

Senate Bill 238

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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**.

Enacts Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

A BILL FOR AN ACT

1
2 Relating to protective proceedings; creating new provisions; and amending ORS 125.015, 125.025 and
3 125.215.

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

ARTICLE 1 GENERAL PROVISIONS

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

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

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

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

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

17 (4) "Guardianship order" means an order appointing a guardian.

18 (5) "Guardianship proceeding" means a judicial proceeding in which an order for the ap-
19 pointment of a guardian is sought or has been issued.

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

21 (7) "Party" means the respondent, petitioner, guardian, conservator or any other person
22 allowed by the court to participate in a guardianship or protective proceeding.

23 (8)(a) "Person" means an individual, corporation, business trust, estate, trust, partner-
24 ship, limited liability company, association, joint venture, public corporation, government or
25 governmental subdivision, agency or instrumentality or any other legal or commercial entity.

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

28 (9) "Protected person" means an adult for whom a protective order has been issued.

29 (10) "Protective order" means an order appointing a conservator or other order related
30 to management of an adult's property.

31 (11) "Protective proceeding" means a judicial proceeding in which a protective order is

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 sought or has been issued.

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

4 (13) "Respondent" means an adult for whom a protective order or the appointment of a
5 guardian is sought.

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

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

11 **SECTION 4. Communication between courts.**

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

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

19 **SECTION 5. Cooperation between courts.**

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

22 (a) Hold an evidentiary hearing;

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

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

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

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

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

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

37 (2) If a court of another state in which a guardianship or protective proceeding is pending
38 requests assistance of the kind provided in subsection (1) of this section, a court of this state
39 has jurisdiction for the limited purpose of granting the request or making reasonable efforts
40 to comply with the request.

41 **SECTION 6. Taking testimony in another state.**

42 (1) In a guardianship or protective proceeding, in addition to other procedures that may
43 be available, testimony of a witness who is located in another state may be offered by depo-
44 sition or other means allowable in this state for testimony taken in another state. The court
45 on its own motion may order that the testimony of a witness be taken in another state and

1 may prescribe the manner in which and the terms upon which the testimony is to be taken.

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

6
 7 **ARTICLE 2**
 8 **JURISDICTION**

9
 10 **SECTION 7. Definitions; significant-connection factors.**

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

12 (a) “Emergency” means a circumstance that likely will result in substantial harm to a
 13 respondent’s health, safety or welfare, and for which the appointment of a guardian is nec-
 14 essary because no other person has authority and is willing to act on the respondent’s behalf.

15 (b) “Home state” means the state in which the respondent was physically present, in-
 16 cluding any period of temporary absence, for at least six consecutive months immediately
 17 before the filing of a petition for a protective order or the appointment of a guardian, or if
 18 none, the state in which the respondent was physically present, including any period of
 19 temporary absence, for at least six consecutive months ending within the six months prior
 20 to the filing of the petition.

21 (c) “Significant-connection state” means a state, other than the home state, with which
 22 a respondent has a significant connection other than mere physical presence and in which
 23 substantial evidence concerning the respondent is available.

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

26 (a) The location of the respondent’s family and other persons required to be notified of
 27 the guardianship or protective proceeding;

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

30 (c) The location of the respondent’s property; and

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

34 **SECTION 8. Exclusive basis.** Sections 7 to 15 of this 2009 Act provide the exclusive ju-
 35 risdictional basis for a court of this state to appoint a guardian or issue a protective order
 36 for an adult.

37 **SECTION 9. Jurisdiction.** A court of this state has jurisdiction to appoint a guardian or
 38 issue a protective order for a respondent if:

39 (1) This state is the respondent’s home state;

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

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

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

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

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

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

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

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

11 **SECTION 10. Special jurisdiction.**

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

14 (a) Appoint a guardian in an emergency for a term not exceeding 90 days for a respondent
15 who is physically present in this state;

16 (b) Issue a protective order with respect to real or tangible personal property located in
17 this state; or

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

21 (2) If a petition for the appointment of a guardian in an emergency is brought in this
22 state and this state was not the respondent's home state on the date the petition was filed,
23 the court shall dismiss the proceeding at the request of the court of the home state, if any,
24 whether the dismissal is requested before or after the emergency appointment.

