

**PROPOSED AMENDMENTS TO
HOUSE BILL 2671**

1 On page 1 of the printed bill, line 3, after “provisions;” insert “and” and
2 delete “and” and insert a comma.

3 In line 4, delete “; and appropriating money” and insert “, 441.109 and
4 441.153”.

5 Delete lines 6 through 25 and delete pages 2 through 10 and insert:
6

7 **“THE OREGON PUBLIC GUARDIAN AND CONSERVATOR**
8

9 **“SECTION 1. Sections 2 to 9 of this 2013 Act are added to and made
10 a part of ORS chapter 125.**

11 **“SECTION 2. For purposes of sections 2 to 9 of this 2013 Act:**

12 **“(1) ‘Client’ means a person who receives public guardian and
13 conservator services from the Oregon Public Guardian and
14 Conservator.**

15 **“(2) ‘Deputy public guardian and conservator’ means the person
16 who is employed by or under contract with the Oregon Public Guard-
17 ian and Conservator, who is certified by the Oregon Public Guardian
18 and Conservator and who provides services as a fiduciary appointed
19 by the court to clients under sections 2 to 9 of this 2013 Act.**

20 **“(3) ‘Public guardian and conservator services’ means services, in-
21 cluding but not limited to information, assistance and services as a
22 court-appointed fiduciary in guardianship or conservatorship pro-**

1 ceedings that are provided by deputy public guardians and
2 conservators, volunteers and staff under the supervision and control
3 of the Oregon Public Guardian and Conservator.

4 **“SECTION 3.** The Governor shall appoint the Oregon Public
5 Guardian and Conservator, subject to Senate confirmation under ORS
6 171.562 and 171.565, for a four-year term from a list of two or three
7 nominees nominated by the Long Term Care Ombudsman. The Oregon
8 Public Guardian and Conservator serves at the pleasure of the Gover-
9 nor and may be removed by the Governor for good cause or upon the
10 recommendation of the Oregon Public Guardian and Conservator Ad-
11 visory Committee established under section 8 of this 2013 Act. If there
12 is a vacancy for any cause, the Governor shall make an appointment
13 within 60 days. The Oregon Public Guardian and Conservator shall
14 receive a salary as fixed by the Governor and be reimbursed for all
15 reasonable travel and other expenses incurred in the performance of
16 official duties.

17 **“(2)** The Oregon Public Guardian and Conservator shall be respon-
18 sible for carrying out the duties and function of the Oregon Public
19 Guardian and Conservator pursuant to sections 2 to 9 of this 2013 Act,
20 within the office of the Long Term Care Ombudsman, and subject to
21 the direction, supervision and control of the Long Term Care Om-
22 budsman.

23 **“(3)** The Oregon Public Guardian and Conservator may hire or
24 contract with one full-time deputy public guardian and conservator
25 and one staff person to carry out the powers, duties and functions of
26 the Oregon Public Guardian and Conservator. The Oregon Public
27 Guardian and Conservator may prescribe the duties and assignments
28 and fix the compensation of persons hired by or under contract with
29 the Oregon Public Guardian and Conservator, subject to the State
30 Personnel Relations Law. Subject to any other applicable laws regu-

1 lating expenses, the persons hired by or under contract with the
2 Oregon Public Guardian and Conservator shall be allowed reasonable
3 travel and other expenses incurred in the performance of official du-
4 ties.

5 “(4) The Oregon Public Guardian and Conservator may delegate the
6 exercise or discharge of any power, duty or function that is vested in
7 or imposed by law upon the Oregon Public Guardian and Conservator
8 to the deputy public guardian and conservator or staff person hired
9 by or under contract with the Oregon Public Guardian and
10 Conservator for the purpose of conducting an official act in the name
11 of the Oregon Public Guardian and Conservator. The official act of any
12 person acting in the name of the Oregon Public Guardian and
13 Conservator by the authority of the Oregon Public Guardian and
14 Conservator is an official act of the Oregon Public Guardian and
15 Conservator.

