

# House Bill 2170

Sponsored by Representative STARK, Senator GELSER, Representatives OLSON, KENY-GUYER, PILUSO, Senators DEMBROW, HANSELL, KRUSE; Representative MCLANE, Senator ROBLAN (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 **as introduced**.

Establishes Office of Oregon Ombudsmen, containing Long Term Care Ombudsman, Residential Facilities Ombudsman, Foster Parent Ombudsman, Foster Child Ombudsman and Oregon Public Guardian and Conservator. Specifies duties.

Requires Department of Human Services to notify foster parents and foster children of availability of Foster Child Ombudsman and Foster Parent Ombudsman to investigate complaints.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to ombudsmen; creating new provisions; amending ORS 124.090, 125.060, 125.075, 125.320,  
3 125.678, 125.687, 418.201, 418.648, 441.402, 441.403, 441.406, 441.407, 441.408, 441.409, 441.411,  
4 441.412, 441.413, 441.414, 441.416, 441.417, 441.418, 441.419, 443.455, 443.738, 443.767, 443.825 and  
5 476.030; and declaring an emergency.

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

## OFFICE OF OREGON OMBUDSMEN

7  
8  
9  
10 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 441.402 to**  
11 **441.419.**

12 **SECTION 2. (1) The Office of Oregon Ombudsmen is established, consisting of the:**

13 **(a) Long Term Care Ombudsman;**

14 **(b) Residential Facilities Ombudsman;**

15 **(c) Foster Parent Ombudsman;**

16 **(d) Foster Child Ombudsman; and**

17 **(e) Oregon Public Guardian and Conservator.**

18 **(2) The Office of Oregon Ombudsmen shall function separately and independently from**  
19 **any other state agency.**

20 **(3) The Governor shall appoint an executive director of the Office of Oregon Ombudsmen**  
21 **from a list of three nominees nominated by the Oregon Ombudsmen and Oregon Public**  
22 **Guardian and Conservator Advisory Committee established under ORS 441.416 and shall set**  
23 **the compensation of the executive director. The executive director shall serve at the pleas-**  
24 **ure of the Governor. The executive director:**

25 **(a) Shall appoint the Long Term Care Ombudsman, the Residential Facilities Ombuds-**  
26 **man, the Foster Parent Ombudsman, the Foster Child Ombudsman and the Oregon Public**  
27 **Guardian and Conservator as provided in ORS 125.678, who shall serve at the pleasure of the**  
28 **executive director;**

**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 (b) Shall perform all administrative functions of the office;

2 (c) Shall identify and coordinate programs, services and other assistance for persons re-  
3 ceiving public guardian and conservator services under ORS 125.675 to 125.687, that are  
4 available statewide;

5 (d) Shall contract with the state protection and advocacy system described in ORS 192.517  
6 (1) to provide services and assistance to persons who are prospective or current residents  
7 of a mental health treatment facility or of a residential facility for individuals with develop-  
8 mental disabilities when the system has received a notice regarding the person pursuant to  
9 ORS 125.060 (7)(c) or (8)(c); and

10 (e) May appoint all subordinate officers and employees of the office, prescribe their duties  
11 and set their compensation.

12 (4) The office may adopt rules necessary for carrying out ORS 441.402 to 441.419 and  
13 sections 17, 18 and 20 of this 2017 Act.

14 (5) The office shall, at least annually, provide a report to the Governor, the Governor's  
15 Child Foster Care Advisory Commission established by section 1, chapter 76, Oregon Laws  
16 2016, the Oregon Health Authority, the Department of Human Services and the Legislative  
17 Assembly on the activities of the ombudsmen.

18 **SECTION 3.** ORS 441.402 is amended to read:

19 441.402. As used in ORS 441.402 to 441.419:

20 (1) "Designee" means an individual appointed by the [*Long Term Care Ombudsman*] **Office of**  
21 **Oregon Ombudsmen** to serve as a representative in order to carry out the purpose of ORS 441.402  
22 to 441.419 and sections 17, 18 and 20 of this 2017 Act.

23 (2) "Facility" means a long term care facility or a residential facility.

24 (3) "Foster child" has the meaning given that term in ORS 418.200.

25 (4) "Foster parent" means an individual who has a certificate to operate a foster home  
26 issued under in ORS 418.635 and who is providing care to a foster child in the individual's  
27 home.

28 (5) "Resident" means an individual residing in a facility.

29 [(2)] (6) "Residential facility" includes a:

30 [(a)] *Long term care facility;*

31 [(b)] (a) Residential facility as defined in ORS 443.400, excluding a:

32 (A) Facility housing persons committed under ORS 161.327; and

33 (B) Facility licensed by the Oregon Health Authority to provide alcohol and drug treatment;

34 [(c)] (b) Licensed adult foster home as defined in ORS 443.705;

35 [(d)] (c) Developmental disability child foster home, as defined in ORS 443.830, that is certified  
36 by the Department of Human Services; and

37 [(e)] (d) Continuing care retirement community as defined in ORS 101.020.

38 **SECTION 4.** ORS 441.403 is amended to read:

39 441.403. [(1)] *The office of the Long Term Care Ombudsman is established. The Long Term Care*  
40 *Ombudsman shall function separately and independently from any other state agency. The Governor*  
41 *shall appoint the Long Term Care Ombudsman for a four-year term from a list of three nominees*  
42 *nominated by the Residential Facilities Advisory Committee established under ORS 441.416. The ap-*  
43 *pointment of the Long Term Care Ombudsman is subject to Senate confirmation under ORS 171.562*  
44 *and 171.565. A vacancy shall be filled within 60 days in the same manner as an appointment is*  
45 *made.*]

1        [(2) *The Long Term Care Ombudsman may be removed for just cause, upon recommendation to the*  
 2 *Governor by the Residential Facilities Advisory Committee.*]

3        [(3)] The Long Term Care Ombudsman **and the Residential Facilities Ombudsman** shall **each**  
 4 have background and experience in the following areas:

5        [(a)] (1) The fields of aging, mental health or developmental disabilities;

6        [(b)] (2) Physical or behavioral health care;

7        [(c)] (3) Working with community programs;

8        [(d)] (4) Strong understanding of long term care issues, both regulatory and policy;

9        [(e)] (5) Working with health care providers;

10       [(f)] (6) Working with and involvement in volunteer programs; and

11       [(g)] (7) Administrative and managerial experience.

12       **SECTION 5.** ORS 441.406 is amended to read:

13       441.406. (1) **The Foster Child Ombudsman and the Foster Parent Ombudsman shall carry**  
 14 **out the duties described in sections 17 and 20 of this 2017 Act.**

15       [(1)] (2) The [*office of the*] Long Term Care Ombudsman **and the Residential Facilities Om-**  
 16 **budsman** shall carry out the following duties:

17       (a) Investigate and resolve complaints made by or for residents of [*residential*] facilities about  
 18 administrative actions that may adversely affect their health, safety, welfare or rights, including **by**  
 19 subpoenaing any person to appear, give sworn testimony or to produce documentary or other evi-  
 20 dence that is reasonably material to any matter under investigation.

21       (b) Undertake, participate in or cooperate with persons and agencies in such conferences, in-  
 22 quiries, meetings or studies as may lead to improvements in the functioning of [*residential*] facilities.

23       (c) Monitor the development and implementation of federal, state and local laws, regulations and  
 24 policies that relate to [*residential*] facilities in this state.

25       (d) Provide information to public agencies about the problems of residents [*of residential*  
 26 *facilities*].

27       (e) Work closely with cooperative associations and citizen groups in this state and the state  
 28 protection and advocacy system under ORS 192.517.

29       (f) Widely publicize [*the Long Term Care Ombudsman's*] **each ombudsman's** service, purpose  
 30 and mode of operation.

31       (g) Collaborate with the Oregon Health Authority, the Department of Human Services, the  
 32 Nursing Home Administrators Board and any other appropriate agencies and organizations to es-  
 33 tablish a statewide system to collect and analyze information on complaints and conditions in [*resi-*  
 34 *dential*] facilities for the purpose of publicizing improvements and resolving significant problems.

35       [(h)(A) *Identify and coordinate programs, services and other assistance for persons receiving public*  
 36 *guardian and conservator services under ORS 125.675 to 125.687, that are available statewide;*]

37       [(B) *Contract with qualified individuals and entities to provide programs, services and assistance*  
 38 *to persons receiving public guardian and conservator services under ORS 125.675 to 125.687 who are*  
 39 *located in areas of this state where such programs, services and other assistance are inadequate or*  
 40 *nonexistent; and*]

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

45       [(i)] (h) Appoint designees to serve as local representatives of the [*office*] **ombudsmen** in various

1 districts of *[the]* **this** state and regularly monitor their functions.

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

3 *[(k)]* *Adopt rules necessary for carrying out ORS 441.402 to 441.414, after consultation with the*  
 4 *Residential Facilities Advisory Committee.*

5 *[(L)]* *Provide periodically, or at least annually, a report to the Governor, authority, department and*  
 6 *Legislative Assembly.*

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

8 *[(n)]* *Supervise, monitor, advise and support the Oregon Public Guardian and Conservator ap-*  
 9 *pointed under ORS 125.678.*

10 *[(2)]* (3) At least quarterly, the Oregon Health Authority and the Department of Human Services  
 11 **and their designees** shall provide the Long Term Care Ombudsman **and the Residential Facilities**  
 12 **Ombudsman** with *[a list]* **lists** of the number of licensed or certified beds in each *[residential]* fa-  
 13 cility for which the ombudsman has responsibilities under this section.