25 **SECTION 11. Exclusive and continuing jurisdiction.** Except as provided in section 10 of
26 this 2009 Act, a court that has appointed a guardian or issued a protective order consistent
27 with sections 1 to 22 of this 2009 Act has exclusive and continuing jurisdiction over the pro-
28 ceeding until the proceeding is terminated by the court or the appointment or order expires
29 by its own terms.

30 **SECTION 12. Appropriate forum.**

31 (1) A court of this state having jurisdiction under section 9 of this 2009 Act to appoint a
32 guardian or issue a protective order may decline to exercise its jurisdiction if it determines
33 at any time that a court of another state is a more appropriate forum.

34 (2) If a court of this state declines to exercise its jurisdiction under subsection (1) of this
35 section, the court shall either dismiss or stay the proceeding. The court may impose any
36 condition the court considers just and proper, including the condition that a petition for the
37 appointment of a guardian or issuance of a protective order be filed promptly in another
38 state.

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

41 (a) Any expressed preference of the respondent;

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

45 (c) The length of time the respondent was physically present in or was a legal resident

1 of this or another state;

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

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

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

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

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

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

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

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

14 (a) Decline to exercise jurisdiction;

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

20 (c) Continue to exercise jurisdiction after considering:

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

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

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

28 (2) If a court of this state determines that it acquired jurisdiction to appoint a guardian
29 or issue a protective order because a party seeking to invoke its jurisdiction engaged in un-
30 justifiable conduct, it may assess against that party necessary and reasonable expenses, in-
31 cluding attorney fees, investigative fees, court costs, communication expenses, witness fees
32 and expenses and travel expenses. The court may not assess fees, costs or expenses of any
33 kind against this state or a governmental subdivision, agency or instrumentality of this state
34 unless authorized by law other than sections 1 to 22 of this 2009 Act.

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

42 **SECTION 15. Proceedings in more than one state.** Except for a petition for the appoint-
43 ment of a guardian in an emergency or issuance of a protective order limited to property
44 located in this state under section 10 (1)(a) or (b) of this 2009 Act, if a petition for the ap-
45 pointment of a guardian or issuance of a protective order is filed in this state and in another

1 state and neither petition has been dismissed or withdrawn, the following rules apply:

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

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

11 ARTICLE 3

12 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

13 SECTION 16. Transfer of guardianship or conservatorship to another state.

14
15
16 (1) A guardian or conservator appointed in this state may petition the court to transfer
17 the guardianship or conservatorship to another state.

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

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

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

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

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

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

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

39 (a) The protected person is physically present in or is reasonably expected to move per-
40 manently to the other state, or the protected person has a significant connection to the
41 other state considering the factors in section 7 (2) of this 2009 Act;

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

45 (c) Adequate arrangements will be made for management of the protected person's

1 property.

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

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

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

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

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

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

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

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

22 (a) An objection is made and the objector establishes that transfer of the proceeding
23 would be contrary to the interests of the incapacitated or protected person; or

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

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

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

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

35 (8) The denial by a court of this state of a petition to accept a guardianship or conser-
36 vatorship transferred from another state does not affect the ability of the guardian or
37 conservator to seek appointment as guardian or conservator in this state under ORS chapter
38 125 if the court has jurisdiction to make an appointment other than by reason of the provi-
39 sional order of transfer.

40
41 **ARTICLE 4**

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

43
44 **SECTION 18. Registration of guardianship orders.** If a guardian has been appointed in
45 another state and a petition for the appointment of a guardian is not pending in this state,

1 the guardian appointed in the other state, after giving notice to the appointing court of an
 2 intent to register, may register the guardianship order in this state by filing as a foreign
 3 judgment in a court, in any appropriate county of this state, certified copies of the order and
 4 letters of office.