16 “(5) The Oregon Public Guardian and Conservator may solicit and
17 accept gifts, grants and donations from public and private sources for
18 the purpose of carrying out the provisions of sections 2 to 9 of this 2013
19 Act, which moneys shall be deposited in the Long Term Care Om-
20 budsman Account established under ORS 441.153.

21 “(6) In accordance with applicable provisions of ORS chapter 183,
22 the Oregon Public Guardian and Conservator, in consultation with the
23 Long Term Care Ombudsman and the Oregon Public Guardian and
24 Conservator Advisory Committee, may adopt rules to carry out the
25 provisions of sections 2 to 9 of this 2013 Act.

26 **“SECTION 4.** The Oregon Public Guardian and Conservator shall:

27 “(1) Educate the public about the role and function of the Oregon
28 Public Guardian and Conservator and about public guardian and
29 conservator services.

30 “(2) Provide public guardian and conservator services for persons

1 who do not have relatives or friends willing or able to assume the
2 duties of guardianship or conservatorship and for persons who lack the
3 financial resources to obtain a private guardian or conservator.

4 “(3) Certify the deputy public guardian and conservator.

5 “(4) Develop model standards of eligibility and professional conduct
6 for the deputy public guardian and conservator and of practice and
7 procedure in public guardianship and conservatorship proceedings.

8 “(5) Develop and implement training and educational materials for
9 the deputy public guardian and conservator.

10 “(6) Establish and operate a program to recruit, train and supervise
11 volunteers to provide assistance to the Oregon Public Guardian and
12 Conservator, the deputy public guardian and conservator and clients.

13 “(7) Establish a process, including criteria and standards, to deter-
14 mine the eligibility of persons to receive public guardian and
15 conservator services and for the needs assessment required under
16 section 5 of this 2013 Act.

17 “(8) Cooperate with county offices of public guardian and
18 conservator operating under ORS 125.700.

19 “(9) Work with existing local and county programs and with other
20 organizations and entities to develop and expand public guardian and
21 conservator services in this state.

22 “(10) Make recommendations to the Legislative Assembly for policy
23 and legislation regarding implementation, improvement and expansion
24 of public guardian and conservator services in this state.

25 **“SECTION 5. (1) In providing public guardian and conservator ser-**
26 **vices, the Oregon Public Guardian and Conservator shall conduct a**
27 **needs assessment for a person who is claimed to not have relatives or**
28 **friends willing or able to assume the duties of guardianship or con-**
29 **servatorship or who lacks the financial resources to obtain a private**
30 **guardian or conservator. The purpose of the needs assessment is to**

1 determine the person's eligibility to receive public guardian and
2 conservator services and to determine the appropriateness of filing a
3 petition for the appointment of a fiduciary or other pleading on behalf
4 of the person in a court having probate jurisdiction. The assessment
5 shall, at a minimum:

6 “(a) Assess the person's capacity to:

7 “(A) Care for the person's own safety;

8 “(B) Manage the person's own financial affairs; and

9 “(C) Attend to and provide for necessities such as food, shelter,
10 clothing and medical care;

11 “(b) Assess the person's financial resources, based on information
12 available or supplied to the Oregon Public Guardian and Conservator
13 at the time of the assessment;

14 “(c) Determine whether the available information about the person
15 is sufficient to support a finding that the person is incapacitated or
16 financially incapable, and the entry of a court order for the appoint-
17 ment of a fiduciary under ORS 125.010;

18 “(d) Inquire whether any other person may be willing and able to
19 serve as the person's guardian or conservator and, if appropriate, lo-
20 cate and contact that other person;

21 “(e) Determine the type of fiduciary, if any, to request in a petition
22 filed under ORS 125.055, giving preference to the least intrusive form
23 of fiduciary relationship consistent with the best interests of the per-
24 son; and

25 “(f) Determine how best to provide public guardian and conservator
26 services to the person that are least restrictive to the person's liberty,
27 that are least intrusive to the person and that provide for the greatest
28 degree of independence that the person is capable of exercising.

