

**A-Engrossed**  
**Senate Bill 238**

Ordered by the Senate March 20  
Including Senate Amendments dated March 20

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon State Bar Estate Planning 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.

Enacts Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

**A BILL FOR AN ACT**

Relating to protective proceedings; creating new provisions; and amending ORS 125.015, 125.025 and 125.215.

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

**ARTICLE 1**  
**GENERAL PROVISIONS**

**SECTION 1. Short title. Sections 1 to 22 of this 2009 Act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.**

**SECTION 2. Definitions. As used in sections 1 to 22 of this 2009 Act:**

**(1) "Adult" means an individual who has attained 18 years of age.**

**(2) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under ORS chapter 125.**

**(3) "Conservatorship order" means an order appointing a conservator or other order related to management of an adult's property.**

**(4) "Conservatorship proceeding" means a judicial proceeding in which a conservatorship order is sought or has been issued.**

**(5) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under ORS chapter 125.**

**(6) "Guardianship order" means an order appointing a guardian.**

**(7) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.**

**(8) "Incapacitated person" means an adult for whom a guardian has been appointed.**

**(9) "Party" means the respondent, petitioner, guardian, conservator or any other person allowed by the court to participate in a guardianship or conservatorship proceeding.**

**(10)(a) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or**

**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 governmental subdivision, agency or instrumentality or any other legal or commercial entity.

2 (b) "Person" as defined in paragraph (a) of this subsection does not apply in the terms  
3 "incapacitated person" or "protected person."

4 (11) "Protected person" means an adult for whom a conservatorship order has been is-  
5 sued.

6 (12) "Record" means information that is inscribed on a tangible medium or that is stored  
7 in an electronic or other medium and is retrievable in perceivable form.

8 (13) "Respondent" means an adult for whom a conservatorship order or the appointment  
9 of a guardian is sought.

10 (14) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
11 the United States Virgin Islands, a federally recognized Indian tribe or any territory or in-  
12 sular possession subject to the jurisdiction of the United States.

13 SECTION 3. International application. A court of this state may treat a foreign country  
14 as if it were a state for the purpose of applying sections 1 to 17, 21 and 22 of this 2009 Act.

15 SECTION 4. Communication between courts.

16 (1) A court of this state may communicate with a court in another state concerning a  
17 proceeding arising under sections 1 to 22 of this 2009 Act. The court may allow the parties  
18 to participate in the communication. Except as provided in subsection (2) of this section, the  
19 court shall make a record of the communication. The record may be limited to the fact that  
20 the communication occurred.

21 (2) Courts may communicate concerning schedules, calendars, court records and other  
22 administrative matters without making a record.

23 SECTION 5. Cooperation between courts.

24 (1) In a guardianship or conservatorship proceeding in this state, a court of this state  
25 may request the appropriate court of another state to do any of the following:

26 (a) Hold an evidentiary hearing;

27 (b) Order a person in that state to produce evidence or give testimony pursuant to pro-  
28 cedures of that state;

29 (c) Order that an evaluation or assessment be made of the respondent;

30 (d) Order any appropriate investigation of a person involved in a proceeding;

31 (e) Forward to the court of this state a certified copy of the transcript or other record  
32 of a hearing under paragraph (a) of this subsection or any other proceeding, any evidence  
33 otherwise produced under paragraph (b) of this subsection and any evaluation or assessment  
34 prepared in compliance with an order under paragraph (c) or (d) of this subsection;

35 (f) Issue any order necessary to assure the appearance in the proceeding of a person  
36 whose presence is necessary for the court to make a determination, including the respondent  
37 or the incapacitated or protected person; or

38 (g) Issue an order authorizing the release of medical, financial, criminal or other relevant  
39 information in that state, including protected health information as defined in 45  
40 C.F.R. 164.504.

41 (2) If a court of another state in which a guardianship or conservatorship proceeding is  
42 pending requests assistance of the kind provided in subsection (1) of this section, a court of  
43 this state has jurisdiction for the limited purpose of granting the request or making rea-  
44 sonable efforts to comply with the request.

