

B-Engrossed
House Bill 2137

Ordered by the Senate May 21
Including House Amendments dated April 27 and Senate Amendments
dated May 21

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.

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. Directs department 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 to disclose protected health, mental health, financial, substantiated abuse and legal information to court when person other than department **or attorney with whom department has contracted** petitions for protective order and disclosure is necessary to provide protective services.

Specifies procedures for disclosure.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to protective proceedings; and declaring an emergency.

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 an attorney with whom the department has contracted, or when a protective order has already been entered, the department 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 of information about the person

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

3 (3)(a) All confidential and protected health, mental health, financial, substantiated abuse
4 and legal information disclosed under this section must remain confidential and, when dis-
5 closed to the court, must be sealed by the court.

6 (b) Information disclosed under this section must be identified and marked by the entity
7 or person making the disclosure as confidential and protected information that is subject to
8 the requirements of paragraph (a) of this subsection.

9 (c) Information disclosed under this section that is subject to the requirements of para-
10 graph (a) of this subsection is subject to inspection only by the parties to the proceedings
11 and their attorneys, and is not subject to inspection by members of the public except pur-
12 suant to a court order entered after a showing of good cause.

13 (d) Notwithstanding ORS 125.155 (4), to the extent that the report of a visitor appointed
14 by the court under ORS 125.150 contains information that is subject to the requirements of
15 paragraph (a) of this subsection, the report in its entirety shall be considered subject to the
16 requirements of paragraph (a) of this subsection and may be disclosed only as provided in
17 paragraph (c) of this subsection.

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

20 (5) Nothing in this section is intended to limit the application of ORS 125.050 to the use
21 of information disclosed under this section in proceedings under this chapter.

22 (6) Information may be disclosed under this section only for the purpose of providing
23 protective services as that term is defined in ORS 410.040.

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

26 SECTION 4. This 2009 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
28 on its passage.

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