29 “(2) For each person determined to be eligible for public guardian
30 and conservator services under this section, the Oregon Public

1 Guardian and Conservator shall develop a written plan setting forth
2 the type and duration of services to be provided by the Oregon Public
3 Guardian and Conservator. The plan shall be included in any non-
4 emergency petition or pleading filed with the court.

5 **“SECTION 6. (1) The deputy public guardian and conservator pro-**
6 **viding public guardian and conservator services under sections 2 to 9**
7 **of this 2013 Act:**

8 **“(a) Must be certified as the deputy public guardian and conservator**
9 **by the Oregon Public Guardian and Conservator; and**

10 **“(b) If appointed by the court as public guardian and conservator**
11 **for a client, shall serve as provided in this chapter and ORS 127.005 and**
12 **127.015, except as expressly stated otherwise in sections 2 to 9 of this**
13 **2013 Act.**

14 **“(2) A volunteer who, in the course of providing authorized public**
15 **guardian and conservator services, has personal contact with a client**
16 **must provide, in writing, the volunteer’s criminal history and must**
17 **submit or consent to a criminal records check, including fingerprint**
18 **identification.**

19 **“(3) Volunteers of the Oregon Public Guardian and Conservator:**

20 **“(a) May not conduct the needs assessments required under section**
21 **5 of this 2013 Act;**

22 **“(b) May not engage in conduct that constitutes the unlicensed**
23 **practice of law;**

24 **“(c) Shall be under the supervision and control of the Oregon Public**
25 **Guardian and Conservator or of the deputy public guardian and**
26 **conservator;**

27 **“(d) Shall be instructed in confidentiality and shall maintain the**
28 **confidentiality of clients and of written information and materials re-**
29 **lating to clients;**

30 **“(e) May not receive compensation or any other benefit but may**

1 be reimbursed for reasonable travel and other expenses incurred in the
2 performance of their duties on behalf of the Oregon Public Guardian
3 and Conservator; and

4 “(f) Are immune from civil liability for any acts or omissions oc-
5 ccurring, or errors in judgment made in good faith, in the course of
6 providing authorized public guardian and conservator services.

7 **“SECTION 7. (1) A court may not appoint the Oregon Public**
8 **Guardian and Conservator or deputy public guardian and conservator**
9 **as a fiduciary for a person unless the Oregon Public Guardian and**
10 **Conservator or deputy public guardian and conservator has petitioned**
11 **for or consented to the appointment.**

12 **“(2) The Oregon Public Guardian and Conservator shall file an of-**
13 **ficial bond in such amount as may be fixed from time to time by the**
14 **Long Term Care Ombudsman, in consultation with the Oregon Public**
15 **Guardian and Conservator Advisory Committee, or the court having**
16 **probate jurisdiction. The bond shall inure to the joint benefit of the**
17 **several public guardianship and conservatorship estates in which the**
18 **Oregon Public Guardian and Conservator is providing services but a**
19 **bond is not required to be filed in individual estates.**

20 **“(3) The court may not charge a fee for the filing of a petition or**
21 **any other pleading under this chapter by the Oregon Public Guardian**
22 **and Conservator or deputy public guardian and conservator when the**
23 **filing is made in connection with the provision of public guardian and**
24 **conservator services under sections 2 to 9 of this 2013 Act.**

25 **“(4)(a) The court shall order the client or the client’s estate to pay**
26 **for reasonable expenses incurred, including compensation for services**
27 **rendered, in the provision of public guardian and conservator services**
28 **to the client, including but not limited to court costs and attorney**
29 **fees.**

30 **“(b) If a client is indigent, the Oregon Public Guardian and**

1 Conservator and the office of the Long Term Care Ombudsman shall
2 have a claim against the client or the client's estate for the portion
3 of any payment ordered under paragraph (a) of this subsection that
4 remains unpaid.

