that has jurisdiction. The receiving law enforcement agency shall also immediately notify the  
 6 local office of the department in the county where the report was made.

7 (3) The department shall maintain a record of all reports of abuse made under this sec-  
 8 tion.

9 **SECTION 4.** (1) Upon receipt of a report made under section 2 of this 2005 Act, the De-  
 10 partment of Human Services or the law enforcement agency shall investigate promptly to  
 11 determine the nature and cause of the abuse.

12 (2) If the department determines that a law enforcement agency is conducting an inves-  
 13 tigation of the same incident, the department need not conduct its own investigation.

14 (3) The department or law enforcement agency may enter a hospital and inspect and copy  
 15 records of the hospital if necessary to complete its investigation.

16 (4) In carrying out its duties under subsection (1) of this section, the department or law  
 17 enforcement agency may photograph or cause to have photographed any patient whose abuse  
 18 is the subject of the investigation for purposes of preserving evidence of the condition of the  
 19 patient at the time of the investigation if the patient consents to be photographed.

20 (5) Upon completion of an investigation conducted by a law enforcement agency, the  
 21 agency shall provide the department with a report of its findings and supporting evidence.

22 (6) If the department determines that there is reasonable cause to believe that the abuse  
 23 occurred at a hospital or that a person licensed by a licensing agency to provide care or  
 24 services caused or aided in the abuse, the department shall immediately notify each appro-  
 25 priate licensing agency and provide the licensing agency with a copy of the investigative  
 26 findings.

27 (7) Upon completion of the investigation, the department shall prepare written findings  
 28 that include recommended actions and a determination of whether protective services are  
 29 needed.

30 **SECTION 5.** (1) A person participating in good faith in making a report of abuse under  
 31 section 2 of this 2005 Act who has reasonable grounds for making the report is immune from  
 32 any civil liability that may otherwise be incurred or imposed with respect to the making or  
 33 content of the report. The person has the same immunity with respect to participating in  
 34 any judicial proceeding resulting from the report.

35 (2) A hospital or a person who contracts to provide services to a hospital may not retal-  
 36 iate against any person who in good faith reports suspected abuse.

37 (3) The identity of the person making the report is confidential and may be disclosed only  
 38 with the consent of that person, by judicial order or as otherwise permitted under section 6  
 39 of this 2005 Act.

40 **SECTION 6.** (1) Except as provided in subsection (2) of this section and notwithstanding  
 41 ORS 192.410 to 192.505, materials compiled under sections 3 and 4 of this 2005 Act, including  
 42 photographs taken under the authority of section 4 (4) of this 2005 Act, and the names of  
 43 persons who made reports of alleged abuse, affected adults and witnesses of alleged abuse,  
 44 are confidential and exempt from disclosure.

45 (2) The Department of Human Services shall make information described in subsection

1 (1) of this section and any investigative report prepared under section 4 of this 2005 Act  
2 available to any law enforcement agency, to any public or private agency that licenses or  
3 certifies hospitals or licenses or certifies the persons practicing in hospitals and to any public  
4 agency providing protective services for the adult, if appropriate. When information de-  
5 scribed in subsection (1) of this section and an investigative report prepared under section  
6 4 of this 2005 Act are made available to a private agency, the confidentiality requirements  
7 of subsection (1) of this section apply to the private agency.

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