



AGENDA

**MOLALLA CITY COUNCIL MEETING
February 9, 2022
7:00 PM
Molalla Civic Center
315 Kennel Ave, Molalla, OR 97038**

Mayor Scott Keyser

*Council President Leota Childress
Councilor Elizabeth Klein
Councilor Terry Shankle*

*Councilor Jody Newland
Councilor Crystal Robles
Councilor Eric Vermillion*

WORK SESSION begins at 6:00pm: Open to the Public, but not open to Public Comment or Testimony

REGULAR COUNCIL MEETING begins at 7:00pm: Open to the Public and open to Public Comment or Testimony. Please fill out a comment card and submit it to the City Recorder, prior to the beginning of the meeting.

EXECUTIVE SESSION begins immediately following Recess of the Regular Meeting: Not open to Public, according to ORS 192.660(2): e

*In accordance with House Bill 2560, the City of Molalla adheres to the following practices:
Live-streaming of the Molalla City Council Meetings are available on Facebook at “Molalla City Council Meetings – LIVE” and “Molalla City Council Meetings” on YouTube.
Citizens can submit Public Comment in the following ways: attend the meeting, email the City Recorder at recorder@cityofmolalla.com by 4:00pm on the day of the meeting, or drop it off at City Hall, 117 N. Molalla Avenue.*

- 1. CALL TO ORDER AND FLAG SALUTE**
- 2. ROLL CALL**
- 3. CONSENT AGENDA**
 - A. Meeting Minutes – January 26, 2022.....Pg. 3
- 4. PRESENTATIONS, PROCLAMATIONS, CEREMONIES**
- 5. PUBLIC COMMENT & WRITTEN COMMUNICATIONS**

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)
- 6. PUBLIC HEARINGS**
- 7. ORDINANCES AND RESOLUTIONS**
- 8. GENERAL BUSINESS**
 - A. House Bill 3071: Elected Officials as Mandatory Reporters (Teets).....Pg. 5
 - B. Goal Setting Conference Recap
- 9. STAFF COMMUNICATION**
- 10. COUNCIL COMMUNICATION**

11. RECESS INTO EXECUTIVE SESSION

Held pursuant to Oregon Public Record Law, ORS 192.660(2):

(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

12. RECONVENE REGULAR SESSION

13. ADJOURN



Minutes of the Molalla City Council Meeting

Molalla Civic Center
315 Kennel Ave., Molalla, OR 97038
January 26, 2022

CALL TO ORDER

The Molalla City Council Meeting of January 26, 2022 was called to order by Mayor Scott Keyser at 7:00pm.

COUNCIL ATTENDANCE

Present: Mayor Scott Keyser, Councilor Leota Childress, Councilor Elizabeth Klein, Council President Jody Newland, Councilor Crystal Robles, and Councilor Eric Vermillion.

Absent: Councilor Terry Shankle.

STAFF IN ATTENDANCE

Dan Huff, City Manager; Christie Teets, City Recorder, Mac Corthell, Community Development Director; Andy Peters, Public Works Division Manager.

An addition to the Agenda was requested by City Recorder Teets. Citizens were invited to the meeting as Parks CPC applicants, and the item was not listed on the Agenda at the time of posting.

Mayor Keyser made a motion to add the Parks CPC Appointment under Presentations as Item 4, Council President Newland approved. Vote passed 6-0, with all Councilors voting Aye.

CONSENT AGENDA

- A. Meeting Minutes – January 12, 2022
- B. Budget Committee Member Glen Boreth – Re-appointment
- C. Franchise Agreement Notification: WaveDivision VII, LLC – New Name
- D. Contract Award: Project 21-10 Civic Center Renovation

A motion was made by Councilor Childress to approve the Consent Agenda, seconded by Councilor Robles. Vote passed 6-0, with all Councilors voting Aye.

PRESENTATIONS, PROCLAMATIONS, CEREMONIES

- A. Parks CPC Appointment

Citizens Rae Botsford and Betty White submitted applications to the Parks CPC during its creation. Parks CPC member LyndaAnn Kransberger recently resigned, providing a vacancy.