5 “(5) The court may not order the Oregon Public Guardian and
6 Conservator, the deputy public guardian and conservator or the office
7 of the Long Term Care Ombudsman to pay court costs or attorney fees
8 in a proceeding brought on behalf of a client under sections 2 to 9 of
9 this 2013 Act.

10 **“SECTION 8. (1) There is established the Oregon Public Guardian**
11 **and Conservator Advisory Committee consisting of the Long Term**
12 **Care Ombudsman, or the Long Term Care Ombudsman's designee and**
13 **six members to be appointed in the following manner:**

14 **“(a) One person appointed by the Speaker of the House of Repre-**
15 **sentatives;**

16 **“(b) One person appointed by the President of the Senate;**

17 **“(c) One person appointed by the House Minority Leader;**

18 **“(d) One person appointed by the Senate Minority Leader;**

19 **“(e) Two persons, to be appointed by the Governor, from a list of**
20 **four names submitted by individuals and organizations that provide**
21 **guardianship and conservatorship services in this state.**

22 **“(2) Members described in subsection (1)(e) of this section are sub-**
23 **ject to confirmation by the Senate under ORS 171.562 and 171.565.**

24 **“(3) The term of office of each member is four years. Before the**
25 **expiration of the term of a member, the appointing authority shall**
26 **appoint a successor whose term begins on July 1 next following. A**
27 **member is eligible for reappointment. If there is a vacancy for any**
28 **cause, the appointing authority shall make an appointment to become**
29 **immediately effective for the unexpired term.**

30 **“(4) The members of the committee must be residents of this state**

1 who are broadly representative, to the extent possible, of persons who
2 provide guardianship and conservatorship and other fiduciary services
3 to persons in this state, who have knowledge and interest in the
4 problems of persons who have inadequate resources to obtain their
5 own fiduciary services and who are representative of all areas of this
6 state.

7 “(5) The committee shall select one of its members as chairperson
8 and another as vice chairperson, for such terms and with duties and
9 powers necessary for the performance of the functions and duties of
10 these offices as the committee determines.

11 “(6) A majority of the members of the committee constitutes a
12 quorum for the transaction of business. Decisions may be made by a
13 majority of the quorum.

14 “(7) The committee shall meet at least once each month at a place,
15 day and hour determined by the committee. The committee also shall
16 meet at other times and places specified by the call of the chairperson
17 or of a majority of the members of the committee. The committee
18 shall confer each month with the Public Guardian and Conservator.

19 “(8) A member of the committee is entitled to compensation and
20 expenses as provided in ORS 292.495.

21 “(9) The office of the Long Term Care Ombudsman shall provide
22 staff support to the committee.

23 **“SECTION 9. The Oregon Public Guardian and Conservator Advi-
24 sory Committee shall:**

25 **“(1) Monitor the Oregon Public Guardian and Conservator.**

26 **“(2) Advise the Governor and the Legislative Assembly on the
27 Oregon Public Guardian and Conservator.**

28 **“(3) Advise the Long Term Care Ombudsman regarding persons to
29 be nominated to become the Oregon Public Guardian and Conservator,
30 according to prescribed criteria.**

1 “(4) Make recommendations to the Governor for removal of the
2 Oregon Public Guardian and Conservator when appropriate.

3 “(5) Consult with the Oregon Public Guardian and Conservator in
4 the adoption of rules to implement the provisions of sections 2 to 9 of
5 this 2013 Act.

6
7 “**COUNTY OFFICES OF PUBLIC GUARDIAN AND CONSERVATOR**

8
9 “**SECTION 10.** ORS 125.700 is amended to read:

10 “125.700. The county court or board of county commissioners of any
11 county:

12 “(1) After making a determination that there exists a need within the
13 county for a guardian or conservator for persons who do not have relatives
14 or friends willing to serve as a guardian or conservator and capable of as-
15 suming the duties of guardianship or conservatorship, may create [*within the*
16 *county*] the **county** office of public guardian and conservator and such sub-
17 ordinate positions as may be necessary to operate effectively the **county** of-
18 fice of public guardian and conservator [*within the county*].

