

B-Engrossed Senate Bill 1553

Ordered by the Senate February 28
Including Senate Amendments dated February 12 and February 28

Sponsored by Senator DEMBROW, Representative DOHERTY (Presession 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.

Directs Long Term Care Ombudsman, in consultation with Residential Facilities Advisory Committee, to appoint Oregon Public Guardian and Conservator in office of Long Term Care Ombudsman to provide public guardian and conservator services for persons claiming to be without relatives or friends willing or able to serve as guardians or conservators and claiming to lack financial resources to obtain private guardian or conservator.

Authorizes Oregon Public Guardian and Conservator, in consultation with and subject to approval of Long Term Care Ombudsman, to hire or contract with volunteers, staff, deputy public guardians and conservators and other qualified individuals.

Prescribes duties and responsibilities of Oregon Public Guardian and Conservator. Imposes certain limitations on court orders in proceedings involving Oregon Public Guardian and Conservator.

Directs office of Long Term Care Ombudsman to identify and coordinate programs, services and assistance for persons *[with inadequate legal, financial and medical resources]* **receiving public guardian and conservator services**, to contract with qualified individuals and entities to provide programs, services and assistance to persons *[with inadequate resources]* **receiving public guardian and conservator services** in areas of state where such programs, services and assistance are inadequate or nonexistent and to contract with state protection and advocacy system.

[Establishes Partnership Fund. Continuously appropriates moneys in fund to office of Long Term Care Ombudsman to pay for assistance to persons with inadequate resources.]

Directs office of Long Term Care Ombudsman to supervise, monitor, advise and support Oregon Public Guardian and Conservator. Authorizes use of funds in Long Term Care Ombudsman Account to carry out responsibilities of Oregon Public Guardian and Conservator.

Directs Governor to appoint two members with expertise in guardianship, conservatorship and fiduciary services to Residential Facilities Advisory Committee.

Renames existing offices of public guardian and conservator as offices of county public guardian and conservator.

[Appropriates moneys from General Fund to office of Long Term Care Ombudsman for Partnership Fund.]

[Appropriates moneys from General Fund to office of Long Term Care Ombudsman for deposit into Long Term Care Ombudsman Account to carry out responsibilities of Oregon Public Guardian and Conservator.]

Becomes operative July 1, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to services for persons with inadequate resources; creating new provisions; amending ORS 125.240, 125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725, 125.730, 441.109, 441.137 and 441.153; and declaring an emergency.

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

THE OREGON PUBLIC GUARDIAN AND CONSERVATOR

SECTION 1. Sections 2 to 7 of this 2014 Act are added to and made a part of ORS chapter 125.

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.

SECTION 2. For purposes of sections 2 to 7 of this 2014 Act:

(1) “Client” means a person who receives public guardian and conservator services from the Oregon Public Guardian and Conservator.

(2) “Deputy public guardian and conservator” means a person who is employed by or under contract with the Oregon Public Guardian and Conservator, who is certified by the Oregon Public Guardian and Conservator and who provides services as a fiduciary appointed by the court to clients under sections 2 to 7 of this 2014 Act.

(3) “Public guardian and conservator services” means services, including but not limited to information, assistance and services as a court-appointed fiduciary in guardianship or conservatorship proceedings that are provided by deputy public guardians and conservators, volunteers and staff under the supervision and control of the Oregon Public Guardian and Conservator.

SECTION 3. (1) The Long Term Care Ombudsman appointed under ORS 441.103, in consultation with the Residential Facilities Advisory Committee, shall appoint the Oregon Public Guardian and Conservator in the office of the Long Term Care Ombudsman for a four-year term. The Oregon Public Guardian and Conservator serves at the pleasure of the Long Term Care Ombudsman and may be removed by the Long Term Care Ombudsman for good cause. If there is a vacancy for any cause, the Long Term Care Ombudsman shall make an appointment within 60 days. The Oregon Public Guardian and Conservator shall receive a salary as fixed by the Long Term Care Ombudsman and be reimbursed for all reasonable travel and other expenses incurred in the performance of official duties.

