

Senate Bill 471

Sponsored by Senators DEMBROW, MONNES ANDERSON, KRUSE; Senators JOHNSON, WINTERS, Representative OLSON (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**.

Requires court to appoint legal counsel for respondent or protected person in protective proceeding under certain circumstances. Requires payment for appointed counsel from guardianship or conservatorship estate of respondent or protected person or at state expense.

A BILL FOR AN ACT

1
2 Relating to appointment of legal counsel for certain persons in protective proceedings; amending
3 ORS 125.080.

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

5 **SECTION 1.** ORS 125.080 is amended to read:

6 125.080. (1) The court may require that a hearing be held on any petition or motion in a pro-
7 tective proceeding.

8 (2) A hearing must be held on a petition or motion if an objection is **made or** filed to the peti-
9 tion or motion and the objection is not withdrawn before the time scheduled for the hearing.

10 (3) The respondent or protected person may appear at a hearing in person or by counsel.

11 (4)(a) If the court requires that a hearing be held [*on a petition,*] or a hearing is otherwise re-
12 quired under this section, the court [*may*] **shall** appoint counsel for the respondent **or protected**
13 **person** [*unless the respondent is already represented by counsel*] **when:**

14 (A) **The respondent or protected person requests that counsel be appointed;**

15 (B) **An objection is filed to the petition or motion by any person;**

16 (C) **The court has appointed a visitor under ORS 125.150, 125.160 or 125.605, and the visi-**
17 **tor recommends appointment of counsel for the respondent or protected person; or**

18 (D) **The court determines that the respondent or protected person is in need of legal**
19 **counsel.**

20 (b) **The court is not required to appoint counsel under this section if the respondent or**
21 **protected person is already represented by counsel or otherwise objects to appointment of**
22 **counsel.**

23 (5) **If the court appoints counsel under subsection (4) of this section:**

24 (a) **The court shall order payment of attorney fees and costs from the guardianship or**
25 **conservatorship estate of the respondent or protected person if sufficient funds exist to pay**
26 **all or a portion of the attorney fees and costs due; or**

27 (b) **The court may determine that a respondent or protected person is financially eligible**
28 **for appointed counsel at state expense, and the compensation for legal counsel and costs and**
29 **expenses necessary for representation of the respondent or protected person must be deter-**
30 **mined and paid by the public defense services executive director as provided under ORS**

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 **135.055.**

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