

House Bill 2137

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 **as introduced**.

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 to petition for protective order. Allows department or office of public guardian and conservator to disclose protected health, mental health, financial 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 and legal information to court and petitioning attorney if disclosure is necessary for health and safety reasons.

A BILL FOR AN ACT

1
2 Relating to protective proceedings.

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

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

5 **SECTION 2. (1) In connection with a protective proceeding under this chapter or ORS**
6 **125.700 to 125.730, a person who makes a referral to the Department of Human Services or**
7 **to a public guardian or conservator operating under ORS 125.700 to 125.730, or who provides**
8 **protected health, mental health, financial or legal information to the department or to a**
9 **proposed public guardian or conservator, and who makes the referral or provides the infor-**
10 **mation in good faith and with reasonable grounds, has immunity from any civil liability that**
11 **might be incurred or imposed with respect to making the referral or providing the informa-**
12 **tion. The person has the same immunity with respect to involvement in any judicial pro-**
13 **ceeding resulting from the referral or provision of information.**

14 **(2) The Department of Human Services may petition for a protective order under this**
15 **chapter or ORS 125.700 to 125.730. When the department or a proposed public guardian or**
16 **conservator is instrumental in petitioning for a protective order, the department or proposed**
17 **public guardian or conservator operating under ORS 125.700 to 125.730 may disclose to the**
18 **court and petitioning attorney protected health, mental health, financial and legal informa-**
19 **tion about the person who is the subject of the petition if the disclosure is necessary to**
20 **prevent or lessen a threat to the health or safety of a person or for public safety purposes,**
21 **including the prevention, identification or treatment of abuse and neglect of elderly persons**
22 **and persons with disabilities.**

23 **(3) In connection with a protective proceeding under this chapter or ORS 125.700 to**
24 **125.730, the Department of Human Services or a public guardian or conservator operating**
25 **under ORS 125.700 to 125.730 may disclose to a court protected health, mental health, finan-**
26 **cial and legal information about a person without authorization from the person or personal**
27 **representative of the person if the disclosure is necessary to prevent or lessen a threat to**

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 the health or safety of a person or for public safety purposes, including the prevention,
2 identification or treatment of abuse and neglect of elderly persons and persons with disabili-
3 ties.

4 (4) As used in this section:

5 (a) "Personal representative" and "protected health information" have the meanings
6 given those terms in ORS 192.519.

7 (b) "Public guardian or conservator" means an office of public guardian and conservator
8 established under ORS 125.700 to 125.730.

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

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