(2) The Oregon Public Guardian and Conservator shall be responsible for carrying out the powers, duties and functions of the Oregon Public Guardian and Conservator pursuant to sections 2 to 7 of this 2014 Act, within the office of the Long Term Care Ombudsman, and subject to the direction, supervision and control of the Long Term Care Ombudsman.

(3) The Oregon Public Guardian and Conservator, in consultation with and subject to the approval of the Long Term Care Ombudsman, may:

(a) Hire or contract with volunteers, staff, deputy public guardians and conservators and other qualified individuals, as necessary, to carry out the powers, duties and functions of the Oregon Public Guardian and Conservator;

(b) Prescribe the duties and assignments of persons hired or under contract with the Oregon Public Guardian and Conservator;

(c) Fix the compensation, including reasonable travel and other expenses incurred in the performance of official duties, of persons hired by or under contract with the Oregon Public Guardian and Conservator subject to the State Personnel Relations Law; and

(d) Adopt rules to carry out the provisions of sections 2 to 7 of this 2014 Act.

(4) The Long Term Care Ombudsman may hire or contract with staff to serve in the office of the Long Term Care Ombudsman as necessary to carry out the powers, duties and functions of the Long Term Care Ombudsman in supervising, monitoring, advising and supporting the Oregon Public Guardian and Conservator as required under ORS 441.109.

(5) The Oregon Public Guardian and Conservator may delegate the exercise or discharge of any power, duty or function that is vested in or imposed by law upon the Oregon Public Guardian and Conservator to a deputy public guardian and conservator, staff person or volunteer hired by or under contract with the Oregon Public Guardian and Conservator as appropriate for the purpose of conducting an official act in the name of the Oregon Public

1 **Guardian and Conservator. The official act of any person acting in the name of the Oregon**
2 **Public Guardian and Conservator by the authority of the Oregon Public Guardian and**
3 **Conservator is an official act of the Oregon Public Guardian and Conservator.**

4 **(6) The Oregon Public Guardian and Conservator may solicit and accept gifts, grants and**
5 **donations from public and private sources for the purpose of carrying out the provisions of**
6 **sections 2 to 7 of this 2014 Act, which moneys shall be deposited in the Long Term Care**
7 **Ombudsman Account established under ORS 441.153.**

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

9 **(1) Educate the public about the role and function of the Oregon Public Guardian and**
10 **Conservator and about public guardian and conservator services.**

11 **(2) Provide public guardian and conservator services for persons who do not have rela-**
12 **tives or friends willing or able to assume the duties of guardianship or conservatorship and**
13 **who lack the financial resources to obtain a private guardian or conservator.**

14 **(3) Certify deputy public guardians and conservators.**

15 **(4) Develop model standards of eligibility and professional conduct for deputy public**
16 **guardians and conservators and of practice and procedure in public guardianship and con-**
17 **servatorship proceedings.**

18 **(5) Develop and implement training and educational materials for deputy public guardians**
19 **and conservators.**

20 **(6) Establish and operate a program to recruit, train and supervise volunteers to provide**
21 **assistance to the Oregon Public Guardian and Conservator, deputy public guardians and**
22 **conservators and clients.**

23 **(7) Establish a process, including criteria and standards, to determine the eligibility of**
24 **persons to receive public guardian and conservator services and for the needs assessment**
25 **required under section 5 of this 2014 Act.**

26 **(8) Cooperate with offices of county public guardian and conservator operating under**
27 **ORS 125.700.**

28 **(9) Work with existing local and county programs and with other organizations and en-**
29 **tities to develop and expand public guardian and conservator services in this state.**

30 **(10) Make recommendations to the Legislative Assembly for policy and legislation re-**
31 **garding implementation, improvement and expansion of public guardian and conservator**
32 **services in this state.**

33 **SECTION 5. (1) In providing public guardian and conservator services, the Oregon Public**
34 **Guardian and Conservator shall conduct a needs assessment for a person who claims or is**
35 **claimed not to have relatives or friends willing or able to assume the duties of guardianship**
36 **or conservatorship and who claims or is claimed to lack the financial resources to obtain a**
37 **private guardian or conservator. The purpose of the needs assessment is to determine the**
38 **person's eligibility to receive public guardian and conservator services and to determine the**
39 **appropriateness of filing a petition for the appointment of a fiduciary or other pleading on**
40 **behalf of the person in a court having probate jurisdiction. The assessment shall, at a mini-**
41 **mum:**