5 **SECTION 19. Registration of protective orders.** If a conservator has been appointed in
 6 another state and a petition for a protective order is not pending in this state, the
 7 conservator appointed in the other state, after giving notice to the appointing court of an
 8 intent to register, may register the protective order in this state by filing as a foreign judg-
 9 ment in a court of this state, in any county in which property belonging to the protected
 10 person is located, certified copies of the order and letters of office and of any bond.

11 **SECTION 20. Effect of registration.**

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

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

19
 20 **ARTICLE 5**

21 **MISCELLANEOUS PROVISIONS**

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

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

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

32 125.015. (1) The probate courts and commissioners provided for in ORS chapter 111 have exclu-
 33 sive jurisdiction of protective proceedings.

34 (2) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2 of this**
 35 **2009 Act**, if an Oregon court exercising probate jurisdiction becomes aware that a protective pro-
 36 ceeding has been commenced in another state, the Oregon court shall notify the court in the other
 37 state of the proceedings in this state. After consultation with the court of the other state, the
 38 Oregon court shall determine whether it is in the best interests of the respondent or protected
 39 person for the Oregon court to continue to exercise jurisdiction in the matter or whether it would
 40 be in the best interests of the respondent or protected person to terminate the Oregon proceedings
 41 and transfer the matter to the other court.

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

43 125.025. (1) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2**
 44 **of this 2009 Act**, a court having jurisdiction over a protective proceeding shall exercise continuing
 45 authority over the proceeding. Subject to the provisions of this chapter **and sections 1 to 22 of this**

1 **2009 Act**, the court may act upon the petition or motion of any person or upon its own authority
 2 at any time and in any manner it deems appropriate to determine the condition and welfare of the
 3 respondent or protected person and to inquire into the proper performance of the duties of a
 4 fiduciary appointed under the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-
 38 ceeding involving the minor, including a proceeding brought under ORS 25.287, 107.085, 107.135,
 39 107.431, 108.110, 109.100, 109.103, 109.165, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter
 40 110; and

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

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

1 this subsection.

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

7 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-
 8 ceeding involving the minor, including a proceeding brought under ORS 25.287, 107.085, 107.135,
 9 107.431, 108.110, 109.100, 109.103, 109.165, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter
 10 110; and

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

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

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

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

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

25 125.215. (1) If the person filing a petition in a protective proceeding is also nominated in the
 26 petition as fiduciary for the respondent, the signature of the petitioner on the petition acts as ac-
 27 ceptance of appointment upon entry of an order appointing the petitioner as fiduciary. If the person
 28 nominated as a fiduciary is not the petitioner, the person nominated must file an acceptance of the
 29 appointment before the entry of the order appointing the fiduciary.

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

32 (3) **Subject to sections 1 to 22 of this 2009 Act for adults as defined in section 2 of this**
 33 **2009 Act**, the court has personal jurisdiction over any person who accepts appointment as a
 34 fiduciary for the purpose of any matter relating to the protective proceeding, whether the person is
 35 a resident or nonresident of this state.

36 (4) Notice of an objection, motion or other matter in a protective proceeding may be personally
 37 served on the fiduciary or mailed to the fiduciary or the fiduciary's attorney by ordinary mail at the
 38 address listed in the court records and to any address for the fiduciary or the fiduciary's attorney
 39 known to the person giving notice.

40 **SECTION 26. Transitional provision.**

41 (1) **Sections 1 to 22 of this 2009 Act and the amendments to ORS 125.015, 125.025 and**
 42 **125.215 by sections 23 to 25 of this 2009 Act apply to guardianship and protective proceedings**
 43 **begun on or after the effective date of this 2009 Act.**

44 (2) **Sections 1 to 6, 16 to 20, 21 and 22 of this 2009 Act and the amendments to ORS**
 45 **125.015, 125.025 and 125.215 by sections 23 to 25 of this 2009 Act apply to court proceedings**

1 begun before the effective date of this 2009 Act, regardless of whether a guardianship or
2 protective order has been issued.

3 SECTION 27. The unit and section captions used in this 2009 Act are provided only for
4 the convenience of the reader and do not become part of the statutory law of this state or
5 express any legislative intent in the enactment of this 2009 Act.
6