Councilor Robles made a motion to appoint Rae Bostford to the Parks CPC, seconded by Council President Newland. Vote passed 6-0, with all Councilors voting Aye.

PUBLIC COMMENT

None.

PUBLIC HEARINGS

None.

ORDINANCES AND RESOLUTIONS

- A. Ordinance No. 2022-01: Annexing Tax Lots 52E08C 03500, 52E08C 03600, AND 52E08C 03700; A 16.50 Acre Territory, and Assigning an M-2 (Heavy Industrial) City Zoning Designation to the Annexed Territory

The Public Hearing and First Reading of this Ordinance took place at the January 12, 2022 meeting. The vote was 6-1. As it did not pass unanimously, the Second Reading and adoption was held this evening.

A motion was made by Council President Newland to hold the Second Reading and adoption of Ordinance No. 2022-01 by title only, seconded by Councilor Robles. Vote passed 5-1.

Councilors voting Aye: Mayor Keyser, Councilor Klein, Councilor Childress, Councilor Robles, Councilor Vermillion.

Councilors voting Nay: Council President Newland.

GENERAL BUSINESS

A. I-205 Tolling (Keyser)

Mayor Keyser requested that Council members direct City staff to bring a representative of ODOT to give a presentation and explanation about the I-205 tolling project that is being promoted in Clackamas County. Councilor Klein stated that the project is being put on hold indefinitely, therefore it may be better to wait until it resurfaces. City Manager Huff agreed that the project is in a state of constant change. He stated that it would be a good idea to let details settle a bit before inviting someone to give a presentation.

B. Goal Setting Conference (Huff)

City Manager Huff reminded Council that the annual Goal Setting Conference was coming up on Saturday. He explained that the Molalla Area Vision and Action Plan 2030, with the five focus areas, will be the main topic.

STAFF COMMUNICATION

- Community Development Director Corthell shared the Public Works staff report with Council. He also shared that the WWTP Lead Operator position has been filled. The new employee will begin on February 7, 2022. We are very fortunate to have him, as this position is currently one of the most difficult to fill.
- City Recorder Teets asked Councilors to bring their Council Handbook to the Goal Setting Conference on Saturday.
- City Manager Huff was happy to share with Council that we are close to being fully staffed. There is one remaining open position in the Police Department for an Officer. Mr. Huff is proud to have a full staff, since many surrounding cities are struggling to retain employees or have them return to work.

COUNCIL COMMUNICATION

- Councilor Vermillion reported that the recent MRSD meeting was postponed. The next may be held via Zoom.
- Councilor Robles stated that Share the Love events are in full swing. She encouraged the community to get involved in the variety of activities planned.
- Councilor Childress attended a meeting recently regarding establishing a Veteran's Support Group, as there is a need in our area. Details to follow.
- Councilor Klein reported that the Beautification & Culture CPC met recently. The main topic is a community wide "Call to Artist" program coming soon.
- Council President Newland announced that a Parks CPC meeting will be held the week of January 31st. Continuing work on Chief Yelkus Park and Strawberry Park are the main topics.
- Mayor Keyser requested that Councilors provide him with a schedule of CPC meeting dates and time.

[For the complete video account of the City Council Meeting, please go to YouTube
"Molalla City Council Meetings – January 26, 2022"](#)

ADJOURN

Mayor Keyser adjourned the meeting at TIME.

Scott Keyser, Mayor

Date

ATTEST:

Christie Teets, City Recorder

City of Molalla

City Council Meeting



Agenda Category: General Discussion

Subject: House Bill 3071 – Elected Officials as Mandatory Reports

Recommendation: N/A

Date of Meeting to be Presented: February 9, 2022

Fiscal Impact: N/A

Background:

House Bill 3071 was passed in April 2021, going into effect January 2022.

Included in your packet is the League of Oregon Cities, Oregon Municipal Handbook, “Chapter 30: Abuse Reporting” and a copy of House Bill 3071.

It is the responsibility of each Council member to review these documents.