42 **(a) Assess the person's capacity to:**

43 **(A) Care for the person's own safety;**

44 **(B) Manage the person's own financial affairs; and**

45 **(C) Attend to and provide for necessities such as food, shelter, clothing and medical care;**

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

3 (c) Determine whether the available information about the person is sufficient to support
4 a finding that the person is incapacitated or financially incapable, and the entry of a court
5 order for the appointment of a fiduciary under ORS 125.010;

6 (d) Determine whether any other person may be willing and able to serve as the person's
7 guardian or conservator and, if appropriate, locate and contact that other person;

8 (e) Determine the type of fiduciary, if any, to request in a petition filed under ORS
9 125.055, giving preference to the least intrusive form of fiduciary relationship consistent with
10 the best interests of the person; and

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

14 (2) For each person determined to be eligible for public guardian and conservator services
15 under this section, the Oregon Public Guardian and Conservator shall develop a written plan
16 setting forth the type and duration of services to be provided by the Oregon Public Guardian
17 and Conservator. The plan shall be included in any nonemergency petition or pleading filed
18 with the court.

19 **SECTION 6.** (1) A deputy public guardian and conservator providing public guardian and
20 conservator services under sections 2 to 7 of this 2014 Act:

21 (a) Must be certified as a deputy public guardian and conservator by the Oregon Public
22 Guardian and Conservator; and

23 (b) If appointed by the court as public guardian and conservator for a client, shall serve
24 as provided in this chapter and ORS 127.005 and 127.015, except as expressly stated otherwise
25 in sections 2 to 7 of this 2014 Act.

26 (2) A volunteer of the Oregon Public Guardian and Conservator must provide, in writing,
27 the volunteer's criminal history and must submit or consent to a criminal records check,
28 including fingerprint identification.

29 (3) Volunteers:

30 (a) May not conduct the needs assessments required under section 5 of this 2014 Act;

31 (b) May not engage in conduct that constitutes the unlicensed practice of law;

32 (c) Shall be under the supervision and control of the Oregon Public Guardian and
33 Conservator or of a deputy public guardian and conservator;

34 (d) Shall be instructed in confidentiality and shall maintain the confidentiality of clients
35 and of written information and materials relating to clients;

36 (e) May not receive compensation or any other benefit but may be reimbursed for rea-
37 sonable travel and other expenses incurred in the performance of their duties on behalf of
38 the Oregon Public Guardian and Conservator; and

39 (f) Except for intentional misconduct or conduct that is grossly negligent, are immune
40 from civil liability for any acts or omissions occurring, or errors in judgment made in good
41 faith, in the course of providing authorized public guardian and conservator services.

42 **SECTION 7.** (1) A court may not appoint the Oregon Public Guardian and Conservator
43 or a deputy public guardian and conservator as a fiduciary for a person unless the Oregon
44 Public Guardian and Conservator or deputy public guardian and conservator has petitioned
45 for or consented to the appointment.

1 **(h)(A) Identify and coordinate programs, services and other assistance for persons re-**
2 **ceiving public guardian and conservator services under sections 2 to 7 of this 2014 Act, that**
3 **are available statewide;**

4 **(B) Contract with qualified individuals and entities to provide programs, services and**
5 **assistance to persons receiving public guardian and conservator services under sections 2 to**
6 **7 of this 2014 Act who are located in areas of this state where such programs, services and**
7 **other assistance are inadequate or nonexistent; and**

8 **(C) Contract with the state protection and advocacy system described in ORS 192.517 (1)**
9 **to provide services and assistance to persons who are prospective or current residents of a**
10 **mental health treatment facility or of a residential facility for individuals with developmental**
11 **disabilities when the system has received a notice regarding the person pursuant to ORS**
12 **125.060 (7)(c) or (8)(c).**

13 *[(h)]* **(i)** Appoint designees to serve as local representatives of the office in various districts of
14 the state and regularly monitor their functions.