45 SECTION 6. Taking testimony in another state.

1 (1) In a guardianship or conservatorship proceeding, in addition to other procedures that  
2 may be available, testimony of a witness who is located in another state may be offered by  
3 deposition or other means allowable in this state for testimony taken in another state. The  
4 court on its own motion may order that the testimony of a witness be taken in another state  
5 and may prescribe the manner in which and the terms upon which the testimony is to be  
6 taken.

7 (2) In a guardianship or conservatorship proceeding, a court in this state may permit a  
8 witness located in another state to be deposed or to testify by telephone or audiovisual or  
9 other electronic means. A court of this state shall cooperate with the court of the other  
10 state in designating an appropriate location for the deposition or testimony.

11  
12 **ARTICLE 2**  
13 **JURISDICTION**  
14

15 **SECTION 7. Definitions; significant-connection factors.**

16 (1) As used in sections 7 to 15 of this 2009 Act:

17 (a) "Emergency" means a circumstance described in ORS 125.600 (1), and for which the  
18 appointment of a guardian is necessary because no other person has authority and is willing  
19 to act on the respondent's behalf.

20 (b) "Home state" means the state in which the respondent was physically present, in-  
21 cluding any period of temporary absence, for at least six consecutive months immediately  
22 before the filing of a petition for a conservatorship order or the appointment of a guardian,  
23 or if none, the state in which the respondent was physically present, including any period  
24 of temporary absence, for at least six consecutive months ending within the six months prior  
25 to the filing of the petition.

26 (c) "Significant-connection state" means a state, other than the home state, with which  
27 a respondent has a significant connection other than mere physical presence and in which  
28 substantial evidence concerning the respondent is available.

29 (2) In determining under sections 9 and 16 (5) of this 2009 Act whether a respondent has  
30 a significant connection with a particular state, the court shall consider:

31 (a) The location of the respondent's family and other persons required to be notified of  
32 the guardianship or conservatorship proceeding;

33 (b) The length of time the respondent at any time was physically present in the state and  
34 the duration of any absence;

35 (c) The location of the respondent's property; and

36 (d) The extent to which the respondent has ties to the state such as voting registration,  
37 state or local tax return filing, vehicle registration, driver license, social relationship and  
38 receipt of services.

39 **SECTION 8. Exclusive basis.** Sections 7 to 15 of this 2009 Act provide the exclusive ju-  
40 risdictional basis for a court of this state to appoint a guardian or issue a conservatorship  
41 order for an adult under sections 1 to 22 of this 2009 Act.

42 **SECTION 9. Jurisdiction.** A court of this state has jurisdiction to appoint a guardian or  
43 issue a conservatorship order for a respondent if:

44 (1) This state is the respondent's home state;

45 (2) On the date the petition is filed, this state is a significant-connection state and:

1 (a) The respondent does not have a home state or a court of the respondent's home state  
2 has declined to exercise jurisdiction because this state is a more appropriate forum; or

3 (b) The respondent has a home state, a petition for an appointment or order is not  
4 pending in a court of that state or another significant-connection state and, before the court  
5 makes the appointment or issues the order:

6 (A) A petition for an appointment or order is not filed in the respondent's home state;

7 (B) An objection to the court's jurisdiction is not filed by a person required to be notified  
8 of the proceeding; and

9 (C) The court in this state concludes that it is an appropriate forum under the factors  
10 set forth in section 12 of this 2009 Act;

11 (3) This state does not have jurisdiction under either subsection (1) or (2) of this section,  
12 the respondent's home state and all significant-connection states have declined to exercise  
13 jurisdiction because this state is the more appropriate forum and jurisdiction in this state  
14 is consistent with the Oregon and United States Constitutions; or

15 (4) The requirements for special jurisdiction under section 10 of this 2009 Act are met.