19 “(2) May expend county funds for the purpose of operating the **county**
20 office of public guardian and conservator.

21 “(3) After establishment of the **county** office of public guardian and
22 conservator [*within a county*], upon the finding that the county does not need
23 the service of a public guardian and conservator, may terminate the office.

24 “**SECTION 11.** ORS 125.705 is amended to read:

25 “125.705. (1) The person appointed to the office of **county** public guardian
26 and conservator shall serve in the office at the pleasure of the appointing
27 authority. If the person holding the office of **county** public guardian and
28 conservator [*in a county*] is removed from office, dies, becomes incapacitated
29 or resigns, the removal, death, incapacity or resignation shall operate to re-
30 move [*such*] **the county** public guardian and conservator as guardian and

1 conservator of all estates then under the guardianship and conservatorship
2 of the person.

3 “(2) As used in ORS 125.700 to 125.730, ‘**county public guardian and**
4 **conservator**’ means the person appointed to the county office of public
5 **guardian and conservator created under ORS 125.700.**

6 “**SECTION 12.** ORS 125.710 is amended to read:

7 “125.710. (1) The **county** public guardian and conservator may serve as
8 the guardian or conservator, or both, of any person of whom the court having
9 probate jurisdiction in the county may have jurisdiction. The **county** public
10 guardian and conservator may serve as guardian or conservator upon the
11 petition of any person or upon the [own] petition of the **county** public
12 guardian and conservator.

13 “(2) When appointed as guardian or conservator by the court having
14 probate jurisdiction, the **county** public guardian and conservator shall serve
15 as provided in ORS chapter 125, ORS 127.005 and 127.015, except as specif-
16 ically stated to the contrary in ORS 125.700 to 125.730.

17 “(3) The **county** public guardian and conservator in the discretion of the
18 **county** public guardian and conservator may employ private attorneys if the
19 fees for the attorneys can be defrayed out of funds of the guardianship or
20 conservatorship estate.

21 “**SECTION 13.** ORS 125.715 is amended to read:

22 “125.715. (1) Before entering into office as **county** public guardian and
23 conservator, the person appointed to the office shall file an official bond in
24 such amount as may be fixed from time to time by the board of county
25 commissioners or the court having probate jurisdiction, which bond shall
26 inure to the joint benefit of the several guardianship [or] **and** conservator-
27 ship estates in which the person is acting as guardian or conservator and the
28 county. The **county** public guardian and conservator shall not be required
29 to file bonds in individual estates.

30 “(2) Upon removal of the **county** public guardian and conservator in ac-

1 cordance with the provisions of ORS 125.705, the surety on the **county** public
2 guardian and conservator bond shall be exonerated upon order to that effect
3 of the court having probate jurisdiction in the county.

4 **“SECTION 14.** ORS 125.720 is amended to read:

5 “125.720. All funds coming into the custody of the **county** public guardian
6 and conservator shall be deposited in the county treasury and disbursed by
7 proper warrant, or shall be deposited in one or more banks or invested in
8 one or more insured savings and loan associations authorized to do business
9 within the county, or as provided by ORS 125.445 (5).

10 **“SECTION 15.** ORS 125.725 is amended to read:

11 “125.725. The **county** public guardian and conservator shall have a claim
12 against the ward’s or protected person’s estate for reasonable expenses in-
13 curred in the execution of the guardianship or conservatorship and such
14 compensation for services and those of the attorney of the **county** public
15 guardian and conservator as the court having probate jurisdiction in the
16 county deems just and reasonable. If the **county** public guardian and
17 conservator is compensated by the county for services, any reimbursement
18 of expenses or compensation shall be paid to the county.

19 **“SECTION 16.** ORS 125.730 is amended to read:

20 “125.730. No fee shall be charged or received by any court having probate
21 jurisdiction for the filing of any petition asking for the appointment of the
22 **county** public guardian and conservator **as the guardian or conservator**
23 or for any official service performed by that court in the course of the
24 guardianship or conservatorship proceedings.