15 *[(i)]* **(j)** Specify qualifications and duties of designees.

16 *[(j)]* **(k)** Adopt rules necessary for carrying out ORS 441.100 to 441.133, after consultation with
17 the Residential Facilities Advisory Committee.

18 *[(k)]* **(L)** Provide periodically, or at least annually, a report to the Governor, authority, depart-
19 ment and Legislative Assembly.

20 *[(L)]* **(m)** Prepare necessary reports with the assistance of the authority and the department.

21 **(n) Supervise, monitor, advise and support the Oregon Public Guardian and Conservator**
22 **appointed under section 3 of this 2014 Act.**

23 (2) At least quarterly, the Oregon Health Authority and the Department of Human Services shall
24 provide the Long Term Care Ombudsman with a list of the number of licensed or certified beds in
25 each residential facility for which the ombudsman has responsibilities under this section.

26 (3) As used in this section, “administrative action” means any action or decision made by an
27 owner, employee or agent of a residential facility or by a public agency that affects the services to
28 residents of the facility.

29 **SECTION 11.** ORS 441.137 is amended to read:

30 441.137. (1) There is established a Residential Facilities Advisory Committee of *[nine]* **11** mem-
31 bers to be appointed in the following manner:

32 (a) One person appointed by the Speaker of the House of Representatives;

33 (b) One person appointed by the President of the Senate;

34 (c) One person appointed by the House Minority Leader;

35 (d) One person appointed by the Senate Minority Leader;

36 (e) One person appointed by the Governor from each list of four names submitted by organiza-
37 tions for seniors, organizations for persons with mental illness and the Oregon Council on Develop-
38 mental Disabilities; and

39 (f) *[Two]* **Four** persons appointed by the Governor, **two of whom must have expertise in the**
40 **provision of guardianship, conservatorship and other fiduciary services for persons with in-**
41 **adequate resources.**

42 (2) Members described in subsection (1)(e) and (f) of this section are subject to confirmation by
43 the Senate under ORS 171.562 and 171.565.

44 (3) The term of office of each member is four years. Before the expiration of the term of a
45 member, the appointing authority shall appoint a successor whose term begins on July 1 next fol-

1 lowing. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing
2 authority shall make an appointment to become immediately effective for the unexpired term.

3 (4) The members of the committee must be residents of this state who are broadly represen-
4 tative, to the extent possible, of persons residing in residential facilities, including members of racial
5 and ethnic minorities, who have knowledge and interest in the problems of persons residing in res-
6 idential facilities, and who are representative of all areas of this state and the demographics of
7 groups served by the Long Term Care Ombudsman.

8 (5) A member of the committee may not have a financial or fiduciary interest in residential fa-
9 cilities or service providers, or involvement in the licensing or certification of residential facilities
10 or service providers.

11 (6) The committee shall select one of its members as chairperson and another as vice chair-
12 person, for such terms and with duties and powers necessary for the performance of the functions
13 of such offices as the committee determines.

14 (7) A majority of the members of the committee constitutes a quorum for the transaction of
15 business. Decisions may be made by a majority of the quorum.

16 (8) The committee shall meet at least once each month at a place, day and hour determined by
17 the committee. The committee also shall meet at other times and places specified by the call of the
18 chairperson or of a majority of the members of the committee. The committee shall confer each
19 month with the Long Term Care Ombudsman. All meetings are subject to ORS 192.610 to 192.690.

20 (9) A member of the committee is entitled to compensation and expenses as provided in ORS
21 292.495.

22 **SECTION 12.** ORS 441.153 is amended to read:

23 441.153. The Long Term Care Ombudsman Account is established in the State Treasury, separate
24 and distinct from the General Fund. All miscellaneous receipts, gifts and federal and other grants
25 received by the Long Term Care Ombudsman shall be deposited into the Long Term Care Ombuds-
26 man Account and are continuously appropriated to the Long Term Care Ombudsman for carrying
27 out the responsibilities of the Long Term Care Ombudsman **and the Oregon Public Guardian and**
28 **Conservator.**

29
30 **OFFICES OF COUNTY PUBLIC GUARDIAN AND CONSERVATOR**

31
32 **SECTION 13.** ORS 125.700 is amended to read:

33 125.700. The county court or board of county commissioners of any county:

34 (1) After making a determination that there exists a need within the county for a guardian or
35 conservator for persons who do not have relatives or friends willing to serve as a guardian or
36 conservator and capable of assuming the duties of guardianship or conservatorship, may create
37 [*within the county*] the office of **county** public guardian and conservator and such subordinate posi-
38 tions as may be necessary to operate effectively the office of **county** public guardian and
39 conservator [*within the county*].