16 **SECTION 10. Special jurisdiction.**

17 (1) A court of this state lacking jurisdiction under section 9 of this 2009 Act has special  
18 jurisdiction to do any of the following:

19 (a) Appoint a guardian in an emergency as provided for the appointment of a temporary  
20 fiduciary under ORS 125.600 for a respondent who is physically present in this state;

21 (b) Issue a conservatorship order with respect to real or tangible personal property lo-  
22 cated in this state; or

23 (c) Appoint a guardian or conservator for an incapacitated or protected person for whom  
24 a provisional order to transfer the proceeding from another state has been issued under  
25 procedures similar to section 16 of this 2009 Act.

26 (2) If a petition was filed for the appointment of a temporary fiduciary under ORS 125.600  
27 and this state was not the respondent's home state on the date the petition was filed, the  
28 court shall dismiss the proceeding at the request of the court of the home state, if any,  
29 whether the dismissal is requested before or after the emergency appointment.

30 **SECTION 11. Exclusive and continuing jurisdiction.** Except as provided in section 10 of  
31 this 2009 Act, a court that has appointed a guardian or issued a conservatorship order con-  
32 sistent with sections 1 to 22 of this 2009 Act has exclusive and continuing jurisdiction over  
33 the proceeding until the proceeding is terminated by the court or the appointment or order  
34 expires by its own terms.

35 **SECTION 12. Appropriate forum.**

36 (1) A court of this state having jurisdiction under section 9 of this 2009 Act to appoint a  
37 guardian or issue a conservatorship order may decline to exercise its jurisdiction if it de-  
38 termines at any time that a court of another state is a more appropriate forum.

39 (2) If a court of this state declines to exercise its jurisdiction under subsection (1) of this  
40 section, the court shall either dismiss or stay the proceeding. The court may impose any  
41 condition the court considers just and proper, including the condition that a petition for the  
42 appointment of a guardian or issuance of a conservatorship order be filed promptly in an-  
43 other state.

44 (3) In determining whether it is an appropriate forum, the court shall consider all rele-  
45 vant factors, including:

1 (a) Any expressed preference of the respondent;

2 (b) Whether abuse, neglect or exploitation of the respondent has occurred or is likely to  
3 occur and which state could best protect the respondent from the abuse, neglect or exploi-  
4 tation;

5 (c) The length of time the respondent was physically present in or was a legal resident  
6 of this or another state;

7 (d) The distance of the respondent from the court in each state;

8 (e) The financial circumstances of the respondent's estate;

9 (f) The nature and location of the evidence;

10 (g) The ability of the court in each state to decide the issue expeditiously and the pro-  
11 cedures necessary to present evidence;

12 (h) The familiarity of the court of each state with the facts and issues in the proceeding;  
13 and

14 (i) If an appointment were made, the court's ability to monitor the conduct of the  
15 guardian or conservator.

16 **SECTION 13. Jurisdiction declined by reason of conduct.**

17 (1) If at any time a court of this state determines that it acquired jurisdiction to appoint  
18 a guardian or issue a conservatorship order because of unjustifiable conduct, the court may:

19 (a) Decline to exercise jurisdiction;

20 (b) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to  
21 ensure the health, safety and welfare of the respondent or the protection of the respondent's  
22 property or prevent a repetition of the unjustifiable conduct, including staying the proceeding  
23 until a petition for the appointment of a guardian or issuance of a conservatorship order is  
24 filed in a court of another state having jurisdiction; or

25 (c) Continue to exercise jurisdiction after considering:

26 (A) The extent to which the respondent and all persons required to be notified of the  
27 proceedings have acquiesced in the exercise of the court's jurisdiction;

28 (B) Whether the court is a more appropriate forum than the court of any other state  
29 under the factors set forth in section 12 (3) of this 2009 Act; and

30 (C) Whether the court of any other state would have jurisdiction under factual circum-  
31 stances in substantial conformity with the jurisdictional standards of section 9 of this 2009  
32 Act.

33 (2) If a court of this state determines that it acquired jurisdiction to appoint a guardian  
34 or issue a conservatorship order because a party seeking to invoke its jurisdiction engaged  
35 in unjustifiable conduct, it may assess against that party necessary and reasonable expenses,  
36 including attorney fees, investigative fees, court costs, communication expenses, witness fees  
37 and expenses and travel expenses. The court may not assess fees, costs or expenses of any  
38 kind against this state or a governmental subdivision, agency or instrumentality of this state  
39 unless authorized by law other than sections 1 to 22 of this 2009 Act.

