

A-Engrossed Senate Bill 572

Ordered by the Senate June 17
Including Senate Amendments dated June 17

Sponsored by Senator METSGER, Representative OLSON; Senators FERRIOLI, MONNES ANDERSON, B STARR, WALKER, Representatives BARKER, BERGER, BROWN, ESQUIVEL, GARRARD, KITTS

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.

Establishes protections for nursing staff members who experience workplace violence.

A BILL FOR AN ACT

1
2 Relating to workplace violence against nursing staff members.

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

4 **SECTION 1. As used in sections 1 to 8 of this 2005 Act:**

5 (1) **"Ambulatory surgical center" has the meaning given that term in ORS 442.015.**

6 (2) **"Assault" means attempting to cause or intentionally, knowingly or recklessly causing**
7 **physical injury.**

8 (3) **"Direct patient care" means any care provided directly to or for a patient that is re-**
9 **lated to the physical, mental or medical well-being of the patient.**

10 (4) **"Home health agency" has the meaning given that term in ORS 443.005.**

11 (5) **"Home health care services" means items or services furnished to a patient by a**
12 **nursing staff member in a place of temporary or permanent residence used as the patient's**
13 **home.**

14 (6) **"Hospital" has the meaning given that term in ORS 442.015.**

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

16 (8) **"Nursing staff employer" means:**

17 (a) **An ambulatory surgical center;**

18 (b) **A hospital;**

19 (c) **A home health agency that is associated with a hospital or that has a contract with**
20 **a county health department; or**

21 (d) **A public entity that provides public health nursing services or a private entity that**
22 **contracts with a public entity to provide public health nursing services.**

23 (9) **"Nursing staff member" means a registered nurse, a licensed practical nurse, a**
24 **nursing assistant or any other assistive nursing personnel providing direct patient care.**

25 (10) **"Peace officer" has the meaning given that term in ORS 161.015.**

26 (11) **"Retaliatory action" has the meaning given that term in ORS 441.172.**

27 **SECTION 2. (1) A nursing staff member having reasonable cause to believe that a hos-**
28 **pital patient or home health care services patient with whom the nursing staff member**

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 comes into contact has assaulted a nursing staff member in a hospital or in the home of a
2 home health care services patient may report the assault, or cause a report to be made:

3 (a) By telephone or otherwise to a law enforcement agency within the county where the
4 person making the report is located at the time the report is made; or

5 (b) To the nursing staff employer if the nursing staff member has reasonable cause to
6 believe that the mental condition of the patient at the time of the assault limited the ability
7 of the patient to understand the patient's actions.

8 (2) The report shall include, if the information is known:

9 (a) The name, age and present location of the alleged assaulted nursing staff member;

10 (b) The nature and extent of the alleged assault, and any evidence of previous assaults;
11 and

12 (c) The date of the incident.

13 (3) If a report is made to a law enforcement agency under subsection (1) of this section,
14 the peace officer responding to the report shall file a report regarding the assault and ensure
15 that the report is entered into the Oregon Uniform Crime Reporting Program.

16 (4) A person participating in good faith in making a report of an assault under subsection
17 (1) of this section who has reasonable grounds for making the report is immune from any
18 civil liability that may otherwise be incurred or imposed with respect to the making or the
19 content of the report. The person has the same immunity with respect to participating in
20 any judicial proceeding resulting from the report.

21 (5) A nursing staff employer may not take retaliatory action against any person who in
22 good faith reports suspected assaults.

23 (6) The identity of the person making the report is confidential and may be disclosed only
24 with the consent of that person or by judicial order.

25 **SECTION 3.** By April 1 of each year, a nursing staff employer shall publish and make
26 available to the public a report containing the following information for the previous calendar
27 year:

28 (1) The number of reports made under:

29 (a) Section 2 (1)(a) of this 2005 Act and entered in the Oregon Uniform Crime Reporting
30 Program; and

31 (b) Section 2 (1)(b) of this 2005 Act;

32 (2) A general description of each reported incident, including but not limited to the na-
33 ture and extent of each reported incident; and

34 (3) The actions taken by the nursing staff employer in response to the report.

35 **SECTION 4.** A nursing staff employer required to publish a report under section 3 of this
36 2005 Act shall publish its first report by April 1, 2007.

37 **SECTION 5.** A nursing staff employer shall develop and implement a written violence
38 prevention program for nursing staff members. The program shall include but not be limited
39 to:

40 (1) Annual training;

41 (2) Practice drills; and

42 (3) Post-incident counseling and a follow-up program.

43 **SECTION 6.** (1) If a nursing staff employer directs a nursing staff member who is the
44 victim of an assault reported under section 2 (1) of this 2005 Act to provide further treatment
45 to the patient who assaulted the nursing staff member, the nursing staff member may re-

1 **quest to be accompanied by a second staff member. If the nursing staff employer declines**
2 **the nursing staff member's request, the nursing staff employer may not require the nursing**
3 **staff member to treat the patient.**

4 **(2) A nursing staff member who was the victim of an assault reported under section 2**
5 **(1) of this 2005 Act and who used physical force in self-defense against a patient to the extent**
6 **that the nursing staff member reasonably believed was necessary to protect the nursing staff**
7 **member from the assault may not be sanctioned by a nursing staff employer for using**
8 **physical force.**

9 **SECTION 7. (1) A nursing staff member providing home health care services may refuse**
10 **to treat a patient unless accompanied by a second staff person if, based on the patient's past**
11 **behavior or physical or mental condition, the nursing staff member believes that the patient**
12 **might assault the nursing staff member. A nursing staff employer may not take retaliatory**
13 **action against the nursing staff member for refusing to treat a patient under the circum-**
14 **stances described in this subsection.**

15 **(2) A nursing staff member providing home health care services may refuse to treat a**
16 **patient unless the nursing staff member is equipped with a communication device that allows**
17 **the nursing staff member to transmit one-way or two-way messages indicating that the**
18 **nursing staff member is being assaulted. A nursing staff employer may not take retaliatory**
19 **action against the nursing staff member for refusing to treat a patient under the circum-**
20 **stances described in this subsection.**

21 **SECTION 8. A nursing staff employer that takes any retaliatory action described in sec-**
22 **tion 2 or 7 of this 2005 Act against a nursing staff member commits an unlawful employment**
23 **practice.**

24 **SECTION 9. The Oregon State Police shall include the information entered into the**
25 **Oregon Uniform Crime Reporting Program under section 2 (3) of this 2005 Act in the State**
26 **of Oregon Report of Criminal Offenses and Arrests beginning with the annual report for 2007.**
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