40 (2) May expend county funds for the purpose of operating the office of **county** public guardian
41 and conservator.

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

45 **SECTION 14.** ORS 125.705 is amended to read:

1 125.705. (1) The person appointed to the office of **county** public guardian and conservator shall
2 serve in the office at the pleasure of the appointing authority. If the person holding the office of
3 **county** public guardian and conservator [*in a county*] is removed from office, dies, becomes inca-
4 pacitated or resigns, the removal, death, incapacity or resignation shall operate to remove [*such*]
5 **the county** public guardian and conservator as guardian and conservator of all estates then under
6 the guardianship and conservatorship of the person.

7 (2) As used in ORS 125.700 to 125.730, “**county public guardian and conservator**” means
8 **the person appointed to the office of county public guardian and conservator created under**
9 **ORS 125.700.**

10 **SECTION 15.** ORS 125.710 is amended to read:

11 125.710. (1) The **county** public guardian and conservator may serve as the guardian or
12 conservator, or both, of any person of whom the court having probate jurisdiction in the county may
13 have jurisdiction. The **county** public guardian and conservator may serve as guardian or
14 conservator upon the petition of any person or upon the [*own*] petition of the **county** public guard-
15 ian and conservator.

16 (2) When appointed as guardian or conservator by the court having probate jurisdiction, the
17 **county** public guardian and conservator shall serve as provided in ORS chapter 125, ORS 127.005
18 and 127.015 except as specifically stated to the contrary in ORS 125.700 to 125.730.

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

22 **SECTION 16.** ORS 125.715 is amended to read:

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

29 (2) Upon removal of the **county** public guardian and conservator in accordance with the pro-
30 visions of ORS 125.705, the surety on the **county** public guardian and conservator bond shall be
31 exonerated upon order to that effect of the court having probate jurisdiction in the county.

32 **SECTION 17.** ORS 125.720 is amended to read:

33 125.720. All funds coming into the custody of the **county** public guardian and conservator shall
34 be deposited in the county treasury and disbursed by proper warrant, or shall be deposited in one
35 or more banks or invested in one or more insured savings and loan associations authorized to do
36 business within the county, or as provided by ORS 125.445 (5).

37 **SECTION 18.** ORS 125.725 is amended to read:

38 125.725. The **county** public guardian and conservator shall have a claim against the ward’s or
39 protected person’s estate for reasonable expenses incurred in the execution of the guardianship or
40 conservatorship and such compensation for services and those of the attorney of the **county** public
41 guardian and conservator as the court having probate jurisdiction in the county deems just and
42 reasonable. If the **county** public guardian and conservator is compensated by the county for ser-
43 vices, any reimbursement of expenses or compensation shall be paid to the county.

44 **SECTION 19.** ORS 125.730 is amended to read:

45 125.730. No fee shall be charged or received by any court having probate jurisdiction for the

1 filing of any petition asking for the appointment of the **county** public guardian and conservator **as**
2 **the guardian or conservator** or for any official service performed by that court in the course of
3 the guardianship or conservatorship proceedings.

4
5 **CONFORMING AMENDMENTS**
6 **FOR OFFICES OF COUNTY PUBLIC GUARDIAN**
7 **AND CONSERVATOR**
8

9 **SECTION 20.** ORS 125.240 is amended to read:

10 125.240. (1) If a petition seeks the appointment of a professional fiduciary, the petition must
11 contain the following information in addition to that information required under ORS 125.055:

12 (a) Proof that the professional fiduciary, or an individual responsible for making decisions for
13 clients or for managing client assets for the professional fiduciary, is certified by the Center for
14 Guardianship Certification or its successor organization as a National Certified Guardian or a Na-
15 tional Master Guardian.

