

HB 2630 -5 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/28, 4/11

WHAT THE MEASURE DOES:

Requires petition in protective proceeding seeking appointment of fiduciary to include alternatives to appointment and reasons why alternatives are inadequate. Allows protected person to object to motions in proceedings via oral means. Requires 15 days' written notice to specified persons and entities before changing place of abode of protected person. Requires court appoint visitor in cases in which a subsequent fiduciary is appointed to replace original fiduciary. Requires facts to support conclusion that protected person is incapable be included in year guardian's report to court.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-5 Specifies that petition in protective proceeding include statement whether petitioner is seeking plenary authority or specified limited authority for person nominated as fiduciary. Requires guardian to disclose intent to change abode of adult protected person. Removes amendments to ORS 125.315. Specifies procedures for guardian to change abode of protected person.

BACKGROUND:

Guardianship is a protective proceeding created by state law in which a court gives a person or entity the duty and power to make decisions for another. Conservatorship is a similar relationship, but is limited to financial oversight. The appointment of a guardian or conservator, also called a fiduciary, occurs after a petition is filed and a court finds that the person who is the subject of the proceedings lacks capacity to make decisions on his or her own behalf. Guardians are often family or friends, but may also be professionals. Appointment of a guardian may be appropriate or necessary in circumstances where an adult has significant developmental delays or illness, including dementia. Guardianship may be limited, but frequently removes significant decision making authority from the person and gives it to the guardian. The guardian may be making determinations on housing, daily activity, health care treatment, and finances.

House Bill 2630 adds additional protections to the rights of the proposed protected person. It requires petitions for guardianship to include what alternatives were considered and why those alternatives were inadequate. The measure allows the protected person to object to a motion in a protective proceeding orally, as currently exists for objections to petitions. The measure requires 15 days' written notice be given to specified individuals and entities prior to changing the place of abode of the protected person. HB 2630 also requires visitors in cases appointing a subsequent fiduciary. In the yearly guardian's report to the court, the guardian must specify facts to support the conclusion that the protected person is incapable and must include notice on how interested parties may contact the court.

PRELIMINARY