14 *[(3)]* (4) As used in this section, “administrative action” means any action, **inaction** or decision  
 15 made by an owner, employee or agent of a *[residential]* facility or by a public agency that affects the  
 16 services to residents of the facility.

17 **SECTION 6.** ORS 441.407 is amended to read:

18 441.407. The *[Long Term Care Ombudsman]* **Office of Oregon Ombudsmen** shall establish proce-  
 19 dures to maintain the confidentiality of the records and files of **foster parents, foster children**  
 20 **and** residents *[of residential facilities]*. These procedures must meet the following requirements:

21 (1) *[The]* **An** ombudsman or designee may not disclose, except to state agencies, the identity of  
 22 any **foster parent, foster child**, resident *[unless the complainant or the resident, or the legal repre-*  
 23 *sentative of either, consents in writing to the disclosure and specifies]* **or individual acting on behalf**  
 24 **of a foster parent, foster child or resident without a written consent signed by the foster**  
 25 **parent, foster child, resident or individual or the legal representative of the foster parent,**  
 26 **foster child, resident or individual. The written consent must specify** to whom the disclosure  
 27 may be made.

28 (2) The identity of any *[complainant or]* **foster parent, foster child or** resident, *[on whose behalf*  
 29 *a complaint is made,]* or individual providing information on behalf of the *[complainant]* **foster par-**  
 30 **ent, foster child** or *[the]* resident, shall be confidential. If the complaint becomes the subject of ju-  
 31 dicial proceedings, the investigative information held by the ombudsman or designee shall be  
 32 disclosed for the purpose of the proceedings if requested by the court.

33 (3) **The Foster Child Ombudsman and the Foster Parent Ombudsman may not share in-**  
 34 **formation concerning a foster child or foster parent without the written consent of the fos-**  
 35 **ter child or foster parent whose information will be shared or the written consent of an**  
 36 **individual with the legal authority to act on behalf of a foster child or foster parent.**

37 **SECTION 7.** ORS 441.408 is amended to read:

38 441.408. (1) The Long Term Care Ombudsman, **the Residential Facilities Ombudsman** and  
 39 each designee shall have the right of entry into *[residential]* facilities at any time considered nec-  
 40 essary and reasonable by the ombudsman or the designee for the purpose of:

- 41 (a) Investigating and resolving complaints made by residents or made on their behalf;
- 42 (b) Interviewing residents, with their consent, in private;
- 43 (c) Offering the services of the ombudsman or the designee to any resident, in private;
- 44 (d) Interviewing employees or agents of the facility;
- 45 (e) Consulting regularly with the facility administration; and

1 (f) Providing services authorized by law or by rule.

2 (2) The Long Term Care Ombudsman, **the Residential Facilities Ombudsman and each**  
 3 **designee** shall have access to any resident's records, and to records of any public agency necessary  
 4 to the duties of the ombudsman, including records on [*patient*] **resident** abuse complaints made  
 5 pursuant to ORS **124.050 to 124.095**, 430.735 to 430.765, 441.630 to 441.680 and 441.995. The pro-  
 6 visions of ORS 192.553 to 192.581 are not intended to limit the access of the Long Term Care Om-  
 7 budsman **and the Residential Facilities Ombudsman** to medical records of residents [*of residential*  
 8 *facilities*]. Designees may have access to individual resident's records, including medical records  
 9 [*as authorized by the resident or resident's legal representative*], if needed to investigate a  
 10 complaint:

11 (a) **As authorized by the resident or the resident's legal representative; or**

12 (b) **If the resident does not have a legal representative and the resident lacks the mental**  
 13 **capacity to authorize disclosure.**

14 (3) Entry and investigation authorized by this section shall be done in a manner that does not  
 15 disrupt significantly the providing of nursing, residential or other personal care or treatment to  
 16 residents.

17 (4) The ombudsman or the designee must show identification to the person in charge of the fa-  
 18 cility. The resident shall have the right to refuse to communicate with the ombudsman or the  
 19 designee. The refusal shall be made directly to the ombudsman or the designee and not through an  
 20 intermediary.

21 (5) The resident shall have the right to participate in planning any course of action to be taken  
 22 on behalf of the resident by the ombudsman or the designee.

23 **SECTION 8.** ORS 441.409 is amended to read:

24 441.409. (1) Following an investigation, the Long Term Care Ombudsman, **the Residential Fa-**  
 25 **ilities Ombudsman** or the designee shall report opinions or recommendations to the party or  
 26 parties affected and, if appropriate, shall attempt to resolve the complaint using informal **mediation**  
 27 **or conflict resolution** techniques [*of mediation, conciliation and persuasion*]. Complaints of condi-  
 28 tions adversely affecting residents [*of residential facilities*], or complaints of conditions threatening  
 29 the safety or well-being of residents that cannot be resolved in the manner described in this section,  
 30 shall be referred to an appropriate state agency.

31 (2) Programs that promote the safety or emotional or physical well-being of residents [*of resi-*  
 32 *dential facilities*] shall be promoted and publicized by the [*ombudsman*] **ombudsmen** and the  
 33 designees.

34 **SECTION 9.** ORS 441.411 is amended to read:

35 441.411. (1) The [*Long Term Care Ombudsman*] **Office of Oregon Ombudsmen** shall prepare and  
 36 distribute to each [*residential*] facility in this state a written notice describing the procedures to  
 37 follow in making a complaint, including the address and telephone number of the [*ombudsman*] **Long**  
 38 **Term Care Ombudsman and the Residential Facilities Ombudsman** and local designee, if any,  
 39 and a poster describing the Long Term Care Ombudsman Program **and the Residential Facilities**  
 40 **Ombudsman Program** and providing contact information.

41 (2) The administrator of each [*residential*] facility shall post the written notice and poster re-  
 42 quired by this section in conspicuous places in the facility in accordance with procedures provided  
 43 by the [*ombudsman*] **Office of Oregon Ombudsmen** and shall give the written notice to each resi-  
 44 dent and legally appointed guardian, if any.

45 **SECTION 10.** ORS 441.412 is amended to read:

1 441.412. (1) Any employee or agent of a *[residential]* facility acting in good faith in discussing  
 2 resident care pursuant to ORS 441.408 shall have immunity from any civil liability that might oth-  
 3 erwise be incurred or imposed with respect to the making of such report.

4 (2) Any employee or agent who makes a report pursuant to ORS 441.408 may not be subjected  
 5 to any retaliation by any official or other employee of a *[residential]* facility solely for making a  
 6 report, including but not limited to restriction of otherwise lawful access to the facility or to any  
 7 resident of the facility, or, if an employee, to dismissal or harassment.

8 (3) The Long Term Care Ombudsman, **the Residential Facilities Ombudsman** or the designee  
 9 acting in good faith in discussing resident care pursuant to ORS 441.408 shall have immunity from  
 10 any civil **or criminal** liability, that might otherwise be incurred or imposed with respect to the  
 11 discussion.

12 **SECTION 11.** ORS 441.413 is amended to read:

13 441.413. (1) The appointments of designees **by the Long Term Care Ombudsman or the Res-**  
 14 **idential Facilities Ombudsman** shall be made in consultation with a local screening committee  
 15 that may consist of but not be limited to persons representing:

- 16 (a) The area agency on aging.
- 17 (b) The local office of the Department of Human Services.
- 18 (c) The local health department.
- 19 (d) Senior citizens groups in the area.
- 20 (e) *[Residential]* Facilities in the area.
- 21 (f) Local elected officials.
- 22 (g) The community mental health program director or local mental health authority.
- 23 (h) The community developmental disabilities program director.
- 24 (i) *[Representatives from]* The Oregon Health Authority.

25 (2) To be appointed as a designee, a person must complete *[six days of]* **an** initial training and  
 26 attend quarterly training sessions that are approved by the *[Long Term Care Ombudsman]* **Office**  
 27 **of Oregon Ombudsmen** and that shall be coordinated and funded by the Department of Human  
 28 Services and the Oregon Health Authority, subject to the availability of funds. Local screening  
 29 committees shall be appointed by and serve at the pleasure of the **Long Term Care Ombudsman**  
 30 **and the Residential Facilities Ombudsman**.

31 (3) Designees must sign a contract with the state that outlines the scope of their duties. In  
 32 districts where a designee is an employee or agent of a local entity, a three-party contract shall be  
 33 executed. Violation of the contract is cause for the termination of the appointment. A directory of  
 34 all designees shall be maintained in the Office of *[the Long Term Care Ombudsman]* **Oregon**  
 35 **Ombudsmen**.

36 (4) The qualifications of designees shall include experience with *[residential]* facilities, or resi-  
 37 dents or potential residents *[of residential facilities]*, and the ability to communicate well, to under-  
 38 stand laws, rules and regulations, and to be assertive, yet objective.