25

26

“CONFORMING AMENDMENTS

27

28 **“SECTION 17.** ORS 441.109 is amended to read:

29 “441.109. The office of the Long Term Care Ombudsman shall carry out
30 the following duties:

1 “(1) Investigate and resolve complaints made by or for residents of long
2 term care facilities about administrative actions that may adversely affect
3 their health, safety, welfare or rights, including subpoenaing any person to
4 appear, give sworn testimony or to produce documentary or other evidence
5 that is reasonably material to any matter under investigation.

6 “(2) Undertake, participate in or cooperate with persons and agencies in
7 such conferences, inquiries, meetings or studies as may lead to improvements
8 in the functioning of long term care facilities.

9 “(3) Monitor the development and implementation of federal, state and
10 local laws, regulations and policies that relate to long term care facilities
11 in this state.

12 “(4) Provide information to public agencies about the problems of resi-
13 dents of long term care facilities.

14 “(5) Work closely with cooperative associations and citizen groups in this
15 state.

16 “(6) Widely publicize the Long Term Care Ombudsman’s service, purpose
17 and mode of operation.

18 “(7) Collaborate with the Department of Human Services and the Nursing
19 Home Administrators Board to establish a statewide system to collect and
20 analyze information on complaints and conditions in long term care facilities
21 for the purpose of publicizing improvements and resolving significant prob-
22 lems.

23 “(8) Appoint designees to serve as local representatives of the office in
24 various districts of the state and regularly monitor their functions.

25 “(9) Specify qualifications and duties of designees.

26 “(10) Adopt rules necessary for carrying out ORS 441.100 to 441.133, after
27 consultation with the committee.

28 “(11) Provide periodically, or at least twice annually, a report to the
29 Governor, department and the Legislative Assembly.

30 “(12) Prepare necessary reports with the assistance of the department.

1 **“(13) Supervise, monitor, advise and support the Oregon Public**
2 **Guardian and Conservator appointed under section 3 of this 2013 Act.**

3 **“SECTION 18.** ORS 441.153 is amended to read:

4 “441.153. The Long Term Care Ombudsman Account is established sepa-
5 rate and distinct from the General Fund. All miscellaneous receipts, gifts and
6 federal and other grants received by the Long Term Care Ombudsman shall
7 be deposited into the Long Term Care Ombudsman Account and are contin-
8 uously appropriated to the Long Term Care Ombudsman for carrying out the
9 responsibilities of the Long Term Care Ombudsman **and the Oregon Public**
10 **Guardian and Conservator.**

11 **“SECTION 19.** ORS 125.240 is amended to read:

12 “125.240. (1) If a petition seeks the appointment of a professional fiduciary
13 as described in subsection (5) of this section, the petition must contain the
14 following information in addition to that information required under ORS
15 125.055:

16 “(a) A description of the events that led to the involvement of the pro-
17 fessional fiduciary in the case.

18 “(b) The professional fiduciary’s educational background and professional
19 experience.

20 “(c) The fees charged by the professional fiduciary and whether the fees
21 are on an hourly basis or are based on charges for individual services ren-
22 dered.

23 “(d) The names of providers of direct services to protected persons that
24 are repeatedly used by the professional fiduciary under contract.

25 “(e) The disclosures required under ORS 125.221 if the person nominated
26 to act as fiduciary will employ a person in which the nominated person has
27 a pecuniary or financial interest.

28 “(f) The number of protected persons for whom the person performs
29 fiduciary services at the time of the petition.

30 “(g) Whether the professional fiduciary has ever had a claim against the

1 bond of the fiduciary and a description of the circumstances causing the
2 claim.

3 “(h) Whether the professional fiduciary or any staff with responsibility
4 for making decisions for clients or for management of client assets has ever
5 filed for bankruptcy and the date of filing.