40 **SECTION 14. Notice of proceeding.** If a petition for the appointment of a guardian or is-  
41 suance of a conservatorship order is brought in this state and this state was not the re-  
42 spondent's home state on the date the petition was filed, in addition to complying with the  
43 notice requirements of this state, notice of the petition must be given to those persons who  
44 would be entitled to notice of the petition if a proceeding were brought in the respondent's  
45 home state. The notice must be given in the same manner as notice is required to be given

1 in this state.

2 **SECTION 15. Proceedings in more than one state.** Except for a petition for the appoint-  
3 ment of a temporary fiduciary under ORS 125.600 or issuance of a conservatorship order  
4 limited to property located in this state under section 10 (1)(a) or (b) of this 2009 Act, if a  
5 petition for the appointment of a guardian or issuance of a conservatorship order is filed in  
6 this state and in another state and neither petition has been dismissed or withdrawn, the  
7 following rules apply:

8 (1) If the court in this state has jurisdiction under section 9 of this 2009 Act, it may  
9 proceed with the case unless a court in another state acquires jurisdiction under provisions  
10 similar to section 9 of this 2009 Act before the appointment or issuance of the order.

11 (2) If the court in this state does not have jurisdiction under section 9 of this 2009 Act,  
12 whether at the time the petition is filed or at any time before the appointment or issuance  
13 of the order, the court shall stay the proceeding and communicate with the court in the  
14 other state. If the court in the other state has jurisdiction, the court in this state shall dis-  
15 miss the petition unless the court in the other state determines that the court in this state  
16 is a more appropriate forum.

17  
18 **ARTICLE 3**

19 **TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP**

20  
21 **SECTION 16. Transfer of guardianship or conservatorship to another state.**

22 (1) A guardian or conservator appointed in this state may petition the court to transfer  
23 the guardianship or conservatorship to another state.

24 (2) Notice of a petition under subsection (1) of this section must be given to the persons  
25 that would be entitled to notice of a petition in this state for the appointment of a guardian  
26 or conservator.

27 (3) On the court's own motion or on request of the guardian or conservator, the inca-  
28 pacitated or protected person, or other person required to be notified of the petition, the  
29 court shall hold a hearing on a petition filed pursuant to subsection (1) of this section.

30 (4) The court shall issue an order provisionally granting a petition to transfer a  
31 guardianship and shall direct the guardian to petition for guardianship in the other state if  
32 the court is satisfied that the guardianship will be accepted by the court in the other state  
33 and the court finds that:

34 (a) The incapacitated person is physically present in or is reasonably expected to move  
35 permanently to the other state;

36 (b) An objection to the transfer has not been made or, if an objection has been made, the  
37 objector has not established that the transfer would be contrary to the interests of the in-  
38 capacitated person; and

39 (c) Plans for care and services for the incapacitated person in the other state are rea-  
40 sonable and sufficient.

41 (5) The court shall issue a provisional order granting a petition to transfer a conserva-  
42 torship and shall direct the conservator to petition for conservatorship in the other state if  
43 the court is satisfied that the conservatorship will be accepted by the court of the other  
44 state and the court finds that:

45 (a) The protected person is physically present in or is reasonably expected to move per-

1 manently to the other state, or the protected person has a significant connection to the  
2 other state considering the factors in section 7 (2) of this 2009 Act;

3 (b) An objection to the transfer has not been made or, if an objection has been made, the  
4 objector has not established that the transfer would be contrary to the interests of the pro-  
5 tected person; and

6 (c) Adequate arrangements will be made for management of the protected person's  
7 property.

8 (6) The court shall issue a final order confirming the transfer and terminating the  
9 guardianship or conservatorship upon its receipt of:

10 (a) A provisional order accepting the proceeding from the court to which the proceeding  
11 is to be transferred which is issued under provisions similar to section 17 of this 2009 Act;  
12 and

13 (b) The documents required to terminate a guardianship or conservatorship in this state.