SUBMITTED BY: Christie Teets, City Recorder
APPROVED BY: Dan Huff, City Manager



Administration – City Recorder’s Office
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Phone: (503) 759-0285 Fax: (503) 829-3676
cityrecorder@cityofmolalla.com

February 9, 2022

Elected Officials of Molalla City Council
117 N. Molalla Avenue
Molalla, OR 97038

RE: House Bill 3071
Elected Officials as Mandatory Reporters

Dear Council Member,

In April 2021, House Bill 3071 passed requiring Elected Officials to become Mandatory Reporters.

Attached you will find the League of Oregon Cities, Oregon Municipal Handbook, “Chapter 30: Abuse Reporting” and a copy of House Bill 3071 in its entirety.

It is the responsibility of each elected official to read these documents and comply accordingly.

Please sign below in acknowledgment that this document was provided to you by City Manager, Dan Huff and City Recorder, Christie Teets. Thank you.

Printed Name

Signature

cc: Elected Official File

Oregon Municipal Handbook

CHAPTER 30: ABUSE REPORTING



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Chapter 30: Abuse Reporting

Introduction

In Oregon, there are statewide mandatory abuse reporting laws that address when an individual is required by law to report suspected or known cases of child or elder abuse. This chapter will provide a brief overview of a city official’s potential responsibilities relating to mandatory abuse reporting.

Disclaimer: These materials are not intended to substitute for obtaining legal advice from a competent attorney. Rather, these materials are intended to provide general information regarding mandatory abuse reporting requirements and provide city officials with general knowledge of when they may have a duty to report abuse.

Child Abuse Reporting

Child abuse is defined to include:

- Any assault of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury;
- Any mental injury to a child;
- Rape of a child;
- Sexual abuse;
- Sexual exploitation;
- Negligent treatment or maltreatment of a child;
- Threatened harm;
- Buying or selling a person under 18 years of age;
- Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured; and
- Unlawful exposure to a controlled substance or unlawful manufacturing of a cannabinoid extract that subjects a child to substantial risk of harm to the child’s health or safety.¹

DHS Abuse Hotline:

Reports of abuse or neglect of any child or adult may be made to the Oregon Department of Human Services by calling:
1-855-503-SAFE (7233).

A child is defined as an unmarried person under the age of 18, or under the age of 21 and residing in or receiving care or services at a child-caring agency.² The mandatory child abuse reporting law creates a duty that requires mandatory reporters to report suspected or known cases of child abuse to the appropriate officials.

¹ ORS 419B.005(1).

² ORS 419B.005(2).

Who has a duty to report?

ORS 419B.005 specifically lists individuals who are considered a mandatory reporter. The list of mandatory reporters includes medical doctors, attorneys, licensed professional counselors, firefighters, EMTs, law enforcement officers, and social workers. Furthermore, the list of mandatory reporters includes all employees of a public organization that provides “child-related services or activities” – such as youth groups or centers, and summer or day camps.³ As such, if the city offers one of these child-related services or activities, it is possible that all employees of the city – regardless of the employee’s involvement with the specific child-related service or activity are mandatory child abuse reporters.

What does the mandatory reporting duty require?

Any mandatory child abuse reporter having reasonable cause to believe that any child with whom the official comes in contact with must immediately report or cause a report to be made in the manner required in ORS 419B.015.⁴ The reporting requirement may be accomplished orally by telephone or otherwise to a local Oregon Department of Human Services (DHS) office, a DHS representative or to a law enforcement agency within the county in which the person making the report is located at the time of contact.

The DHS provides information and training for mandatory child abuse reporters. Further information on Oregon’s child abuse reporting requirements may be accessible at:

https://www.oregon.gov/dhs/ABUSE/Pages/mandatory_report.aspx.

Elder Abuse Reporting

Elder abuse is abuse of an elderly person which includes:

- Any non-accidental physical injury or injury which appears to be at variance from the explanation given of the injury;
- Neglect;
- Abandonment;
- Willful infliction of physical pain or injury;
- Verbal abuse;
- Financial exploitation;
- Sexual abuse;
- Involuntary seclusion for the convenience of a caregiver or to discipline the elderly person; and
- A wrongful use of physical or chemical restraint.⁵

³ ORS 419B.005.

