

SB 57 A STAFF MEASURE SUMMARY**Carrier:** Sen. Dembrow**Senate Committee On Judiciary****Action Date:** 04/18/17**Action:** Do pass with amendments and requesting subsequent referral to Ways and Means be rescinded. (Printed A-Eng.)**Vote:** 4-1-0-0**Yeas:** 4 - Dembrow, Linthicum, Manning Jr, Prozanski**Nays:** 1 - Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Josh Nasbe, Counsel**WHAT THE MEASURE DOES:**

Modifies law relating to Oregon Public Guardian and Conservator (OPGC). Eliminates Long Term Care Ombudsman's oversight of OPGC. Authorizes OPGC, in consultation with Department of Administrative Services, to determine amount of bond to protect persons for whom OPGC serves as fiduciary. Exempts OPGC from provisions addressing professional fiduciaries and conflicts of interest. Requires nursing homes, residential facilities and public agencies to provide OPGC with medical and financial information for purposes of determining whether individual is eligible for OPGC services. Creates presumption that disclosure of medical information by health care providers is consistent with federal law. Authorizes criminal background check of OPGC employees, prospective employees, contractors and volunteers. Creates OPGC Fund and OPGC Protected Person Trust Account. Requires court to appoint OPGC, rather than individual deputies, as fiduciary.

ISSUES DISCUSSED:

- Senate Bill 1553 (2014)
- Conflict with newly promulgated federal regulations
- Information sharing
- Banking challenges of protected persons

EFFECT OF AMENDMENT:

Creates Protected Person Trust Account to hold funds of protected person. Creates presumption that disclosure of medical information by health care provider is authorized under federal law. Modifies provisions on background checks of employees, prospective employees, contractors and volunteers. Modifies OPGC bond requirement.

BACKGROUND:

Since 1969, Oregon law has authorized counties to establish local offices of public guardian and conservator. More recently, Senate Bill 1553 (2014) established the statewide Office of the Public Guardian and Conservator (OPGC) in the Office of Long Term Care Ombudsman. The OPGC is tasked with providing guardianship and conservatorship services for persons who do not have relatives or friends willing or able to provide those services and lack the resources to hire a professional fiduciary. Before appearing in a protective proceeding, the OPGC is required to conduct a needs assessment to determine whether the person is in need of a fiduciary and qualifies for a public guardian or conservator.

Senate Bill 57-A continues to house the OPGC in the Office of the Long Term Care Ombudsman, while eliminating the Ombudsman's supervision and control over the OPGC. The bill adopts additional provisions providing the OPGC with access to medical and financial information of persons who may be in need of a fiduciary and exempts the OPGC from rules addressing conflicts of interest and professional fiduciaries. The bill also creates an operating fund for the OPGC and an OPGC Protected Person Trust Account to hold the funds of protected persons in trust. Finally, the bill

SB 57 A STAFF MEASURE SUMMARY

authorizes a criminal background check on all OPGC employees, prospective employees, contractors and volunteers.