14 **SECTION 17. Accepting guardianship or conservatorship transferred from another state.**

15 (1) To confirm transfer of a guardianship or conservatorship transferred to this state  
16 under provisions similar to section 16 of this 2009 Act, the guardian or conservator must  
17 petition the court in this state to accept the guardianship or conservatorship. The petition  
18 must include a certified copy of the other state's provisional order of transfer.

19 (2) Notice of a petition under subsection (1) of this section must be given to those per-  
20 sons that would be entitled to notice if the petition were a petition for the appointment of  
21 a guardian or issuance of a conservatorship order in both the transferring state and this  
22 state. The notice must be given in the same manner as notice is required to be given in this  
23 state.

24 (3) On the court's own motion or on request of the guardian or conservator, the inca-  
25 pacitated or protected person, or other person required to be notified of the proceeding, the  
26 court shall hold a hearing on a petition filed pursuant to subsection (1) of this section.

27 (4) The court shall issue an order provisionally granting a petition filed under subsection  
28 (1) of this section unless:

29 (a) The court determines that transfer of the proceeding would be contrary to the in-  
30 terests of the incapacitated or protected person; or

31 (b) The guardian or conservator is ineligible for appointment in this state.

32 (5) The court shall issue a final order accepting the proceeding and appointing the  
33 guardian or conservator as guardian or conservator in this state upon its receipt from the  
34 court from which the proceeding is being transferred of a final order issued under provisions  
35 similar to section 16 of this 2009 Act transferring the proceeding to this state.

36 (6) Not later than 90 days after issuance of a final order accepting transfer of a  
37 guardianship or conservatorship, the court shall determine whether the guardianship or  
38 conservatorship needs to be modified to conform to the law of this state.

39 (7) In granting a petition under this section, the court shall recognize a guardianship or  
40 conservatorship order from the other state, including the determination of the incapacitated  
41 or protected person's incapacity and the appointment of the guardian or conservator.

42 (8) The denial by a court of this state of a petition to accept a guardianship or conser-  
43 vatorship transferred from another state does not affect the ability of the guardian or  
44 conservator to seek appointment as guardian or conservator in this state under ORS chapter  
45 125 if the court has jurisdiction to make an appointment other than by reason of the provi-

1 sional order of transfer.

2  
3 **ARTICLE 4**

4 **REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES**

5  
6 **SECTION 18. Registration of guardianship orders.** If a guardian has been appointed in  
7 another state and a petition for the appointment of a guardian is not pending in this state,  
8 the guardian appointed in the other state, after giving notice to the appointing court of an  
9 intent to register, may register the guardianship order in this state by filing as a foreign  
10 judgment in a court, in any appropriate county of this state, certified copies of the order and  
11 letters of office.

12 **SECTION 19. Registration of conservatorship orders.** If a conservator has been appointed  
13 in another state and a petition for a conservatorship order is not pending in this state, the  
14 conservator appointed in the other state, after giving notice to the appointing court of an  
15 intent to register, may register the conservatorship order in this state by filing as a foreign  
16 judgment in a court of this state, in any county in which property belonging to the protected  
17 person is located, certified copies of the order and letters of office and of any bond.

18 **SECTION 20. Effect of registration.**

19 (1) Upon registration of a guardianship or conservatorship order from another state, the  
20 guardian or conservator may exercise in this state all powers authorized in the order of ap-  
21 pointment except as prohibited under the laws of this state, including maintaining actions  
22 and proceedings in this state and, if the guardian or conservator is not a resident of this  
23 state, subject to any conditions imposed upon nonresident parties.

24 (2) A court of this state may grant any relief available under sections 1 to 22 of this 2009  
25 Act and other law of this state to enforce a registered order.