⁴ ORS 419B.010.

⁵ ORS 124.050(1).

An elderly person is defined to include any person 65 years of age or older.⁶

Who has a duty to report?

For the purposes of elder abuse, the list of mandatory reporters is similar to the list of mandatory reporters for child abuse purposes. For example, the list of mandatory elder abuse reporters includes medical professionals and first responders.⁷ However, the list of mandatory reporters does not include employees of a public organization that provides “child-related services or activities.” This means that unlike mandatory child abuse reporting, employees of cities with certain child-related programs may not be considered mandatory elder abuse reporters by virtue of the city having such child-related programs. A complete list of mandatory elder abuse reporters may be found under ORS 124.050(9).⁸

What does the mandatory reporting duty require?

Similar to child abuse reporting, mandatory elder abuse reporters must immediately report instances of alleged or known elder abuse to the DHS, a local DHS office, or a local law enforcement agency.⁹

The DHS provides further information, guidance and training relating to elder abuse on its website accessible at: <https://www.oregon.gov/dhs/SENIORS-DISABILITIES/ADULT-ABUSE/Pages/index.aspx>.

Failure to Report

A mandatory reporter making a good faith report of child or elder abuse receives immunity from criminal or civil liability.¹⁰ Failure of a mandatory reporter to report of suspected or know case of abuse or cause a report to be made as required is a Class A violation which carries a maximum penalty of \$6,250 in fines and 364 days of imprisonment.¹¹

For additional information and resources related to mandatory reporting requirements and child and elder abuse, please visit the DHS’s website at: <https://www.oregon.gov/dhs/Pages/index.aspx>.

⁶ ORS 124.050(2).

⁷ ORS 124.050(9).

⁸ A list of mandatory elder abuse reporters listed under ORS 124.050(9) is attached as Appendix B.

⁹ OAR 411-020-0020.

¹⁰ ORS 124.075; ORS 419B.025.

¹¹ ORS 124.990; ORS 419B.010(5).

Appendix A

List of Mandatory Reporters: Child Abuse¹²

- Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
- Dentist.
- School employee, including an employee of a higher education institution.
- Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in [ORS 418.205](#) or an alcohol and drug treatment program.
- Peace officer.
- Psychologist.
- Member of the clergy.
- Regulated social worker.
- Optometrist.
- Chiropractor.
- Certified provider of foster care, or an employee thereof.
- Attorney.
- Licensed professional counselor.
- Licensed marriage and family therapist.
- Firefighter or emergency medical services provider.
- A court appointed special advocate, as defined in [ORS 419A.004](#).
- A child care provider registered or certified under [ORS 329A.030](#) and [329A.250](#) to [329A.450](#).
- Member of the Legislative Assembly.
- Physical, speech or occupational therapist.
- Audiologist.
- Speech-language pathologist.

¹² ORS 419B.005(6).

- Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- Pharmacist.
- An operator of a preschool recorded program under [ORS 329A.255](#).
- An operator of a school-age recorded program under [ORS 329A.257](#).
- Employee of a private agency or organization facilitating the provision of respite services, as defined in [ORS 418.205](#), for parents pursuant to a properly executed power of attorney under [ORS 109.056](#).
- Employee of a public or private organization providing child-related services or activities:
 - Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
 - Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
- Personal support worker, as defined in [ORS 410.600](#).
- Home care worker, as defined in [ORS 410.600](#).
- Animal control officer, as defined in [ORS 609.500](#).
- Member of a school district board or public charter school governing body.
- An individual who is paid by a public body, in accordance with [ORS 430.215](#), to provide a service identified in an individualized written service plan of a child with a developmental disability.

Appendix B:

List of Mandatory Reporters: Elder Abuse¹³

- Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or chiropractor, including any intern or resident.
- Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- Employee of the Department of Human Services or community developmental disabilities program.
- Employee of the Oregon Health Authority, local health department or community mental health program.
- Peace officer.
- Member of the clergy.
- Regulated social worker.
- Physical, speech or occupational therapist.
- Senior center employee.
- Information and referral or outreach worker.
- Licensed professional counselor or licensed marriage and family therapist.
- Member of the Legislative Assembly.
- Firefighter or emergency medical services provider.
- Psychologist.
- Provider of adult foster care or an employee of the provider.
- Audiologist.
- Speech-language pathologist.
- Attorney.
- Dentist.
- Optometrist.
- Chiropractor.
- Personal support worker, as defined in [ORS 410.600](#).
- Home care worker, as defined in [ORS 410.600](#).
- Referral agent, as defined in [ORS 443.370](#).