39 (5) Applicants who have experience in *[either]* social *[service]* **work, social services**, mental  
 40 health, developmental disability services, gerontology, nursing or paralegal work shall be given  
 41 preference in the appointment of designees.

42 (6) The contract shall include *[statements]* **an acknowledgment** that the purpose of the Long  
 43 Term Care Ombudsman Program **and the Residential Facilities Ombudsman Program** is to:

- 44 (a) Promote rapport and trust between the residents and staff of the *[residential]* facilities and  
 45 *[Long Term Care Ombudsman]* **ombudsmen**;

1 (b) Assist residents with participating more actively in determining the delivery of services at  
 2 the facilities;

3 (c) Serve as an educational resource;

4 (d) Receive, resolve or relay concerns to the [*Long Term Care Ombudsman*] **ombudsmen** or the  
 5 appropriate agency; and

6 (e) Ensure equitable resolution of problems.

7 (7) The duties of the designees are to:

8 (a) Visit each assigned [*residential*] facility on a regular basis:

9 (A) Upon arrival and departure, inform a specified staff member.

10 (B) Review, with a specified staff member, any problems or concerns that need to be considered.

11 (C) Visit individual residents and resident councils.

12 (b) Maintain liaison with appropriate agencies and the [*Long Term Care Ombudsman*]  
 13 **ombudsmen**.

14 (c) Report, in writing, monthly to the [*Long Term Care Ombudsman*] **ombudsmen**.

15 (d) Keep residents and staff informed of the Long Term Care Ombudsman Program **and the**  
 16 **Residential Facilities Ombudsman Program**.

17 (e) Periodically review **the resident's rights described in ORS 427.107 and 430.210**, the  
 18 patients' bill of rights prescribed in ORS 441.605, 441.610 and 441.612 **and any other applicable**  
 19 **rights to services** with residents, families, guardians, administrators and staff of [*residential*] facil-  
 20 ities.

21 (f) Perform other related duties as specified.

22 **SECTION 12.** ORS 441.416 is amended to read:

23 441.416. (1) There is established [*a Residential Facilities*] **an Oregon Ombudsmen and Oregon**  
 24 **Public Guardian and Conservator** Advisory Committee of 11 members to be appointed in the fol-  
 25 lowing manner:

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

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

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

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

30 (e) One person appointed by the Governor [*from each list of four names submitted by organiza-*  
 31 **tions for**] **to represent each of the following groups:**

32 **(A)** Seniors[, *organizations for*];

33 **(B)** Persons with mental illness; [*and the Oregon Council on Developmental Disabilities*]

34 **(C)** **Persons with intellectual or developmental disabilities;**

35 **(D)** **Foster parents; and**

36 **(E)** **Foster children; and**

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

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

42 (3) The term of office of each member is four years. Before the expiration of the term of a  
 43 member, the appointing authority shall appoint a successor whose term begins on July 1 next fol-  
 44 lowing. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing  
 45 authority shall make an appointment to become immediately effective for the unexpired term.

1 (4) The members of the committee must be residents of this state who are broadly represen-  
 2 tative, to the extent possible, of persons residing in [*residential*] facilities, **foster parents and foster**  
 3 **children**, including members of racial and ethnic minorities, who have knowledge and interest in the  
 4 problems of persons residing in [*residential*] facilities, **foster parents and foster children** and who  
 5 are representative of all areas of this state and the demographics of groups served by the [*Long*  
 6 *Term Care Ombudsman*] **Office of Oregon Ombudsmen**.

7 (5) A member of the committee may not have a financial or fiduciary interest in [*residential*]  
 8 facilities or [*service*] providers[,] **of services to facilities** or involvement in the licensing or certi-  
 9 fication of [*residential*] facilities or service providers.

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

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

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

21 (9) A member of the committee is entitled to compensation and expenses as provided in ORS  
 22 292.495.

23 **SECTION 13.** ORS 441.417 is amended to read:

24 441.417. The [*Residential Facilities*] **Oregon Ombudsmen and Oregon Public Guardian and**  
 25 **Conservator** Advisory Committee shall:

26 (1) Monitor the [*Long Term Care Ombudsman Program*] **programs administered by the Office**  
 27 **of Oregon Ombudsmen**.

28 (2) Advise the Governor and the Legislative Assembly on the [*Long Term Care Ombudsman*  
 29 *Program*] **programs administered by the office**.

30 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill the  
 31 [*Long Term Care ombudsman*] **executive director position in the Office of Oregon Ombudsmen**  
 32 or to fill a vacancy in the position.

33 **SECTION 14.** ORS 441.418 is amended to read:

34 441.418. (1) A [*residential*] facility that files a complaint against a designee appointed under ORS  
 35 441.413 and objects to the action of the Long Term Care Ombudsman **or the Residential Facilities**  
 36 **Ombudsman** in resolving the complaint may appeal the ombudsman's action to a panel of the  
 37 [*Residential Facilities*] **Oregon Ombudsmen and Oregon Public Guardian and Conservator** Ad-  
 38 visory Committee.

39 (2) The committee on its own motion may review any action by the ombudsman appealable under  
 40 this section. The review shall provide an opportunity for written and oral presentation by the [*res-*  
 41 *idential*] facility and the ombudsman. The committee shall issue its findings and any instructions to  
 42 the ombudsman in written form consistent with the federal Older Americans Act or other applicable  
 43 federal law.

44 (3) If the committee disagrees with the action of the ombudsman, the committee may refer the  
 45 resolution back to the ombudsman with instructions consistent with the federal Older Americans



1 Act or other applicable federal law to conform the ombudsman’s action in the matter to the recom-  
 2 mendations of the committee.

3 **SECTION 15.** ORS 441.419 is amended to read:

4 441.419. The [*Long Term Care Ombudsman*] **Oregon Ombudsmen** Account is established in the  
 5 State Treasury, separate and distinct from the General Fund. All miscellaneous receipts, gifts and  
 6 federal and other grants received by the [*Long Term Care Ombudsman*] **Office of Oregon**  
 7 **Ombudsmen** shall be deposited into the [*Long Term Care Ombudsman*] **Oregon Ombudsmen** Ac-  
 8 count and are continuously appropriated to the [*Long Term Care Ombudsman*] **office** for carrying  
 9 out the responsibilities of the [*Long Term Care Ombudsman and the Oregon Public Guardian and*  
 10 *Conservator*] **office**.

11  
 12 **FOSTER CHILD OMBUDSMAN**  
 13

14 **SECTION 16.** Sections 17, 18 and 20 of this 2017 Act are added to and made a part of ORS  
 15 chapter 418.

16 **SECTION 17.** (1) As used in this section:

17 (a) “Foster child” has the meaning given that term in ORS 418.200.

18 (b) “Foster parent” has the meaning given that term in ORS 441.402.

19 (2) The Foster Child Ombudsman, within the Office of Oregon Ombudsmen, shall:

20 (a) Provide foster children and individuals acting on their behalf with information re-  
 21 garding the rights of foster children set forth in ORS 418.201;

22 (b) Investigate a complaint made by or on behalf of a foster child if the allegations con-  
 23 tained in the complaint may adversely affect the health, safety, welfare or rights of the fos-  
 24 ter child, including by subpoenaing any person to appear, to give sworn testimony or to  
 25 produce documentary or other evidence that is reasonably material to any matter under in-  
 26 vestigation;

27 (c) Collaborate with the Department of Human Services, foster parents, caseworkers,  
 28 caseworker supervisors, attorneys, foster child advocates and supporters, court appointed  
 29 special advocates, local citizen review boards and department employees that certify foster  
 30 parents, including by obtaining timely responses to inquiries and requests and by resolving  
 31 issues;

32 (d) Assist foster children and individuals acting on their behalf in locating and accessing  
 33 resources in the community and in connecting with local service providers;

34 (e) Work with foster children and individuals acting on their behalf to identify and re-  
 35 commend processes for:

36 (A) A foster child or individual acting on behalf of the foster child to make complaints  
 37 about the foster child’s care or interaction with the individuals and entities described in  
 38 paragraph (c) of this subsection; and

39 (B) Engaging the participation of foster children and individuals acting on behalf of foster  
 40 children in general studies, conferences, inquiries or meetings related to foster care in this  
 41 state;

42 (f) Organize, participate in or cooperate with persons and agencies in general studies,  
 43 conferences, inquiries or meetings that may result in recommendations for improvements in  
 44 the functioning of the foster care system in this state;

45 (g) Monitor the development and implementation of federal, state and local laws and

1 policies that relate to the foster care system in this state;

2 (h) Provide information to state and local agencies about problems identified and reforms  
 3 undertaken in the foster care system in this state and work closely with associations and  
 4 citizen groups and with the state protection and advocacy system under ORS 192.517; and

5 (i) Establish and maintain the hotline telephone number for foster children required by  
 6 ORS 418.201 (7).

7 (3) The Foster Child Ombudsman or the designee shall report to a foster child and to an  
 8 individual that makes a complaint on behalf of the foster child the findings of the ombuds-  
 9 man or designee in the investigation of the complaint and may make recommendations. If  
 10 appropriate, the ombudsman or designee shall attempt to resolve the complaint using in-  
 11 formal mediation or conflict resolution techniques. Complaints of conditions threatening the  
 12 safety or well-being of a foster child that cannot be resolved must be referred to the De-  
 13 partment of Human Services or law enforcement officials.