26  
27 **ARTICLE 5**

28 **MISCELLANEOUS PROVISIONS**

29  
30 **SECTION 21. Uniformity of application and construction.** In applying and construing  
31 sections 1 to 22 of this 2009 Act, consideration must be given to the need to promote uni-  
32 formity of the law with respect to its subject matter among states that enact it.

33 **SECTION 22. Relation to Electronic Signatures in Global and National Commerce Act.**  
34 Sections 1 to 22 of this 2009 Act modify, limit and supersede the federal Electronic Signatures  
35 in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but do not modify, limit or su-  
36 persede section 1(c) of that Act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of  
37 the notices described in section 3(b) of that Act, 15 U.S.C. 7003(b).

38 **SECTION 23.** ORS 125.015 is amended to read:

39 125.015. (1) The probate courts and commissioners provided for in ORS chapter 111 have exclu-  
40 sive jurisdiction of protective proceedings.

41 (2) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2 of this**  
42 **2009 Act**, if an Oregon court exercising probate jurisdiction becomes aware that a protective pro-  
43 ceeding has been commenced in another state, the Oregon court shall notify the court in the other  
44 state of the proceedings in this state. After consultation with the court of the other state, the  
45 Oregon court shall determine whether it is in the best interests of the respondent or protected

1 person for the Oregon court to continue to exercise jurisdiction in the matter or whether it would  
2 be in the best interests of the respondent or protected person to terminate the Oregon proceedings  
3 and transfer the matter to the other court.

4 **SECTION 24.** ORS 125.025 is amended to read:

5 125.025. (1) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2**  
6 **of this 2009 Act**, a court having jurisdiction over a protective proceeding shall exercise continuing  
7 authority over the proceeding. Subject to the provisions of this chapter **and sections 1 to 22 of this**  
8 **2009 Act**, the court may act upon the petition or motion of any person or upon its own authority  
9 at any time and in any manner it deems appropriate to determine the condition and welfare of the  
10 respondent or protected person and to inquire into the proper performance of the duties of a  
11 fiduciary appointed under the provisions of this chapter.

12 (2) A court having jurisdiction over a protective proceeding in which the respondent or pro-  
13 tected person is a minor shall consider and apply all relevant provisions of the Indian Child Welfare  
14 Act codified at 25 U.S.C. sections 1901 et seq.

15 (3) A court having jurisdiction over a protective proceeding may:

16 (a) Compel the attendance of any person, including respondents, protected persons, fiduciaries  
17 and any other person who may have knowledge about the person or estate of a respondent or pro-  
18 tected person. The court may require those persons to respond to inquiries and produce documents  
19 that are subject to discovery under ORCP 36.

20 (b) Appoint counsel for a respondent or protected person.

21 (c) Appoint investigators, visitors and experts to aid the court in the court's investigation.

22 (d) Exercise jurisdiction over any transaction entered into by a fiduciary to determine if a con-  
23 flict of interest existed and enter an appropriate judgment with respect to the transaction.

24 (e) Surcharge a surety for any loss caused by failure of a fiduciary to perform a fiduciary duty  
25 or any other duty imposed by this chapter, including a surcharge for attorney fees incurred by a  
26 respondent or protected person by reason of the failure.

27 (f) Require immediate delivery of a protected person or property of the protected person, in-  
28 cluding records, accounts and documents relating to that property, to the court or to a place it  
29 designates.

30 (g) Require the fiduciary to produce any and all records that might provide information about  
31 the treatment or condition of the protected person or property of the protected person.

32 (h) Remove a fiduciary whenever that removal is in the best interests of the protected person.

33 (i) Appoint a successor fiduciary when a fiduciary has died, resigned or been removed.

34 (j) Require a respondent or protected person to submit to a physical or mental examination  
35 pursuant to ORCP 44.

36 (k) Make provisions for parenting time or visitation or order support for any minor who is a  
37 respondent or protected person in a protective proceeding.

38 (L) Impose any conditions and limitations upon the fiduciary that the court considers appropri-  
39 ate, including limitations on the duration of the appointment. Any conditions or limitations imposed  
40 on the fiduciary must be reflected in the letters of appointment.