¹³ ORS 124.050(9).

Enrolled House Bill 3071

Sponsored by Representative LEWIS; Representatives LEIF, MOORE-GREEN, MORGAN, NERON,
Senator RILEY

CHAPTER

AN ACT

Relating to mandatory abuse reporters; amending ORS 124.050, 419B.005, 430.735 and 441.630.

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

SECTION 1. ORS 124.050 is amended to read:

124.050. As used in ORS 124.050 to 124.095:

(1) "Abuse" means one or more of the following:

(a) Any physical injury to an elderly person caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.

(c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury upon an elderly person.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(f) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline the person.

(j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(2) "Elderly person" means any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665.

(3) "Facility" means:

(a) A long term care facility as that term is defined in ORS 442.015.

(b) A residential facility as that term is defined in ORS 443.400, including but not limited to an assisted living facility.

(c) An adult foster home as that term is defined in ORS 443.705.

(4) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an elderly person or a person with a disability.

(b) Alarming an elderly person or a person with a disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an elderly person or a person with a disability.

(d) Failing to use the income or assets of an elderly person or a person with a disability effectively for the support and maintenance of the person.

(5) "Intimidation" means compelling or deterring conduct by threat.

(6) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) Any district attorney.

(e) A police department established by a university under ORS 352.121 or 353.125.

(7) "Neglect" means failure to provide basic care or services that are necessary to maintain the health or safety of an elderly person.

(8) "Person with a disability" means a person described in:

(a) ORS 410.040 (7); or

(b) ORS 410.715.

(9) "Public or private official" means:

(a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or chiropractor, including any intern or resident.

(b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(c) Employee of the Department of Human Services or community developmental disabilities program.

(d) Employee of the Oregon Health Authority, local health department or community mental health program.

(e) Peace officer.

(f) Member of the clergy.

(g) Regulated social worker.

(h) Physical, speech or occupational therapist.

(i) Senior center employee.

(j) Information and referral or outreach worker.

(k) Licensed professional counselor or licensed marriage and family therapist.

(L) *[Member of the Legislative Assembly.]* **Elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.**

(m) Firefighter or emergency medical services provider.

(n) Psychologist.

(o) Provider of adult foster care or an employee of the provider.

(p) Audiologist.

(q) Speech-language pathologist.

(r) Attorney.

(s) Dentist.

(t) Optometrist.

(u) Chiropractor.

(v) Personal support worker, as defined in ORS 410.600.

(w) Home care worker, as defined in ORS 410.600.

(x) Referral agent, as defined in ORS 443.370.

(10) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person.

(11)(a) "Sexual abuse" means:

(A) Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315;

(B) Verbal or physical harassment of a sexual nature, including but not limited to severe or pervasive exposure to sexually explicit material or language;

(C) Sexual exploitation;

(D) Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) "Sexual abuse" does not mean consensual sexual contact between an elderly person and:

(A) An employee of a facility who is also the spouse of the elderly person; or

(B) A paid caregiver.

(12) "Sexual contact" has the meaning given that term in ORS 163.305.

(13) "Verbal abuse" means to threaten significant physical or emotional harm to an elderly person or a person with a disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 2. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) "Higher education institution" means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.

(b) "Investigation" does not include screening activities conducted upon the receipt of a report.

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.121 or 353.125.

(e) A county juvenile department.

(6) "Public or private official" means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.

(c) School employee, including an employee of a higher education institution.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

(s) [*Member of the Legislative Assembly.*] **An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.**

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 329A.255.

(z) An operator of a school-age recorded program under ORS 329A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) Employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and

(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined in ORS 410.600.

(ee) Home care worker, as defined in ORS 410.600.

