

House Bill 2360

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

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**.

Allows court to approve creation of trust that would terminate conservatorship if trust is created to qualify or maintain eligibility of protected person for needs-based government benefits, if value of conservatorship estate does not exceed \$50,000, if purpose of conservatorship was to establish trust or for other good cause.

A BILL FOR AN ACT

Relating to conservatorships; creating new provisions; and amending ORS 125.440.

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

SECTION 1. ORS 125.440 is amended to read:

125.440. A conservator may perform the following acts only with prior court approval:

(1) Convey or release contingent or expectant interests of the protected person in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

(2) Create revocable or irrevocable trusts of property of the estate. A trust created by the conservator may extend beyond the period of disability of the protected person or beyond the life of the protected person. A trust created by the conservator must be consistent with the will of the protected person or any other written or oral expression of testamentary intent made by the protected person before the person became incapacitated. The court may not approve a trust that has the effect of terminating the conservatorship **unless:**

(a) The trust is created for the purpose of qualifying the protected person for needs-based government benefits or maintaining the eligibility of the protected person for needs-based government benefits;

(b) The value of the conservatorship estate, including the amount to be transferred to the trust, does not exceed \$50,000;

(c) The purpose of establishing the conservatorship was to create the trust; or

(d) The conservator shows other good cause to the court.

(3) Exercise rights of the protected person to elect options and change beneficiaries under insurance and annuity policies and to surrender the policies for their cash value.

(4) Disclaim any interest the protected person may have by testate or intestate succession or by inter vivos transfer.

(5) Authorize, direct or ratify any annuity contract or contract for life care.

SECTION 2. The amendments to ORS 125.440 by section 1 of this 2007 Act apply to conservatorships established prior to, on or after the effective date of this 2007 Act.

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.