

A-Engrossed
House Bill 2683

Ordered by the House April 1
Including House Amendments dated April 1

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Elder Law 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.

Establishes procedure for requesting confidential information in protective proceeding.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to confidential information in protective proceedings; amending ORS 125.012; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 125.012 is amended to read:

6 125.012. **(1) As used in this section:**

7 **(a) "Party" means:**

8 **(A) A person who is the subject of a petition for a protective order.**

9 **(B) A person who has petitioned for appointment, or who has been appointed, as a**
10 **fiduciary for a protected person under this chapter.**

11 **(C) A person, not otherwise a party under this paragraph, who has filed objections as**
12 **allowed under this chapter.**

13 **(D) A visitor appointed by the court in a proceeding under this chapter.**

14 **(E) Any other person who has filed a petition or motion in a proceeding under this**
15 **chapter.**

16 **(b) "Protected health information" has the meaning given that term in ORS 192.519.**

17 **(c) "Protective services" has the meaning given that term in ORS 410.040.**

18 **[(1)] (2)** The Department of Human Services **or the Oregon Health Authority**, for the purpose
19 of providing protective services [*as that term is defined in ORS 410.040*], may petition for a protec-
20 tive order under this chapter. When the department **or authority**, or a petitioning attorney with
21 whom the department **or authority** has contracted, petitions for a protective order under this sec-
22 tion, the department **or authority** shall disclose to the court or to the petitioning attorney only a
23 minimum amount of information about the person who is the subject of the petition, including pro-
24 tected health, mental health, financial, substantiated abuse and legal information, as is reasonably
25 necessary to prevent or lessen a serious and imminent threat to the health or safety of the person
26 who is the subject of the petition or protective order.

27 **[(2)] (3)** When a petition for a protective order is filed under this chapter by a person other than
28 the Department of Human Services, **the Oregon Health Authority** or an attorney with whom the

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 department **or authority** has contracted, or when a protective order has already been entered, the
2 department **or authority** may disclose to a court protected health, mental health, financial, sub-
3 stantiated abuse and legal information about the person who is the subject of the petition or pro-
4 tective order, or about a person who has petitioned for appointment, or who has been appointed, as
5 a fiduciary for a protected person under this chapter. The department **or authority** may disclose
6 such information without authorization from the person or fiduciary if the disclosure is made in good
7 faith and with the belief that the disclosure is the minimum amount of information about the person
8 or fiduciary as is reasonably necessary to prevent or lessen a serious and imminent threat to the
9 health or safety of the person who is the subject of the petition or protective order.

10 [(3)(a)] **(4)(a)** All confidential and protected health, mental health, financial, substantiated abuse
11 and legal information disclosed **by the Department of Human Services, the Oregon Health Au-**
12 **thority or an attorney with whom the department or authority has contracted** under this
13 section must remain confidential [*and, when disclosed to the court, must be sealed by the court*].

14 (b) Information disclosed under this section must be identified and marked by the entity or
15 person making the disclosure as confidential and protected information that is subject to the re-
16 quirements [*of paragraph (a)*] of this subsection.

17 (c) Information disclosed under this section [*that is subject to the requirements of paragraph (a)*
18 *of this subsection*] is subject to inspection only by the parties to the proceedings and their
19 attorneys[, *and*] **as provided in subsection (5) of this section. Information disclosed under this**
20 **section** is not subject to inspection by members of the public except pursuant to a court order en-
21 tered after a showing of good cause. **Good cause under this paragraph includes the need for**
22 **inspection of the information by an attorney considering representation of the person who**
23 **is the subject of the petition or protective order, or of a person who has petitioned for ap-**
24 **pointment, or who has been appointed, as a fiduciary for a protected person under this**
25 **chapter.**

26 (d) Notwithstanding ORS 125.155 (4), to the extent that the report of a visitor appointed by the
27 court under ORS 125.150 contains information that is subject to the requirements [*of paragraph*
28 *(a)*] of this subsection, the report in its entirety shall be considered subject to the requirements [*of*
29 *paragraph (a)*] of this subsection and may be disclosed only as provided in paragraph (c) of this
30 subsection.

31 [(4) *As used in this section, "protected health information" has the meaning given that term in ORS*
32 *192.519.*]

33 **(5) The court may enter an order allowing inspection of information subject to disclosure**
34 **under this section upon the filing of a written request for inspection and the payment of any**
35 **fees or costs charged to copy the information.**

36 [(5)] **(6)** Nothing in this section is intended to limit the application of ORS 125.050 to the use
37 of information disclosed under this section in proceedings under this chapter.

38 [(6)] **(7)** Information may be disclosed under this section only for the purpose of providing pro-
39 tective services [*as that term is defined in ORS 410.040*].

40 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
42 **on its passage.**

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