14 (4) A foster child or individual acting on behalf of a foster child who makes a complaint  
 15 to the Foster Child Ombudsman under this section or who participates in an investigation  
 16 of a complaint may not be subjected to a penalty, sanction or restriction or be denied any  
 17 right, privilege or benefit on account of making the complaint or participating in the inves-  
 18 tigation of the complaint.

19 (5) In order to encourage foster children and individuals acting on behalf of foster chil-  
 20 dren to communicate with the Foster Child Ombudsman, any foster child or individual acting  
 21 on behalf of a foster child who makes a complaint to the Foster Child Ombudsman in good  
 22 faith under this section or who participates in an investigation of a complaint shall have  
 23 immunity from any civil or criminal liability that might otherwise be incurred or imposed  
 24 with respect to the communication.

25 (6) The Foster Child Ombudsman and each designee shall have access to records of any  
 26 public agency necessary to the duties of the ombudsman. The provisions of ORS 192.553 to  
 27 192.581 are not intended to limit the access of the Foster Child Ombudsman to a foster child's  
 28 records, including medical records as authorized by the foster child or individual acting on  
 29 behalf of the foster child, if needed to investigate a complaint.

30 (7) A foster child or individual acting on behalf of the foster child shall have the right  
 31 to participate in planning any course of action to be taken on behalf of the foster child by  
 32 the Foster Child Ombudsman or the designee.

33 (8) All state agencies shall cooperate with and assist the Foster Child Ombudsman in the  
 34 performance of the ombudsman's duties and functions.

35 (9) Writings and information provided to, and communications with, the Foster Child  
 36 Ombudsman are subject to ORS 441.407.

37 **SECTION 18.** (1) The Foster Child Ombudsman and the Foster Parent Ombudsman may  
 38 appoint designees to serve as local representatives of the ombudsmen. The ombudsmen shall  
 39 regularly monitor the functions of designees.

40 (2) The appointments of designees by the Foster Child Ombudsman or the Foster Parent  
 41 Ombudsman shall be made in consultation with a local screening committee that may consist  
 42 of but need not be limited to persons representing:

- 43 (a) The Department of Human Services.
- 44 (b) Elected officials.
- 45 (c) The Oregon Health Authority.

1 (d) Foster care providers.

2 (e) Court appointed special advocates.

3 (f) Local citizen review boards.

4 (3) To be appointed as a designee, a person must complete an initial training and attend  
5 quarterly training sessions that are approved by the Office of Oregon Ombudsmen.

6 (4) Designees must sign a contract with the Office of Oregon Ombudsmen that outlines  
7 the scope of their duties.

8 (5) The qualifications of designees shall include experience working with foster children  
9 and foster care providers and the ability to communicate well, to understand laws, rules and  
10 regulations and to be assertive and objective.

11 (6) Applicants who have relevant experience in social work, mental health, pediatrics or  
12 paralegal work shall be given preference in the appointment of designees.

13 **SECTION 19.** ORS 418.201 is amended to read:

14 418.201. It is the intent of the Legislative Assembly that each foster child have certain essential  
15 rights, including but not limited to the following:

16 (1) To have the ability to make oral and written complaints about care, placement or services  
17 that are unsatisfactory or inappropriate, and to be provided with information about a formal process  
18 for making complaints without fear of retaliation, harassment or punishment.

19 (2) To be notified of, and provided with transportation to, court hearings and reviews by local  
20 citizen review boards pertaining to the foster child's case when the matters to be considered or  
21 decided upon at the hearings and reviews are appropriate for the foster child, taking into account  
22 the age and developmental stage of the foster child.

23 (3) To be provided with written contact information of specific individuals whom the foster child  
24 may contact regarding complaints, concerns or violations of rights, that is updated as necessary and  
25 kept current.

26 (4) When a foster child is 14 years of age or older, to be provided with written information  
27 within 60 days of the date of any placement or any change in placement, regarding:

28 (a) How to establish a bank account in the foster child's name as allowed under state law;

29 (b) How to acquire a driver license as allowed under state law;

30 (c) How to remain in foster care after reaching 18 years of age;

31 (d) The availability of a tuition and fee waiver for a current or former foster child under ORS  
32 350.300;

33 (e) How to obtain a copy of the foster child's credit report, if any;

34 (f) How to obtain medical, dental, vision, mental health services or other treatment, including  
35 services and treatments available without parental consent under state law; and

36 (g) A transition toolkit, including a comprehensive transition plan.

37 (5) With respect to a foster child's rights under the federal and state constitutions, laws, in-  
38 cluding case law, rules and regulations:

39 (a) To receive a document setting forth such rights that is age-appropriate and developmentally  
40 appropriate within 60 days of the date of any placement or any change in placement;

41 (b) To have a document setting forth such rights that is age-appropriate and developmentally  
42 appropriate posted at the residences of all foster parents, child-caring agencies and independent  
43 resident facilities;

44 (c) To have an annual review of such rights that is age-appropriate and developmentally appro-  
45 priate while the foster child is in substitute care; and

1 (d) When the foster child is 14 years of age or older:

2 (A) To receive a document setting forth such rights that is age-appropriate and developmentally  
3 appropriate; and

4 (B) To acknowledge in writing receipt of the document and that the rights contained in the  
5 document were explained in an age-appropriate manner.

6 (6) To be provided with current and updated contact information for adults who are responsible  
7 for the care of the foster child and who are involved in the foster child's case, including but not  
8 limited to caseworkers, caseworker supervisors, attorneys, foster youth advocates and supporters,  
9 court appointed special advocates, local citizen review boards and employees of the Department of  
10 Human Services that provide certification of foster parents, child-caring agencies and independent  
11 resident facilities.

12 (7) To have a hotline [*phone*] **telephone** number that is available to the foster child at all times  
13 for the purposes of enabling the foster child to make complaints and assert grievances regarding the  
14 foster child's care, safety or well-being.

15 **(8) To be informed about the Foster Child Ombudsman in the Office of Oregon  
16 Ombudsmen and have access to the services described in section 17 of this 2017 Act.**

17  
18 **FOSTER PARENT OMBUDSMAN**

19  
20 **SECTION 20. (1) As used in this section:**

21 **(a) "Foster parent" has the meaning given that term in ORS 441.402.**

22 **(b) "Service provider" means an individual, entity, agency or program that provides in-  
23 formation and services to foster parents, either directly or indirectly, including but not lim-  
24 ited to:**

25 **(A) Information and assistance in accessing parental and community support, services  
26 and resources;**

27 **(B) Respite care;**

28 **(C) Training; and**

29 **(D) Coaching, mentoring or counseling.**

30 **(2) The Foster Parent Ombudsman, within the Office of Oregon Ombudsmen, shall:**

31 **(a) Provide foster parents and individuals acting on their behalf with information re-  
32 garding the rights of foster parents set forth in ORS 418.648;**

33 **(b) Investigate a complaint made by or on behalf of a foster parent if the allegations  
34 contained in the complaint may adversely affect the health, safety, welfare or rights of the  
35 foster parent, including by subpoenaing any person to appear, to give sworn testimony or to  
36 produce documentary or other evidence that is reasonably material to any matter under in-  
37 vestigation;**

38 **(c) Collaborate with the Department of Human Services, service providers, caseworkers,  
39 caseworker supervisors, attorneys, foster parent advocates and supporters, local citizen re-  
40 view boards and department employees, including by obtaining timely responses to inquiries  
41 and requests and by resolving issues;**

42 **(d) Assist foster parents and individuals acting on their behalf in locating and accessing  
43 resources in the community and connecting with local service providers;**

44 **(e) Work with foster parents and individuals acting on their behalf to identify and re-  
45 commend processes for:**

1 (A) A foster parent or individual acting on behalf of the foster parent to make complaints  
 2 regarding interactions with the individuals and entities described in paragraph (c) of this  
 3 subsection; and

4 (B) Engaging the participation of foster parents and individuals acting on behalf of foster  
 5 parents in general studies, conferences, inquiries or meetings related to foster care in this  
 6 state;

7 (f) Organize, participate in or cooperate with persons and agencies in general studies,  
 8 conferences, inquiries or meetings that may result in recommendations for improvements in  
 9 the functioning of the foster care system in this state;

10 (g) Monitor the development and implementation of federal, state and local laws and  
 11 policies that relate to the foster care system in this state;

12 (h) Provide information to state and local agencies about problems identified and reforms  
 13 undertaken in the foster care system in this state and work closely with associations and  
 14 citizen groups and with the state protection and advocacy system under ORS 192.517; and

15 (i) Establish and maintain the hotline telephone number for foster parents required by  
 16 ORS 418.648 (12).

17 (3) The Foster Parent Ombudsman or the designee shall report to a foster parent and to  
 18 an individual that makes a complaint on behalf of the foster parent the findings of the om-  
 19 budsman or designee in the investigation of the complaint and may make recommendations.  
 20 If appropriate, the ombudsman or designee shall attempt to resolve the complaint using in-  
 21 formal mediation or conflict resolution techniques.