16 (b) A description of the events that led to the involvement of the professional fiduciary in the
17 case.

18 (c) The professional fiduciary's educational background and professional experience.

19 (d) The fees charged by the professional fiduciary and whether the fees are on an hourly basis
20 or are based on charges for individual services rendered.

21 (e) The names of providers of direct services to protected persons that are repeatedly used by
22 the professional fiduciary under contract.

23 (f) The disclosures required under ORS 125.221 if the person nominated to act as a professional
24 fiduciary will employ a person in which the nominated person has a pecuniary or financial interest.

25 (g) The number of protected persons for whom the person performs fiduciary services at the time
26 of the petition.

27 (h) Whether the professional fiduciary has ever had a claim against the bond of the professional
28 fiduciary and a description of the circumstances causing the claim.

29 (i) Whether the professional fiduciary or any staff with responsibility for making decisions for
30 clients or for management of client assets has ever filed for bankruptcy and the date of filing.

31 (j)(A) Whether the professional fiduciary or any staff with responsibility for making decisions for
32 clients or for management of client assets has ever been denied a professional license that is directly
33 related to responsibilities of the professional fiduciary, or has ever held a professional license that
34 is directly related to responsibilities of the professional fiduciary that was revoked or canceled. If
35 such a license has been denied, revoked or canceled, the petition must reflect the date of the denial,
36 revocation or cancellation and the name of the regulatory body that denied, revoked or canceled the
37 license.

38 (B) A professional license under this paragraph includes a certificate described in paragraph (a)
39 of this subsection.

40 (k) A statement that the criminal records check required under subsection (2) of this section
41 does not disqualify the person from acting as a professional fiduciary.

42 (L) Whether the professional fiduciary and any staff responsible for making decisions for clients
43 or for management of client assets is or has been certified by a national or state association of
44 professional fiduciaries, the name of any such association and whether the professional fiduciary or
45 other staff person has ever been disciplined by any such association and the result of the discipli-

1 nary action.

2 (m) The name, address and telephone number of the individual who is to act as primary decision
3 maker for the protected person and the name of the person with whom the protected person will
4 have personal contact if that person is not the person who will act as primary decision maker for
5 the protected person.

6 (2)(a) If a petition seeks the appointment of a professional fiduciary as described in subsection
7 (5) of this section, the professional fiduciary and all staff with responsibility for making decisions for
8 clients or for management of client assets must undergo a criminal records check before the court
9 may appoint the professional fiduciary. The results of the criminal records check shall be provided
10 by the petitioner to the court. Results of criminal records checks submitted to the court are confi-
11 dential, shall be subject to inspection only by the parties to the proceedings and their attorneys, and
12 shall not be subject to inspection by members of the public except pursuant to a court order entered
13 after a showing of good cause. A professional fiduciary must disclose to the court any criminal
14 conviction of the professional fiduciary that occurs after the criminal records check was performed.
15 The criminal records check under this subsection shall consist of a check for a criminal record in
16 the State of Oregon and a national criminal records check if:

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

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

20 (C) A criminal records check in Oregon discloses the existence of a criminal record in another
21 jurisdiction.

22 (b) The requirements of this subsection do not apply to any person who serves as a public
23 guardian or conservator, or any staff of a public guardian or conservator, who is operating under
24 ORS 125.700 to 125.730 or 406.050 and who is otherwise required to acquire a criminal records check
25 for other purposes.

26 (3)(a) If a petition seeks the appointment of a **county** public guardian and conservator operating
27 under the provisions of ORS 125.700 to 125.730, or the appointment of a conservator under ORS
28 406.050 (8), the petition need not contain the information described in subsection (1)(e) or (m) of this
29 section.

30 (b) If a **county** public guardian and conservator operating under the provisions of ORS 125.700
31 to 125.730 is appointed to act as a professional fiduciary, or a conservator operating under the au-
32 thority of ORS 406.050 (8) is appointed, the public guardian or conservator must file with the court
33 within three days after receipt of written notice of the appointment a statement containing the
34 name, address and telephone number of the individual who will act as primary decision maker for
35 the protected person and the name of the person with whom the protected person will have personal
36 contact if the person named as primary decision maker will not have personal contact with the
37 protected person.