(ff) Animal control officer, as defined in ORS 609.500.

(gg) Member of a school district board or public charter school governing body.

(hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.

SECTION 3. ORS 430.735 is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse.

(e) Neglect.

(f) Verbal abuse of an adult.

(g) Financial exploitation of an adult.

(h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the adult.

(i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

- (2) "Adult" means a person 18 years of age or older:
- (a) With a developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;
 - (b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or
 - (c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.
- (3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult's person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.
- (4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.
- (5) "Community program" includes:
- (a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or
 - (b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.
- (6) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.
- (7) "Financial exploitation" means:
- (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.
 - (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.
 - (c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.
 - (d) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult.
- (8) "Intimidation" means compelling or deterring conduct by threat.
- (9) "Law enforcement agency" means:
- (a) Any city or municipal police department;
 - (b) A police department established by a university under ORS 352.121 or 353.125;
 - (c) Any county sheriff's office;
 - (d) The Oregon State Police; or
 - (e) Any district attorney.
- (10) "Neglect" means:
- (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of an adult that may result in physical harm or significant emotional harm to the adult;
 - (b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or
 - (c) Withholding of services necessary to maintain the health and well-being of an adult that leads to physical harm of the adult.
- (11) "Public or private official" means:
- (a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;
 - (b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services or Oregon Health Authority, local health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Regulated social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Any public official;

(L) Firefighter or emergency medical services provider;

(m) *[Member of the Legislative Assembly;]* **Elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state;**

(n) Personal support worker, as defined in ORS 410.600;

(o) Home care worker, as defined in ORS 410.600; or

(p) An individual paid by the Department of Human Services to provide a service identified in an individualized written service plan of an adult with a developmental disability.

(12) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between an adult and a relative of the adult other than a spouse;

(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

(F) Any sexual contact between an individual receiving mental health or substance abuse treatment and the individual providing the mental health or substance abuse treatment.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(14) "Sexual contact" has the meaning given that term in ORS 163.305.

(15) "Verbal abuse" means to threaten significant physical or emotional harm to an adult through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 4. ORS 441.630 is amended to read:

441.630. As used in ORS 441.630 to 441.680:

(1) "Abuse" means:

(a) Any physical injury to a resident of a long term care facility which has been caused by other than accidental means.

(b) Failure to provide basic care or services, which failure results in physical harm or unreasonable discomfort or serious loss of human dignity.

(c) Sexual contact with a resident caused by an employee, agent or other resident of a long term care facility by force, threat, duress or coercion.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another person.

- (e) Verbal or mental abuse as prohibited by federal law.
 - (f) Corporal punishment.
 - (g) Involuntary seclusion for convenience or discipline.
 - (2) "Abuse complaint" means any oral or written communication to the department, one of its agents or a law enforcement agency alleging abuse.
 - (3) "Department" means the Department of Human Services or a designee of the department.
 - (4) "Facility" means a long term care facility, as defined in ORS 442.015.
 - (5) "Law enforcement agency" means:
 - (a) Any city or municipal police department.
 - (b) A police department established by a university under ORS 352.121 or 353.125.
 - (c) Any county sheriff's office.
 - (d) The Oregon State Police.
 - (e) Any district attorney.
 - (6) "Public or private official" means:
 - (a) Physician, including any intern or resident.
 - (b) Licensed practical nurse or registered nurse.
 - (c) Employee of the Department of Human Services, a community developmental disabilities program or a long term care facility or person who contracts to provide services to a long term care facility.
 - (d) Employee of the Oregon Health Authority, local health department or community mental health program.
 - (e) Peace officer.
 - (f) Member of the clergy.
 - (g) Regulated social worker.
 - (h) Physical, speech and occupational therapists.
 - (i) Legal counsel for a resident or guardian or family member of the resident.
 - (j) *[Member of the Legislative Assembly.]* **Elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.**
 - (k) Personal support worker, as defined in ORS 410.600.
 - (L) Home care worker, as defined in ORS 410.600.
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Passed by House April 10, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 28, 2021

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Peter Courtney, President of Senate

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Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

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Shemia Fagan, Secretary of State