

House Bill 3342

Sponsored by Representative RICHARDSON

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**.

Directs Department of Human Services to establish program to make grants not exceeding \$100,000 per calendar year to county for purpose of administering public guardian and conservator program. Requires county to provide funds in amount equal to 25 percent of grant received from department. Directs department to adopt rules establishing application and approval criteria.

A BILL FOR AN ACT

1
2 Relating to protective proceedings; amending ORS 125.700, 125.705, 125.710, 125.715, 125.720, 125.725
3 and 125.730.

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

5 **SECTION 1.** ORS 125.700 is amended to read:

6 125.700. (1) **The Department of Human Services shall establish by rule a program under**
7 **which the department may make grants to counties in an amount of not more than \$100,000**
8 **per county per calendar year for the purpose of administering a public guardian or**
9 **conservator program described in ORS 125.700 to 125.730. In order to qualify for a grant from**
10 **the department, a county must provide funding for a public guardian or conservator program**
11 **in an amount that is not less than 25 percent of the amount provided by the department in**
12 **the calendar year. The rules adopted by the department shall specify application procedures**
13 **and grant approval criteria.**

14 (2) The county court or board of county commissioners of any county:

15 *[(1)]* (a) After making a determination that there exists a need within the county for a guardian
16 or conservator for persons who do not have relatives or friends willing to serve as a guardian or
17 conservator and capable of assuming the duties of guardianship or conservatorship, may create
18 within the county the office of public guardian and conservator and such subordinate positions as
19 may be necessary to operate effectively the office of public guardian and conservator within the
20 county.

21 *[(2)]* (b) May expend county funds **and any funds received from the department under sub-**
22 **section (1) of this section** for the purpose of operating the office of public guardian and
23 conservator.

24 *[(3)]* (c) After establishment of the office of public guardian and conservator within a county,
25 upon the finding that the county does not need the service of a public guardian and conservator,
26 may terminate the office.

27 **SECTION 2.** ORS 125.705 is amended to read:

28 125.705. (1) The person appointed to the office of public guardian and conservator shall serve
29 in the office at the pleasure of the appointing authority.

30 (2) If the person holding the office of public guardian and conservator in a county is removed

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 from office, dies, becomes incapacitated or resigns, the removal, death, incapacity or resignation
 2 *[shall operate to remove such]* **operates to remove the** public guardian and conservator as guardian
 3 and conservator of all estates then under the guardianship and conservatorship of the person.

4 **SECTION 3.** ORS 125.710 is amended to read:

5 125.710. (1) The public guardian and conservator may serve as the guardian or conservator, or
 6 both, of any person of whom the court having probate jurisdiction in the county may have jurisdic-
 7 tion. The public guardian and conservator may serve as guardian or conservator upon the petition
 8 of any person or upon the own petition of the public guardian and conservator.

9 (2) When appointed as guardian or conservator by the court having probate jurisdiction, the
 10 public guardian and conservator shall serve as provided in ORS chapter 125, ORS 127.005 and
 11 127.015 except as specifically *[stated to the contrary]* **provided** in ORS 125.700 to 125.730.

12 (3) The public guardian and conservator in the discretion of the public guardian and conservator
 13 may employ private attorneys if the fees for the attorneys can be defrayed out of funds of the
 14 guardianship or conservatorship estate.

15 **SECTION 4.** ORS 125.715 is amended to read:

16 125.715. (1) Before entering into office as public guardian and conservator, the person appointed
 17 to the office shall file an official bond in such amount as may be fixed from time to time by the
 18 board of county commissioners or the court having probate jurisdiction*[, which]*. **The** bond shall
 19 inure to the joint benefit of the several guardianship or conservatorship estates in which the person
 20 is acting as guardian or conservator and the county. The public guardian and conservator *[shall*
 21 *not be]* **is not** required to file bonds in individual estates.

22 (2) Upon removal of the public guardian and conservator in accordance with the provisions of
 23 ORS 125.705, the surety on the public guardian and conservator bond *[shall be]* **is** exonerated upon
 24 order to that effect of the court having probate jurisdiction in the county.

25 **SECTION 5.** ORS 125.720 is amended to read:

26 125.720. All funds coming into the custody of the public guardian and conservator shall be:

27 (1) Deposited in the county treasury and disbursed by proper warrant*[, or shall be]*;

28 (2) Deposited in one or more *[banks or]* **financial institutions as defined in ORS 706.008 au-**
 29 **thorized to do business within the county;**

30 (3) Invested in one or more insured savings *[and loan]* associations **as defined in ORS 722.004**
 31 authorized to do business within the county*[,];* or

32 (4) **Invested** as provided by ORS 125.445 (5).

33 **SECTION 6.** ORS 125.725 is amended to read:

34 125.725. The public guardian and conservator *[shall have]* **has** a claim against the ward's or
 35 protected person's estate for reasonable expenses incurred in the execution of the guardianship or
 36 conservatorship and *[such]* **for** compensation for services and those of the attorney of the public
 37 guardian and conservator as the court having probate jurisdiction in the county deems just and
 38 reasonable. If the public guardian and conservator is compensated by the county for services, any
 39 reimbursement of expenses or compensation shall be paid to the county.

40 **SECTION 7.** ORS 125.730 is amended to read:

41 125.730. *[No fee shall]* **A fee may not** be charged or received by any court having probate ju-
 42 risdiction for the filing of any petition asking for the appointment of the public guardian and
 43 conservator or for any official service performed by that court in the course of the guardianship or
 44 conservatorship proceedings.