22 (4)(a) A foster parent or individual acting on behalf of a foster parent who makes a  
 23 complaint to the Foster Parent Ombudsman under this section or who participates in an  
 24 investigation of a complaint may not be subjected to a penalty, sanction or restriction in  
 25 connection with the foster parent's certification to operate a foster home or be denied any  
 26 right, privilege or benefit on account of making the complaint or participating in the inves-  
 27 tigation of the complaint.

28 (b) This subsection does not prohibit the department from taking action based on infor-  
 29 mation obtained during the course of an investigation that demonstrates that the foster  
 30 parent has failed to comply with requirements in this chapter.

31 (5) In order to encourage foster parents and individuals acting on behalf of foster parents  
 32 to communicate with the Foster Parent Ombudsman, any foster parent or individual acting  
 33 on behalf of a foster parent who makes a complaint to the Foster Parent Ombudsman in good  
 34 faith under this section or who participates in an investigation of a complaint shall have  
 35 immunity from any civil or criminal liability that might otherwise be incurred or imposed  
 36 with respect to the communication.

37 (6) The Foster Parent Ombudsman and each designee shall have access to records of any  
 38 public agency necessary to the duties of the ombudsman. The provisions of ORS 192.553 to  
 39 192.581 are not intended to limit the access of the Foster Parent Ombudsman to the records  
 40 of a foster child or foster parent, including medical records of the foster child as authorized  
 41 by the foster child or individual acting on behalf of the foster child, if needed to investigate  
 42 a complaint.

43 (7) A foster parent or individual acting on behalf of the foster parent shall have the right  
 44 to participate in planning any course of action to be taken on behalf of the foster parent by  
 45 the Foster Parent Ombudsman or the designee.

1 (8) All state agencies shall cooperate with and assist the Foster Parent Ombudsman in  
2 the performance of the ombudsman's duties and functions.

3 (9) Writings and information provided to, and communications with, the Foster Parent  
4 Ombudsman are subject to ORS 441.407.

5 **SECTION 21.** ORS 418.648 is amended to read:

6 418.648. A foster parent has the right to:

7 (1) Be treated with dignity, respect and trust as a member of a team, including respect for the  
8 family values and routines of the foster parent.

9 (2) Be included as a valued member of a team that provides care and planning for a foster child  
10 placed in the home of the foster parent.

11 (3) Receive support services, as resources permit, from the Department of Human Services that  
12 are designed to assist in the care of the foster child placed in the home of the foster parent.

13 (4) Be informed of any condition that relates solely to a foster child placed in the home of the  
14 foster parent that may jeopardize the health or safety of the foster parent or other members of the  
15 home or alter the manner in which foster care should be provided to the foster child. The informa-  
16 tion shall include complete access to written reports, psychological evaluations and diagnoses that  
17 relate solely to a foster child placed in the home of the foster parent provided that confidential in-  
18 formation given to a foster parent must be kept confidential by the foster parent, except as neces-  
19 sary to promote or to protect the health and welfare of the foster child and the community.

20 (5) Have input into a permanency plan for a foster child placed in the home of the foster parent.

21 (6) Receive assistance from the department in dealing with family loss and separation when the  
22 foster child leaves the home of the foster parent.

23 (7) Be informed of all policies and procedures of the department that relate to the role of the  
24 foster parent.

25 (8) Be informed of how to receive services and to have access to department personnel or ser-  
26 vice providers 24 hours a day, seven days a week.

27 (9) Initiate an inactive referral status for a reasonable period of time, not to exceed 12 months,  
28 to allow a foster parent relief from caring for foster children.

29 (10) Not be discriminated against on the basis of race, color, religion, sex, sexual orientation,  
30 national origin, age or disability.

31 (11) Be notified of the foster parent's right to limited participation in proceedings in the juvenile  
32 court and provided with an explanation of that right.

33 (12) **Have a hotline telephone number that is available to the foster parent at all times**  
34 **for the purposes of enabling the foster parent to make complaints and assert grievances re-**  
35 **garding the foster parent's duties.**

36 (13) **Be provided with written contact information of specific individuals whom the foster**  
37 **parent may contact regarding complaints, concerns or violations of rights, that is updated**  
38 **as necessary and kept current.**

39 (14) **Be informed about the Foster Parent Ombudsman in the Office of Oregon**  
40 **Ombudsmen and have access to the services described in section 20 of this 2017 Act.**

41  
42 **CONFORMING AMENDMENTS**  
43

44 **SECTION 22.** ORS 124.090 is amended to read:

45 124.090. (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public

1 or private official or any other person who made the complaint, the witnesses and the elderly per-  
 2 sons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are  
 3 confidential and are not accessible for public inspection.

4 (2) Notwithstanding subsection (1) of this section, the Department of Human Services or the  
 5 department's designee may, if appropriate, make the names of the witnesses and the elderly persons,  
 6 and the reports and records compiled under ORS 124.050 to 124.095, available to:

7 (a) A law enforcement agency;

8 (b) A public agency that licenses or certifies residential facilities or licenses or certifies the  
 9 persons practicing in the facilities;

10 (c) A public agency or private nonprofit agency or organization providing protective services for  
 11 the elderly person;

12 (d) The Long Term Care Ombudsman **or the Residential Facilities Ombudsman**;

13 (e) A public agency that licenses or certifies a person that has abused or is alleged to have  
 14 abused an elderly person;

15 (f) A court pursuant to a court order or as provided in ORS 125.012; and

16 (g) An administrative law judge in an administrative proceeding when necessary to provide  
 17 protective services as defined in ORS 410.040 to an elderly person, when in the best interests of the  
 18 elderly person or when necessary to investigate, prevent or treat abuse of an elderly person.

19 (3) Information made available under subsection (2) of this section, and the recipient of the in-  
 20 formation, are otherwise subject to the confidentiality provisions of ORS 124.050 to 124.095.

21 **SECTION 23.** ORS 125.060 is amended to read:

22 125.060. (1) The notices required by this section must be given to all persons whose identities  
 23 and addresses can be ascertained in the exercise of reasonable diligence by the person required to  
 24 give the notice.

25 (2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other pro-  
 26 tective order must be given by the petitioner to the following persons:

27 (a) The respondent, if the respondent has attained 14 years of age.

28 (b) The spouse, parents and adult children of the respondent.

29 (c) If the respondent does not have a spouse, parent or adult child, the person or persons most  
 30 closely related to the respondent.

31 (d) Any person who is cohabiting with the respondent and who is interested in the affairs or  
 32 welfare of the respondent.

33 (e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the  
 34 respondent by a court of any state, any trustee for a trust established by or for the respondent, any  
 35 person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and  
 36 any person acting as attorney-in-fact for the respondent under a power of attorney.

37 (f) If the respondent is a minor, the person who has exercised principal responsibility for the  
 38 care and custody of the respondent during the 60-day period before the filing of the petition.

39 (g) If the respondent is a minor and has no living parents, any person nominated to act as  
 40 fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

41 (h) If the respondent is receiving moneys paid or payable by the United States through the De-  
 42 partment of Veterans Affairs, a representative of the United States Department of Veterans Affairs  
 43 regional office that has responsibility for the payments to the protected person.

44 (i) If the respondent is receiving moneys paid or payable for public assistance provided under  
 45 ORS chapter 411 by the State of Oregon through the Department of Human Services, a represen-

1 tative of the department.

2 (j) If the respondent is receiving moneys paid or payable for medical assistance provided under  
 3 ORS chapter 414 by the State of Oregon through the Oregon Health Authority, a representative of  
 4 the authority.

5 (k) If the respondent is committed to the legal and physical custody of the Department of Cor-  
 6 rections, the Attorney General and the superintendent or other officer in charge of the facility in  
 7 which the respondent is confined.

8 (L) If the respondent is a foreign national, the consulate for the respondent's country.

9 (m) Any other person that the court requires.

10 (3) Notice of a motion for the termination of the protective proceedings, for removal of a  
 11 fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's  
 12 actions or for protective orders in addition to those sought in the petition must be given by the  
 13 person making the motion to the following persons:

14 (a) The protected person, if the protected person has attained 14 years of age.

15 (b) Any person who has filed a request for notice in the proceedings.

16 (c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the  
 17 protected person.

18 (d) If the protected person is receiving moneys paid or payable by the United States through the  
 19 Department of Veterans Affairs, a representative of the United States Department of Veterans Af-  
 20 fairs regional office that has responsibility for the payments to the protected person.

21 (e) If the protected person is committed to the legal and physical custody of the Department of  
 22 Corrections, the Attorney General and the superintendent or other officer in charge of the facility  
 23 in which the protected person is confined.

24 (f) Any other person that the court requires.

25 (4) A request for notice under subsection (3)(b) of this section must be in writing and include  
 26 the name, address and phone number of the person requesting notice. A copy of the request must  
 27 be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has  
 28 been appointed. The original request must be filed with the court. The person filing the request must  
 29 pay the fee specified by ORS 21.135.

30 (5) A person who files a request for notice in the proceedings in the manner provided by sub-  
 31 section (4) of this section is entitled to receive notice from the fiduciary of any motion specified in  
 32 subsection (3) of this section and of any other matter to which a person listed in subsection (2) of  
 33 this section is entitled to receive notice under a specific provision of this chapter.