6 “(i) Whether the professional fiduciary or any staff with responsibility for
7 making decisions for clients or for management of client assets has ever been
8 denied a professional license that is directly related to responsibilities of the
9 professional fiduciary, or has ever held a professional license that is directly
10 related to responsibilities of the professional fiduciary that was revoked or
11 canceled. If such a license has been denied, revoked or canceled, the petition
12 must reflect the date of the denial, revocation or cancellation and the name
13 of the regulatory body that denied, revoked or canceled the license.

14 “(j) A statement that the criminal records check required under sub-
15 section (2) of this section does not disqualify the person from acting as a
16 fiduciary.

17 “(k) Whether the professional fiduciary and any staff responsible for
18 making decisions for clients or for management of client assets is or has
19 been certified by a national or state association of professional fiduciaries,
20 the name of any such association and whether the professional fiduciary or
21 other staff person has ever been disciplined by any such association and the
22 result of the disciplinary action.

23 “(L) The name, address and telephone number of the individual who is to
24 act as primary decision maker for the protected person and the name of the
25 person with whom the protected person will have personal contact if that
26 person is not the person who will act as primary decision maker for the
27 protected person.

28 “(2)(a) If a petition seeks the appointment of a professional fiduciary as
29 described in subsection (5) of this section, the professional fiduciary and all
30 staff with responsibility for making decisions for clients or for management

1 of client assets must undergo a criminal records check before the court may
2 appoint the professional fiduciary. The results of the criminal records check
3 shall be provided by the petitioner to the court. Results of criminal records
4 checks submitted to the court are confidential, shall be subject to inspection
5 only by the parties to the proceedings and their attorneys, and shall not be
6 subject to inspection by members of the public except pursuant to a court
7 order entered after a showing of good cause. A professional fiduciary must
8 disclose to the court any criminal conviction of the professional fiduciary
9 that occurs after the criminal records check was performed. The criminal
10 records check under this subsection shall consist of a check for a criminal
11 record in the State of Oregon and a national criminal records check if:

12 “(A) The person has resided in another state within five years before the
13 date that the criminal records check is performed;

14 “(B) The person has disclosed the existence of a criminal conviction; or

15 “(C) A criminal records check in Oregon discloses the existence of a
16 criminal record in another jurisdiction.

17 “(b) The requirements of this subsection do not apply to any person who
18 serves as a **county** public guardian [*or*] **and** conservator, or any staff of a
19 **county** public guardian [*or*] **and** conservator, [*who is*] operating under ORS
20 125.700 to 125.730 or 406.050 [*and who is otherwise required to acquire a*
21 *criminal records check for other purposes*], **or to the Oregon Public**
22 **Guardian and Conservator, the deputy public guardian and**
23 **conservator or the staff or volunteers of the Oregon Public Guardian**
24 **and Conservator, operating under sections 2 to 9 of this 2013 Act, un-**
25 **less the person is otherwise required to submit to a criminal records**
26 **check under ORS 125.700 to 125.730 or sections 2 to 9 of this 2013 Act.**

27 “(3)(a) If a petition seeks the appointment of a **county** public guardian
28 and conservator operating under the provisions of ORS 125.700 to 125.730,
29 **the appointment of the Oregon Public Guardian and Conservator or**
30 **the deputy public guardian and conservator, operating under the pro-**

1 **visions of sections 2 to 9 of this 2013 Act**, or the appointment of a
2 conservator under ORS 406.050 (8), the petition need not contain the infor-
3 mation described in subsection (1)(d) or (L) of this section.

4 “(b) If a **county** public guardian and conservator operating under the
5 provisions of ORS 125.700 to 125.730, **or the Oregon Public Guardian and**
6 **Conservator or the deputy public guardian and conservator, operating**
7 **under the provisions of sections 2 to 9 of this 2013 Act**, is appointed to
8 act as a fiduciary, or a conservator operating under the authority of ORS
9 406.050 (8) is appointed, the **county** public guardian [*or*] **and** conservator,
10 **the Oregon Public Guardian and Conservator or the deputy public**
11 **guardian and conservator** must file with the court within three days after
12 receipt of written notice of the appointment a statement containing the
13 name, address and telephone number of the individual who will act as pri-
14 mary decision maker for the protected person and the name of the person
15 with whom the protected person will have personal contact if the person
16 named as primary decision maker will not have personal contact with the
17 protected person.