38 (4) If the court appoints a professional fiduciary as described in subsection (5) of this section,
39 the professional fiduciary must update all information required to be disclosed by subsection (1) of
40 this section and provide a copy of the updated statement upon the request of the protected person
41 or upon the request of any person entitled to notice under ORS 125.060 (3). The professional
42 fiduciary must provide an updated statement without demand to the court, the protected person and
43 persons entitled to notice under ORS 125.060 (3) at any time that there is a change in the informa-
44 tion provided under subsection (1)(m) or (3)(b) of this section.

45 (5) As used in this section, "professional fiduciary" means a person nominated as a fiduciary or

1 serving as a fiduciary who is acting at the same time as a fiduciary for three or more protected
2 persons who are not related to the fiduciary.

3 **SECTION 21.** ORS 125.410 is amended to read:

4 125.410. (1) Except as provided in subsection (2) of this section, the court shall require a
5 conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservator
6 according to law, with sureties as specified by the court. Unless otherwise directed, the bond must
7 be in the amount of the aggregate capital value of the property of the estate in the control of the
8 conservator plus one year's estimated income minus the value of securities and money deposited
9 under arrangements requiring an order of the court for their removal and the value of any real
10 property that the conservator, by express limitation of power, lacks power to sell or convey without
11 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 709.240, relating to a trust
14 company acting as fiduciary, ORS 125.715, relating to a **county** public guardian **and conservator**
15 acting as fiduciary, **section 7 of this 2014 Act, relating to the Oregon Public Guardian and**
16 **Conservator or a deputy public guardian and conservator acting as fiduciary under sections**
17 **2 to 7 of this 2014 Act,** or ORS 406.050 (8), relating to the Department of Veterans' Affairs acting
18 as fiduciary.

19 (3) Sureties for a bond required under this section are jointly and severally liable with the
20 conservator and with each other.

21 (4) Letters of conservatorship may not be issued until the bond required by this section is ap-
22 proved by the court.

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

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

27 (7) If a surety on a bond required by this section gives notice of intent to cancel the bond, the
28 conservator shall execute and file in the protective proceeding a new bond before the cancellation
29 date specified by the surety. The new bond shall be in the amount and subject to those conditions
30 that may be required by the court. If the conservator fails to file a new bond, the authority of the
31 conservator ends on the date specified by the surety for cancellation of the bond. The letters of
32 conservatorship issued to the conservator are void from that date, and the conservator must make
33 and file the final accounting of the conservator.

34
35 **UNIT CAPTIONS**

36
37 **SECTION 22.** The unit captions used in this 2014 Act are provided only for the conven-
38 **ience of the reader and do not become part of the statutory law of this state or express any**
39 **legislative intent in the enactment of this 2014 Act.**

40
41 **OPERATIVE DATES AND APPLICABILITY**

42
43 **SECTION 23.** (1) Sections 2 to 7 of this 2014 Act and the amendments to ORS 125.240,
44 125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725, 125.730, 441.109, 441.137 and 441.153
45 by sections 10 to 21 of this 2014 Act:

1 **(a) Become operative on July 1, 2014; and**

2 **(b) Apply to protective proceedings, if applicable, commenced on or after the operative**
3 **date specified in this subsection.**

4 **(2) The Governor and the Long Term Care Ombudsman may take any action before the**
5 **operative date specified in subsection (1) of this section, including but not limited to the ap-**
6 **pointment of the Oregon Public Guardian and Conservator and the appointment of new**
7 **members of the Residential Facilities Advisory Committee, that is necessary to enable the**
8 **Oregon Public Guardian and Conservator and the Long Term Care Ombudsman to exercise,**
9 **on and after the operative date specified in subsection (1) of this section, all the duties,**
10 **functions and powers conferred on the Oregon Public Guardian and Conservator and the**
11 **Long Term Care Ombudsman by this 2014 Act.**

12 **SECTION 24. This 2014 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**
14 **on its passage.**