34 (6) If the Department of Human Services is nominated as guardian for the purpose of consenting  
 35 to the adoption of a minor, the notice provided for in this section must also be given to the minor's  
 36 brothers, sisters, aunts, uncles and grandparents.

37 (7) In addition to the requirements of subsection (2) of this section, notice of the filing of a pe-  
 38 tition for the appointment of a guardian for a person who is alleged to be incapacitated must be  
 39 given by the petitioner to the following persons:

40 (a) Any attorney who is representing the respondent in any capacity.

41 (b) If the respondent is a resident of a nursing home or residential facility, or if the person  
 42 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-  
 43 cility, the Office of *[the Long Term Care Ombudsman]* **Oregon Ombudsmen**.

44 (c) If the respondent is a resident of a mental health treatment facility or a residential facility  
 45 for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends



1 to place the respondent in such a facility, the system described in ORS 192.517 (1).

2 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding  
 3 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this  
 4 section must be given by the person making the motion to the following persons:

5 (a) Any attorney who represented the protected person at any time during the protective pro-  
 6 ceeding.

7 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion  
 8 seeks authority to place the protected person in a nursing home or residential facility, the Office  
 9 of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**.

10 (c) If the protected person is a resident of a mental health treatment facility or a residential  
 11 facility for individuals with developmental disabilities, or if the motion seeks authority to place the  
 12 protected person in such a facility, the system described in ORS 192.517 (1).

13 (9) A respondent or protected person may not waive the notice required under this section.

14 (10) The requirement that notice be served on an attorney for a respondent or protected person  
 15 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney  
 16 receiving the notice to represent the respondent or protected person in the protective proceeding.

17 **SECTION 24.** ORS 125.075 is amended to read:

18 125.075. (1) Any person who is interested in the affairs or welfare of a respondent or protected  
 19 person may present objections to a petition or to a motion in a protective proceeding, including but  
 20 not limited to:

21 (a) Any person entitled to receive notice under ORS 125.060.

22 (b) Any stepparent or stepchild of the respondent or protected person.

23 (c) Any other person the court may allow.

24 (2) Objections to a petition may be either written or oral. Objections to a motion must be in  
 25 writing. Objections to a petition or to a motion must be made or filed with the court within 15 days  
 26 after notice of the petition or motion is served or mailed in the manner prescribed by ORS 125.065.  
 27 The court shall designate a place where oral objections may be made. If a person appears within the  
 28 time allowed at the place designated by the court for the purpose of making oral objections, the  
 29 clerk of the court shall provide a means of reducing the oral objections to a signed writing for the  
 30 purpose of filing the objection.

31 (3) If objections are presented by any of the persons listed in subsection (1) of this section, the  
 32 court shall schedule a hearing on the objections. The petitioner or person making the motion shall  
 33 give notice to all persons entitled to notice under ORS 125.060 (3) of the date, time and place of the  
 34 scheduled hearing at least 15 days before the date set for hearing. Notice shall be given in the  
 35 manner prescribed by ORS 125.065.

36 (4) Notwithstanding ORS 21.170, the court may not charge or collect any fee for the filing of  
 37 objections under the provisions of this section or for the filing of any motion from any of the fol-  
 38 lowing:

39 (a) The respondent or the protected person;

40 (b) The Office of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**; or

41 (c) The system described in ORS 192.517 (1).

42 (5) The court for good cause shown may provide for a different method or time of giving notice  
 43 under subsection (3) of this section.

44 **SECTION 25.** ORS 125.320 is amended to read:

45 125.320. (1) A guardian may not authorize the sterilization of the protected person.

1 (2) A guardian may not use funds from the protected person's estate for room and board that  
 2 the guardian or guardian's spouse, parent or child have furnished the protected person unless the  
 3 charge for the service is approved by order of the court before the payment is made.

4 (3)(a) Before a guardian may place an adult protected person in a mental health treatment fa-  
 5 cility, a nursing home or other residential facility, the guardian must file a statement with the court  
 6 informing the court that the guardian intends to make the placement.

7 (b) Notice of the statement of intent must be given in the manner provided by ORS 125.065 to  
 8 the persons specified in ORS 125.060 (3).

9 (c) In addition to the requirements of paragraph (b) of this subsection, notice of the statement  
 10 of intent must be given in the manner provided by ORS 125.065 by the guardian to the following  
 11 persons:

12 (A) Any attorney who represented the protected person at any time during the protective pro-  
 13 ceeding.

14 (B) If the protected person is a resident of a nursing home or residential facility, or if the notice  
 15 states the intention to place the protected person in a nursing home or residential facility, the Office  
 16 of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**.

17 (C) If the protected person is a resident of a mental health treatment facility or a residential  
 18 facility for individuals with developmental disabilities, or if the notice states the intention to place  
 19 the protected person in such a facility, the system described in ORS 192.517 (1).

20 (d) In addition to the requirements of ORS 125.070 (1), the notice given to the protected person  
 21 must clearly indicate the manner in which the protected person may object to the proposed place-  
 22 ment.

23 (e) The guardian may thereafter place the adult protected person in a mental health treatment  
 24 facility, a nursing home or other residential facility without further court order. If an objection is  
 25 made in the manner provided by ORS 125.075, the court shall schedule a hearing on the objection  
 26 as soon as practicable.

27 (f) The requirement that notice be served on an attorney for a protected person under paragraph  
 28 (c)(A) of this subsection does not impose any responsibility on the attorney receiving the notice to  
 29 represent the protected person in the protective proceeding.

30 **SECTION 26.** ORS 125.678 is amended to read:

31 125.678. (1) The [*Long Term Care Ombudsman*] **executive director of the Office of Oregon**  
 32 **Ombudsmen** appointed under [*ORS 441.403*] **section 2 of this 2017 Act**[, *in consultation with the*  
 33 *Residential Facilities Advisory Committee,*] shall appoint the Oregon Public Guardian and  
 34 Conservator in the Office of [*the Long Term Care Ombudsman for a four-year term*] **Oregon**  
 35 **Ombudsmen**. The Oregon Public Guardian and Conservator serves at the pleasure of the [*Long*  
 36 *Term Care Ombudsman*] **executive director** and may be removed by the [*Long Term Care Ombuds-*  
 37 *man*] **executive director** for good cause. If there is a vacancy for any cause, the [*Long Term Care*  
 38 *Ombudsman*] **executive director** shall make an appointment within 60 days. The Oregon Public  
 39 Guardian and Conservator shall receive a salary as fixed by the [*Long Term Care Ombudsman*]  
 40 **executive director** and be reimbursed for all reasonable travel and other expenses incurred in the  
 41 performance of official duties.

42 (2) The Oregon Public Guardian and Conservator shall be responsible for carrying out the  
 43 powers, duties and functions of the Oregon Public Guardian and Conservator pursuant to ORS  
 44 125.675 to 125.687, within the Office of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**, and  
 45 subject to the direction, supervision and control of the [*Long Term Care Ombudsman*] **executive**

1 **director.**

2 (3) The Oregon Public Guardian and Conservator, in consultation with and subject to the ap-  
 3 proval of the *[Long Term Care Ombudsman]* **executive director**, may:

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

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

9 (c) Fix the compensation, including reasonable travel and other expenses incurred in the per-  
 10 formance of official duties, of persons hired by or under contract with the Oregon Public Guardian  
 11 and Conservator subject to the State Personnel Relations Law; *[and]*

12 **(d) Contract with qualified individuals and entities to provide programs, services and**  
 13 **other assistance to persons receiving public guardian and conservator services under ORS**  
 14 **125.675 to 125.687 who are located in areas of this state where such programs, services and**  
 15 **other assistance are inadequate or nonexistent; and**

16 *[(d)]* (e) Adopt rules to carry out the provisions of ORS 125.675 to 125.687.

17 (4) The *[Long Term Care Ombudsman]* **executive director** may hire or contract with staff to  
 18 serve in the Office of *[the Long Term Care Ombudsman]* **Oregon Ombudsmen** as necessary to carry  
 19 out the powers, duties and functions of the *[Long Term Care Ombudsman]* **executive director** in  
 20 supervising, monitoring, advising and supporting the Oregon Public Guardian and Conservator as  
 21 required under *[ORS 441.406]* **section 2 of this 2017 Act.**

22 (5) The Oregon Public Guardian and Conservator may delegate the exercise or discharge of any  
 23 power, duty or function that is vested in or imposed by law upon the Oregon Public Guardian and  
 24 Conservator to a deputy public guardian and conservator, staff person or volunteer hired by or un-  
 25 der contract with the Oregon Public Guardian and Conservator as appropriate for the purpose of  
 26 conducting an official act in the name of the Oregon Public Guardian and Conservator. The official  
 27 act of any person acting in the name of the Oregon Public Guardian and Conservator by the au-  
 28 thority of the Oregon Public Guardian and Conservator is an official act of the Oregon Public  
 29 Guardian and Conservator.

