

**Enrolled**  
**House Bill 2683**

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)

CHAPTER .....

AN ACT

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

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

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

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

(a) **“Party” means:**

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

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

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

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

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

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

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

[(1)] (2) The Department of Human Services **or the Oregon Health Authority**, 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 authority**, or a petitioning attorney with whom the department **or authority** has contracted, petitions for a protective order under this section, the department **or authority** 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)] (3) When a petition for a protective order is filed under this chapter by a person other than the Department of Human Services, **the Oregon Health Authority** or an attorney with whom the department **or authority** has contracted, or when a protective order has already been entered, the department **or authority** 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 **or authority** 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 or fiduciary 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.

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

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

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

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

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

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

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

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

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

**Passed by House April 6, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 18, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State