18 “(4) If the court appoints a professional fiduciary as described in sub-
19 section (5) of this section, the professional fiduciary must update all infor-
20 mation required to be disclosed by subsection (1) of this section and provide
21 a copy of the updated statement upon the request of the protected person or
22 upon the request of any person entitled to notice under ORS 125.060 (3). The
23 professional fiduciary must provide an updated statement without demand to
24 the court, the protected person and persons entitled to notice under ORS
25 125.060 (3) at any time that there is a change in the information provided
26 under subsection (1)(L) or (3)(b) of this section.

27 “(5) The provisions of this section apply to any person nominated as a
28 fiduciary or serving as a fiduciary who is acting at the same time as a
29 fiduciary for three or more protected persons who are not related to the
30 fiduciary.

1 **“SECTION 20.** ORS 125.410 is amended to read:

2 “125.410. (1) Except as provided in subsection (2) of this section, the court
3 shall require a conservator to furnish a bond conditioned upon faithful dis-
4 charge of all duties of the conservator according to law, with sureties as
5 specified by the court. Unless otherwise directed, the bond must be in the
6 amount of the aggregate capital value of the property of the estate in the
7 control of the conservator plus one year’s estimated income minus the value
8 of securities and money deposited under arrangements requiring an order of
9 the court for their removal and the value of any real property that the
10 conservator, by express limitation of power, lacks power to sell or convey
11 without court authorization.

12 “(2)(a) The court may waive a bond for good cause shown.

13 “(b) Subsection (1) of this section does not affect the provisions of ORS
14 709.240, relating to a trust company acting as fiduciary, ORS 125.715, relating
15 to a **county public guardian and conservator** acting as fiduciary, **section**
16 **7 of this 2013 Act, relating to the Oregon Public Guardian and**
17 **Conservator or the deputy public guardian and conservator acting as**
18 **fiduciary under sections 2 to 9 of this 2013 Act,** or ORS 406.050 (8), re-
19 lating to the Department of Veterans’ Affairs acting as fiduciary.

20 “(3) Sureties for a bond required under this section are jointly and se-
21 verally liable with the conservator and with each other.

22 “(4) Letters of conservatorship may not be issued until the bond required
23 by this section is approved by the court.

24 “(5) The bond of the conservator continues in effect until the sureties on
25 the bond are released by order of the court.

26 “(6) The court may at any time increase or reduce the amount of the bond
27 required of a conservator for the protection of the protected person and the
28 estate of the protected person.

29 “(7) If a surety on a bond required by this section gives notice of intent
30 to cancel the bond, the conservator shall execute and file in the protective

1 proceeding a new bond before the cancellation date specified by the surety.
2 The new bond shall be in the amount and subject to those conditions that
3 may be required by the court. If the conservator fails to file a new bond, the
4 authority of the conservator ends on the date specified by the surety for
5 cancellation of the bond. The letters of conservatorship issued to the
6 conservator are void from that date, and the conservator must make and file
7 the final accounting of the conservator.

8

9

“UNIT CAPTIONS

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11 **“SECTION 21. The unit captions used in this 2013 Act are provided**
12 **only for the convenience of the reader and do not become part of the**
13 **statutory law of this state or express any legislative intent in the**
14 **enactment of this 2013 Act.**

15

16

“APPLICABILITY

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18 **“SECTION 22. Sections 2 to 9 of this 2013 Act and the amendments**
19 **to ORS 125.240, 125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725,**
20 **125.730, 441.109 and 441.153 by sections 10 to 20 of this 2013 Act apply**
21 **to protective proceedings commenced on or after the effective date of**
22 **this 2013 Act.”.**

23