30 (6) The Oregon Public Guardian and Conservator may solicit and accept gifts, grants and do-  
 31 nations from public and private sources for the purpose of carrying out the provisions of ORS  
 32 125.675 to 125.687, which moneys shall be deposited in the *[Long Term Care Ombudsman]* **Oregon**  
 33 **Ombudsmen** Account established under ORS 441.419.

34 **SECTION 27.** ORS 125.687 is amended to read:

35 125.687. (1) A court may not appoint the Oregon Public Guardian and Conservator or a deputy  
 36 public guardian and conservator as a fiduciary for a person unless the Oregon Public Guardian and  
 37 Conservator or deputy public guardian and conservator has petitioned for or consented to the ap-  
 38 pointment.

39 (2) The Oregon Public Guardian and Conservator shall file an official bond in such amount as  
 40 may be fixed from time to time by the *[Long Term Care Ombudsman]* **Office of Oregon**  
 41 **Ombudsmen**. The bond shall inure to the joint benefit of the several public guardianship and con-  
 42 servatorship estates in which the Oregon Public Guardian and Conservator is providing services,  
 43 but a bond is not required to be filed in individual estates.

44 (3) The court may not charge a fee for the filing of a petition or any other pleading under this  
 45 chapter by the Oregon Public Guardian and Conservator or a deputy public guardian and

1 conservator when the filing is made in connection with the provision of public guardian and  
2 conservator services under ORS 125.675 to 125.687.

3 (4)(a) The court shall order the client or the client's estate to pay for reasonable expenses in-  
4 curred, including compensation for services rendered, in the provision of public guardian and  
5 conservator services to the client, including but not limited to court costs and attorney fees.

6 (b) If a client is indigent, the Oregon Public Guardian and Conservator and the Office of [*the*  
7 *Long Term Care Ombudsman*] **Oregon Ombudsmen** shall have a claim against the client or the  
8 client's estate for the portion of any payment ordered under paragraph (a) of this subsection that  
9 remains unpaid.

10 (5) The court may not order the Oregon Public Guardian and Conservator, a deputy public  
11 guardian and conservator or the Office of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**  
12 to pay court costs or attorney fees in a proceeding brought on behalf of a client under ORS 125.675  
13 to 125.687.

14 **SECTION 28.** ORS 441.414 is amended to read:

15 441.414. Nothing in ORS 441.402 to 441.419 shall affect the right of residents [*of a residential*  
16 *facility*] to see visitors of their choice.

17 **SECTION 29.** ORS 443.455 is amended to read:

18 443.455. (1) Except as provided in subsection (5) of this section, for purposes of imposing civil  
19 penalties, residential facilities approved under ORS 443.400 to 443.455 are subject to ORS 441.705  
20 to 441.745.

21 (2) The Director of Human Services shall by rule prescribe a schedule of penalties for residential  
22 care facilities, residential training facilities and residential training homes that are not in compli-  
23 ance with ORS 443.400 to 443.455.

24 (3) The Director of the Oregon Health Authority shall by rule prescribe a schedule of penalties  
25 for residential treatment facilities and residential treatment homes that are not in compliance with  
26 ORS 443.400 to 443.455.

27 (4) If the department or authority investigates and makes a finding of abuse arising from delib-  
28 erate or other than accidental action or inaction that is likely to cause a negative outcome by a  
29 person with a duty of care toward a resident of a residential facility and if the abuse resulted in the  
30 death, serious injury, rape or sexual abuse of a resident, the department or authority shall impose  
31 a civil penalty of not less than \$2,500 for each occurrence of substantiated abuse, not to exceed  
32 \$15,000 in any 90-day period. As used in this subsection:

33 (a) "Negative outcome" includes serious injury, rape, sexual abuse or death.

34 (b) "Rape" means rape in the first, second or third degree as described in ORS 163.355, 163.365  
35 and 163.375.

36 (c) "Serious injury" means physical injury that creates a substantial risk of death or that causes  
37 serious and protracted disfigurement, protracted impairment of health or protracted loss or impair-  
38 ment of the function of any bodily organ.

39 (d) "Sexual abuse" means any form of sexual contact between an employee of a residential fa-  
40 cility or a person providing services in the residential facility and a resident of that facility, in-  
41 cluding but not limited to sodomy, sexual coercion, sexually explicit photographing and sexual  
42 harassment.

43 (5) Civil penalties recovered from a residential training facility, residential training home, resi-  
44 dential treatment facility or residential treatment home shall be deposited in the [*Long Term Care*  
45 *Ombudsman*] **Oregon Ombudsmen** Account established in ORS 441.419.

**SECTION 30.** ORS 443.738 is amended to read:

443.738. (1) Except as provided in subsection (3) of this section, all providers, resident managers and substitute caregivers for adult foster homes shall satisfactorily meet all educational requirements established by the licensing agency. After consultation with representatives of providers, educators, residents' advocates and the *[Long Term Care]* **Residential Facilities** Ombudsman, the licensing agency shall adopt by rule standards governing the educational requirements. The rules shall require that a person may not provide care to any resident prior to acquiring education or supervised training designed to impart the basic knowledge and skills necessary to maintain the health, safety and welfare of the resident. Each provider shall document compliance with the educational requirements for persons subject to the requirements.

(2) The rules required under subsection (1) of this section shall include but need not be limited to the following:

(a) A requirement that, before being licensed, a provider successfully completes training that satisfies a defined curriculum, including demonstrations and practice in physical caregiving, screening for care and service needs, appropriate behavior toward residents with physical, cognitive and mental disabilities and issues related to architectural accessibility;

(b) A requirement that a provider pass a test before being licensed or becoming a resident manager. The test shall evaluate the ability to understand and respond appropriately to emergency situations, changes in medical conditions, physicians' orders and professional instructions, nutritional needs, residents' preferences and conflicts; and

(c) A requirement that, after being licensed, a provider or resident manager successfully completes continuing education as described in ORS 443.742.

(3) After consultation with representatives of providers, educators, residents' advocates and the *[Long Term Care]* **Residential Facilities** Ombudsman, the licensing agency may adopt by rule exceptions to the training requirements of subsections (1) and (2) of this section for persons who are appropriately licensed medical care professionals in Oregon or who possess sufficient education, training or experience to warrant an exception. The licensing agency may not make any exceptions to the testing requirements.

(4) The licensing agency may permit a person who has not completed the training or passed the test required in subsection (2)(a) and (b) of this section to act as a resident manager until the training and testing are completed or for 60 days, whichever is shorter, if the licensing agency determines that an unexpected and urgent staffing need exists. The licensed provider must notify the licensing agency of the situation and demonstrate that the provider is unable to find a qualified resident manager, that the person has met the requirements for a substitute caregiver for the adult foster home and that the provider will provide adequate supervision.

(5) Providers shall serve three nutritionally balanced meals to residents each day. A menu for the meals for the coming week shall be prepared and posted weekly.

(6) Providers shall make available at least six hours of activities each week which are of interest to the residents, not including television or movies. The licensing agency shall make information about resources for activities available to providers upon request. Providers or substitute caregivers shall be directly involved with residents on a daily basis.

(7) Providers shall give at least 30 days' written notice to the residents, and to the legal representative, guardian or conservator of any resident, before selling, leasing or transferring the adult foster home business or the real property on which the adult foster home is located. Providers shall inform real estate licensees, prospective buyers, lessees and transferees in all written communi-

1 cations that the license to operate an adult foster home is not transferable and shall refer them to  
2 the licensing agency for information about licensing.

3 (8) If a resident dies or leaves an adult foster home for medical reasons and indicates in writing  
4 the intent to not return, the provider may not charge the resident for more than 15 days or the time  
5 specified in the provider contract, whichever is less, after the resident has left the adult foster home.  
6 The provider has an affirmative duty to take reasonable actions to mitigate the damages by ac-  
7 cepting a new resident. However, if a resident dies or leaves an adult foster home due to neglect  
8 or abuse by the provider or due to conditions of imminent danger to life, health or safety, the pro-  
9 vider may not charge the resident beyond the resident's last day in the home. The provider shall  
10 refund any advance payments within 30 days after the resident dies or leaves the adult foster home.

11 (9) Chemical and physical restraints may be used only after considering all other alternatives  
12 and only when required to treat a resident's medical symptoms or to maximize a resident's physical  
13 functioning. Restraints may not be used for discipline of a resident or for the convenience of the  
14 adult foster home. Restraints may be used only as follows:

15 (a) Psychoactive medications may be used only pursuant to a prescription that specifies the  
16 circumstances, dosage and duration of use.

17 (b) Physical restraints may be used only pursuant to a qualified practitioner's order that speci-  
18 fies the type, circumstances and duration of use in accordance with rules adopted by the licensing  
19 agency. The rules adopted by the licensing agency relating to physical restraints shall include  
20 standards for use and training.

21 (10) If the physical characteristics of the adult foster home do not encourage contact between  
22 caregivers and residents and among residents, the provider shall demonstrate how regular positive  
23 contact will occur. Providers may not place residents who are unable to walk without assistance in  
24 a basement, split-level, second story or other area that does not have an exit at ground level.  
25 Nonambulatory residents shall be given first floor rooms.

26 (11)(a) The provider may not transfer or discharge a resident from an adult foster home unless  
27 the transfer or discharge is necessary for medical reasons, for the welfare of the resident or for the  
28 welfare of other residents, or due to nonpayment. In such cases, the provider shall give the resident  
29 written notice as soon as possible under the circumstances.

