

House Bill 2378

Sponsored by Representative BARNHART (Pre-session filed.)

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**.

Allows parent or guardian of minor to file petition seeking appointment of guardian for minor as adult within 90 days before minor attains majority or such other time as court deems necessary and appropriate.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to time for filing petition seeking appointment of guardian for minor upon attaining ma-
3 jority; amending ORS 125.055; and declaring an emergency.

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

5 **SECTION 1.** ORS 125.055 is amended to read:

6 125.055. (1) A petition in a protective proceeding that seeks the appointment of a fiduciary must
7 designate the type of fiduciary that the petitioner seeks to have appointed. If the petition does not
8 request the appointment of a fiduciary, or if the petition requests both the appointment of a
9 fiduciary and some other protective order, the petition must contain a statement of the nature of the
10 protective order requested. The caption of the petition must reflect the type of fiduciary whose ap-
11 pointment is requested or, if the appointment of a fiduciary is not requested, the nature of the pro-
12 tective order requested. An original and duplicate copy of the petition must be filed with the court.

13 (2) A petition in a protective proceeding must contain the following information to the extent
14 that the petitioner is aware of the information or to the extent that the petitioner is able to acquire
15 the information with reasonable effort:

16 (a) The name, age, residence address and current location of the respondent.

17 (b) The interest of the petitioner.

18 (c) The name, age and address of the petitioner and any person nominated as fiduciary in the
19 petition and the relationship of the nominated person to the respondent.

20 (d) A statement as to whether the person nominated to be fiduciary has been convicted of a
21 crime, has filed for or received protection under the bankruptcy laws or has had a license revoked
22 or canceled that was required by the laws of any state for the practice of a profession or occupation.
23 If the nominated person has been convicted of a crime, filed for or received protection under bank-
24 ruptcy laws or had a professional or occupational license revoked or canceled, the petition shall
25 contain a statement of the circumstances surrounding those events. If the person nominated is not
26 the petitioner, the statement must indicate that the person nominated is willing and able to serve.

27 (e) The name and address of any fiduciary that has been appointed for the respondent by a court
28 of any state, any trustee for a trust established by or for the respondent, any person appointed as
29 a health care representative under the provisions of ORS 127.505 to 127.660 and any person acting
30 as attorney-in-fact for the respondent under a power of attorney.

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 (f) The name and address of the respondent's treating physician and any other person who is
2 providing care to the respondent.

3 (g) The factual information that supports the request for the appointment of a fiduciary or entry
4 of other protective order, and the names and addresses of all persons who have information that
5 would support a finding that an adult respondent is incapacitated or financially incapable.

6 (h) A statement that indicates whether the nominated person intends to place the respondent in
7 a mental health treatment facility, a nursing home or other residential facility.

8 (i) A general description of the estate of the respondent and the respondent's sources of income
9 and the amount of that income.

10 (j) A statement indicating whether the person nominated as fiduciary is a public or private
11 agency or organization that provides services to the respondent or an employee of a public or pri-
12 vate agency or organization that provides services to the respondent.

13 (3) In addition to the requirements of subsection (2) of this section, if a petition seeks appoint-
14 ment of a guardian, the petition must contain a statement on whether the guardian will exercise any
15 control over the estate of the respondent. If the guardian will exercise any control over the estate
16 of the respondent, the petition must contain a statement of the monthly income of the respondent,
17 the sources of the respondent's income, and the amount of any moneys that the guardian will be
18 holding for the respondent at the time of the appointment. If the petition seeks the appointment of
19 a guardian for an adult respondent or of a temporary fiduciary who will exercise the powers of a
20 guardian for an adult respondent, the petition must contain a statement notifying the court that a
21 visitor must be appointed.

22 (4) In addition to the requirements of subsection (2) of this section, if a petition seeks appoint-
23 ment of a conservator or a temporary fiduciary who will exercise the powers of a conservator or if
24 a petition seeks a protective order relating to the estate of the respondent, the petition must contain
25 the petitioner's estimate of the value of the estate.

26 (5) A petitioner may join parties in a petition in the manner provided by ORCP 28 for the joining
27 of defendants.

28 **(6) A parent or guardian of a minor may file a petition that seeks the appointment of a**
29 **guardian for the minor as an adult, to become effective on the date that the minor attains**
30 **majority, at any time within 90 days before the date that the minor attains majority or at**
31 **any other time determined by the court to be necessary and appropriate to ensure the on-**
32 **going protection, safety and welfare of the minor upon attaining majority.**

33 [(6)] (7) The court shall review a petition seeking appointment of a guardian and shall dismiss
34 the proceeding without prejudice, or require that the petition be amended, if the court determines
35 that the petition does not meet the requirements of this section.

36 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**
37 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
38 **on its passage.**