

A-Engrossed
House Bill 2137

Ordered by the House April 27
Including House Amendments dated April 27

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

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.

[Provides immunity from civil liability for person who provides protected health, mental health, financial or legal information to Department of Human Services or office of public guardian and conservator in connection with protective proceeding.]

Allows Department of **Human Services** to petition for protective order **for purpose of providing protective services from harm or neglect to elderly person or person with disability**. *[Allows]* **Directs** department *[or office of public guardian and conservator]* to disclose **minimum amount of** protected health, mental health, financial, **substantiated abuse** and legal information to court in connection with petition if disclosure is necessary for health and safety reasons.

Allows department *[or office of public guardian and conservator]* to disclose protected health, mental health, financial, **substantiated abuse** and legal information to court *[and petitioning attorney if disclosure is necessary for health and safety reasons]* **when person other than department petitions for protective order and disclosure is necessary to provide protective services**.

A BILL FOR AN ACT

Relating to protective proceedings.

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

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 125.

SECTION 2. (1) The Department of Human Services, for the purpose of providing protective services as that term is defined in ORS 410.040, may petition for a protective order under this chapter. When the department, or a petitioning attorney with whom the department has contracted, petitions for a protective order under this section, the department shall disclose to the court or to the petitioning attorney only a minimum amount of information about the person who is the subject of the petition, including protected health, mental health, financial, substantiated abuse and legal information, as is reasonably necessary to prevent or lessen a serious and imminent threat to the health or safety of the person who is the subject of the petition or protective order.

(2) When a petition for a protective order is filed under this chapter by a person other than the Department of Human Services, or when a protective order has already been entered, the department, for the purpose of providing protective services as that term is defined in ORS 410.040, may disclose to a court protected health, mental health, financial, substantiated abuse and legal information about the person who is the subject of the petition or protective order, or about a person who has petitioned for appointment, or who has been appointed, as a fiduciary for a protected person under this chapter. The department may disclose such information without authorization from the person or fiduciary if the disclosure is made in good faith and with the belief that the disclosure is the minimum amount

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 of information about the person or fiduciary as is reasonably necessary to prevent or lessen
2 a serious and imminent threat to the health or safety of the person who is the subject of the
3 petition or protective order.

4 (3) All confidential and protected health, mental health, financial, substantiated abuse
5 and legal information disclosed under this section must remain confidential and be sealed by
6 the court. All sealed information must not be disclosed to any person except upon request
7 of the person or fiduciary who is the subject of the petition or protective order, or pursuant
8 to court order.

9 (4) As used in this section, "protected health information" has the meaning given that
10 term in ORS 192.519.

11 **SECTION 3.** Section 2 of this 2009 Act applies to activities occurring on or after the ef-
12 fective date of this 2009 Act.

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