30 (b) The provider shall give the resident and the resident's legal representative, guardian or  
31 conservator written notice at least 30 days prior to the proposed transfer or discharge, except in a  
32 medical emergency including but not limited to a resident's experiencing an increase in level of care  
33 needs or engaging in behavior that poses an imminent danger to self or others. In such cases, the  
34 provider shall give the resident written notice as soon as possible under the circumstances.

35 (c) The resident has the right to an administrative hearing prior to an involuntary transfer or  
36 discharge. If the resident is being transferred or discharged for a medical emergency, or to protect  
37 the welfare of the resident or other residents, as defined by rule, the hearing must be held within  
38 seven days of the transfer or discharge. The provider shall hold a space available for the resident  
39 pending receipt of an administrative order. ORS 441.605 (4) and the rules thereunder governing  
40 transfer notices and hearings for residents of long term care facilities shall apply to adult foster  
41 homes.

42 (12) The provider may not include any illegal or unenforceable provision in a contract with a  
43 resident and may not ask or require a resident to waive any of the resident's rights.

44 (13) Any lessor of a building in which an adult foster home is located may not interfere with the  
45 admission, discharge or transfer of any resident in the adult foster home unless the lessor is a pro-

1 vider or coprovider on the license.

2 **SECTION 31.** ORS 443.767 is amended to read:

3 443.767. (1) When the licensing agency receives a complaint that alleges that a resident of a li-  
4 censed adult foster home has been injured, abused or neglected, and that the resident's health or  
5 safety is in imminent danger, or that the resident has died or been hospitalized, the investigation  
6 shall begin immediately after the complaint is received. If the investigator determines that the  
7 complaint is substantiated, the licensing agency shall take appropriate corrective action imme-  
8 diately.

9 (2) When the licensing agency receives a complaint that alleges the existence of any circum-  
10 stance that could result in injury, abuse or neglect of a resident of a licensed adult foster home, and  
11 that the circumstance could place the resident's health or safety in imminent danger, the agency  
12 shall investigate the complaint promptly. If the investigator determines that the complaint is sub-  
13 stantiated, the agency shall take appropriate corrective action promptly.

14 (3) After public hearing, the licensing agency shall by rule set standards for the procedure,  
15 content and time limits for the initiation and completion of investigations of complaints. The time  
16 limits shall be as short as possible and shall vary in accordance with the severity of the circum-  
17 stances alleged in the complaint. In no event shall the investigation exceed a duration of 60 days,  
18 unless there is an ongoing concurrent criminal investigation, in which case the licensing agency  
19 may take a reasonable amount of additional time in which to complete the investigation.

20 (4) The licensing agency shall take no longer than 60 days from the completion of the investi-  
21 gation report to take appropriate corrective action in the case of any complaint that the investi-  
22 gator determines to be substantiated.

23 (5)(a) The licensing agency shall mail a copy of the investigation report within seven days of the  
24 completion of the report to:

25 (A) The complainant, unless the complainant requests anonymity;

26 (B) The resident, and any person designated by the resident to receive information concerning  
27 the resident;

28 (C) The facility; and

29 (D) The *[Long Term Care]* **Residential Facilities** Ombudsman.

30 (b) The copy of the report shall be accompanied by a notice that informs the recipient of the  
31 right to submit additional evidence.

32 (6)(a) The complaint and the investigation report shall be available to the public at the local  
33 office of the licensing agency or the type B area agency *[on aging]*, if appropriate. When the li-  
34 censing agency or type B area agency *[on aging]* concludes the investigation of a complaint, the li-  
35 censing agency or type B area agency *[on aging]* shall clearly designate the outcome of the  
36 complaint investigation and make the designation available to the public together with the com-  
37 plaint and the investigation report.

38 **(b) As used in this subsection, "area agency" has the meaning given that term in ORS**  
39 **410.040.**

40 (7) A copy of the report shall be forwarded to the licensing agency whether or not the investi-  
41 gation report concludes that the complaint is substantiated.

42 **SECTION 32.** ORS 443.825 is amended to read:

43 443.825. All penalties recovered under ORS 443.790 to 443.815 shall be deposited:

44 (1) In the Quality Care Fund established in ORS 443.001 if paid by an adult foster home licensed  
45 to provide residential care to persons with physical disabilities.

1 (2) In the [*Long Term Care Ombudsman*] **Oregon Ombudsmen** Account established in ORS  
2 441.419 if paid by an adult foster home licensed to provide care to persons with mental illness or  
3 developmental disabilities.

4 **SECTION 33.** ORS 476.030 is amended to read:

5 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

6 (a) The prevention of fires.

7 (b) The storage and use of combustibles and explosives.

8 (c) The maintenance and regulation of structural fire safety features in occupied structures and  
9 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,  
10 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private  
11 residences, which are occupied for sleeping purposes, and all other places where large numbers of  
12 persons work, live or congregate from time to time for any purpose except that structural changes  
13 shall not be required in buildings built, occupied and maintained in conformity with state building  
14 code regulations applicable at the time of construction.

15 (d) Standards for equipment used for fire protection purposes within this state including stand-  
16 ard thread for fire hose couplings and hydrant fittings.

17 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties  
18 as are prescribed by law.

19 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-  
20 acted adequate regulations generally conforming to state and national standards concerning fire  
21 prevention, fire safety measures and building construction requirements for safety, and if the gov-  
22 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal  
23 may exempt the area subject to such regulation either partially or fully from the statutes, rules and  
24 regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the  
25 State Fire Marshal may request from the Department of Public Safety Standards and Training con-  
26 sideration of and recommendations regarding the exemption. The exemption may extend for a two-  
27 year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal  
28 following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's  
29 regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall  
30 furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire  
31 Marshal any amendment thereto within 30 days before the effective date of such amendment. The  
32 State Fire Marshal shall designate a person or division within such governmental subdivision as an  
33 approved authority for exercising functions relating to fire prevention, fire safety measures and  
34 building construction. Upon request of a local official having enforcement responsibility and a  
35 showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make  
36 investigation and appropriate recommendations.

37 (4) The State Fire Marshal may investigate or cause an investigation to be made to determine  
38 the probable cause, origin and circumstances of any fire and shall classify such findings as the State  
39 Fire Marshal may find appropriate to promote fire protection and prevention.

40 (5) The State Fire Marshal shall provide training in fire safety inspection to the Department of  
41 Human Services, area agencies, the Oregon Health Authority, community mental health programs,  
42 developmental disabilities programs and designees of the [*Long Term Care Ombudsman*] **Office of**  
43 **Oregon Ombudsmen**. If an adult foster home has been inspected by the Department of Human  
44 Services, the Oregon Health Authority, an area agency, a community mental health program or a  
45 developmental disabilities program and the agency conducting the inspection reasonably believes



1 that the adult foster home is not in compliance with applicable fire safety rules, the agency con-  
2 ducting the inspection may request the State Fire Marshal to inspect or cause an inspection to be  
3 made. If a designee of the [*Long Term Care Ombudsman*] **Office of Oregon Ombudsmen**, in the  
4 course of visiting an adult foster home, believes that the adult foster home is not in compliance with  
5 applicable fire safety rules, the designee shall report the problem to the appropriate agency to re-  
6 quest a fire safety inspection by the office of the State Fire Marshal or by a designated represen-  
7 tative of the office of the State Fire Marshal.

8 (6) Upon the request of the Department of Human Services, the Oregon Health Authority, an  
9 area agency, a community mental health program or a developmental disabilities program, the State  
10 Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home  
11 is in compliance with rules jointly adopted by the Department of Human Services and the State Fire  
12 Marshal establishing fire safety standards for adult foster homes.

13 (7) As used in subsections (5) and (6) of this section:

14 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

15 (b) "Area agency" has the meaning given that term in ORS 410.040.

16 (c) "Community mental health program" means a program established under ORS 430.620 (1)(b).

17 (d) "Developmental disabilities program" means a program established under ORS 430.620 (1)(a).

18  
19 **OPERATIVE DATE**

20  
21 **SECTION 34. Sections 2, 17, 18 and 20 of this 2017 Act and the amendments to statutes**  
22 **by sections 3 to 15, 19 and 21 to 33 of this 2017 Act become operative January 1, 2018.**

23 **SECTION 35. The Long Term Care Ombudsman may take any steps before the operative**  
24 **date specified in section 34 of this 2017 Act that are necessary to carry out sections 2, 17,**  
25 **18 and 20 of this 2017 Act and the amendments to statutes by sections 3 to 15, 19 and 21 to**  
26 **33 of this 2017 Act on and after the operative date specified in section 34 of this 2017 Act.**

27  
28 **CAPTIONS**

29  
30 **SECTION 36. The unit captions used in this 2017 Act are provided only for the conven-**  
31 **ience of the reader and do not become part of the statutory law of this state or express any**  
32 **legislative intent in the enactment of this 2017 Act.**

33  
34 **EMERGENCY CLAUSE**

35  
36 **SECTION 37. This 2017 Act being necessary for the immediate preservation of the public**  
37 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
38 **on its passage.**