41 (4) When a person files a petition or motion for a support order under subsection (3)(k) of this  
42 section:

43 (a) The person shall state in the petition or motion, to the extent known:

44 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-  
45 ceeding involving the minor, including a proceeding brought under ORS 25.287, 107.085, 107.135,

1 107.431, 108.110, 109.100, 109.103, 109.165, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter  
2 110; and

3 (B) Whether there exists in this state or any other jurisdiction a support order, as defined in  
4 ORS 110.303, involving the minor.

5 (b) The person shall include with the petition or motion a certificate regarding any pending  
6 support proceeding and any existing support order. The person shall use a certificate that is in a  
7 form established by court rule and include information required by court rule and paragraph (a) of  
8 this subsection.

9 (5) When the court acts upon its own authority to order support under subsection (3)(k) of this  
10 section, at least 21 days before the hearing the court shall notify the Administrator of the Division  
11 of Child Support of the Department of Justice, or the branch office providing support services to the  
12 county where the hearing will be held, of the hearing. Before the hearing the administrator shall  
13 inform the court, to the extent known:

14 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
15 ceeding involving the minor, including a proceeding brought under ORS 25.287, 107.085, 107.135,  
16 107.431, 108.110, 109.100, 109.103, 109.165, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter  
17 110; and

18 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in  
19 ORS 110.303, involving the minor.

20 (6) The Judicial Department and the Department of Justice may enter into an agreement re-  
21 garding how the courts give the notice required under subsection (5) of this section to the Depart-  
22 ment of Justice and how the Department of Justice gives the information described in subsection  
23 (5)(a) and (b) to the courts.

24 (7) If the court finds that a conservator should be appointed, the court may exercise all the  
25 powers over the estate and affairs of the protected person that the protected person could exercise  
26 if present and not under disability, except the power to make a will. The court shall exercise those  
27 powers for the benefit of the protected person and members of the household of the protected per-  
28 son.

29 (8) The powers of the court in protective proceedings may be exercised by the court directly or  
30 through a fiduciary.

31 **SECTION 25.** ORS 125.215 is amended to read:

32 125.215. (1) If the person filing a petition in a protective proceeding is also nominated in the  
33 petition as fiduciary for the respondent, the signature of the petitioner on the petition acts as ac-  
34 ceptance of appointment upon entry of an order appointing the petitioner as fiduciary. If the person  
35 nominated as a fiduciary is not the petitioner, the person nominated must file an acceptance of the  
36 appointment before the entry of the order appointing the fiduciary.

37 (2) A fiduciary must promptly file with the court any change in the name, residence or post-  
38 office address of the fiduciary.

39 (3) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2 of this**  
40 **2009 Act**, the court has personal jurisdiction over any person who accepts appointment as a  
41 fiduciary for the purpose of any matter relating to the protective proceeding, whether the person is  
42 a resident or nonresident of this state.

43 (4) Notice of an objection, motion or other matter in a protective proceeding may be personally  
44 served on the fiduciary or mailed to the fiduciary or the fiduciary's attorney by ordinary mail at the  
45 address listed in the court records and to any address for the fiduciary or the fiduciary's attorney

1 known to the person giving notice.

2 **SECTION 26. Transitional provision.**

3 (1) Sections 1 to 22 of this 2009 Act and the amendments to ORS 125.015, 125.025 and  
4 125.215 by sections 23 to 25 of this 2009 Act apply to court proceedings begun on or after the  
5 effective date of this 2009 Act.

6 (2) Sections 1 to 6, 16 to 20, 21 and 22 of this 2009 Act and the amendments to ORS  
7 125.015, 125.025 and 125.215 by sections 23 to 25 of this 2009 Act apply to court proceedings  
8 begun before the effective date of this 2009 Act, regardless of whether a guardianship, con-  
9 servatorship or protective order has been issued.

10 **SECTION 27.** The unit and section captions used in this 2009 Act are provided only for  
11 the convenience of the reader and do not become part of the statutory law of this state or  
12 express any legislative intent in the enactment of this 2009 Act.

13

---