

Requested by Representative STARK

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2170**

1 On page 1 of the printed bill, line 2, delete “124.090” and insert “21.007”.

2 In line 3, delete “125.678,” and insert “125.410, 125.675, 125.678, 125.680,  
3 125.683, 125.685,” and after “125.687,” insert “410.550, 417.810, 417.815,  
4 417.825,”.

5 After line 5, insert:

6 “Whereas foster children and youth, having been removed from their  
7 families through no fault of their own, deserve to have their rights protected  
8 with access to support and resources so they can be happy, health and stable  
9 during their time in substitute care; now, therefore,”.

10 Delete lines 7 through 28 and delete pages 2 through 25 and insert:

11

12 **“OFFICE OF OREGON OMBUDSMEN**

13

14 **“SECTION 1. (1) The Office of Oregon Ombudsmen is established**  
15 **to provide administrative services and support to the:**

16 **“(a) Office of the Long Term Care Ombudsman and the Residential**  
17 **Facilities Ombudsman program;**

18 **“(b) Office of the Foster Parent Ombudsman;**

19 **“(c) Office of the Foster Child Ombudsman; and**

20 **“(d) Office of the Oregon Public Guardian.**

21 **“(2) The Governor shall appoint an administrator of the Office of**

1 **Oregon Ombudsmen who:**

2 **“(a) Shall perform all administrative functions of the office;**

3 **“(b) May appoint subordinate officers and employees for the office,**  
4 **prescribe their duties and set their compensation; and**

5 **“(c) Shall, at least annually, provide a report to the Legislative**  
6 **Assembly, in the manner provided in ORS 192.245, on the activities of**  
7 **the offices and program listed in subsection (1)(a) to (d) of this section.**

8 **“SECTION 2. ORS 441.419 is amended to read:**

9 **“441.419. [*The Long Term Care Ombudsman Account is established in the***  
10 ***State Treasury, separate and distinct from the General Fund. All miscella-***  
11 ***neous receipts, gifts and federal and other grants received by the Long Term***  
12 ***Care Ombudsman shall be deposited into the Long Term Care Ombudsman***  
13 ***Account and are continuously appropriated to the Long Term Care Ombuds-***  
14 ***man for carrying out the responsibilities of the Long Term Care Ombudsman***  
15 ***and the Oregon Public Guardian and Conservator.*]**

16 **“The Office of Oregon Ombudsmen Account is established in the**  
17 **State Treasury, separate and distinct from the General Fund. The**  
18 **Office of the Long Term Care Ombudsman, the Residential Facilities**  
19 **Ombudsman program, the Office of the Oregon Public Guardian, the**  
20 **Office of the Foster Child Ombudsman and the Office of the Foster**  
21 **Parent Ombudsman shall each have a dedicated subaccount in the**  
22 **Office of Oregon Ombudsmen Account. All miscellaneous receipts,**  
23 **gifts and federal and other grants received by the Office of the Long**  
24 **Term Care Ombudsman, the Residential Facilities Ombudsman pro-**  
25 **gram, the Office of the Oregon Public Guardian, the Office of the**  
26 **Foster Child Ombudsman and the Office of the Foster Parent Om-**  
27 **budsman shall be deposited in the appropriate subaccount. The moneys**  
28 **in each subaccount are continuously appropriated to the Office of the**  
29 **Long Term Care Ombudsman, the Residential Facilities Ombudsman**  
30 **program, the Office of the Foster Child Ombudsman, the Office of the**

1 Foster Parent Ombudsman and the Office of the Oregon Public  
2 Guardian, as appropriate.

3

4

**“FOSTER CHILD OMBUDSMAN**

5

6 **“SECTION 3. Sections 4 to 7 and 12 to 15 of this 2017 Act are added**  
7 **to and made a part of ORS chapter 418.**

8 **“SECTION 4. (1) As used in this section:**

9 **“(a) ‘Foster child’ has the meaning given that term in ORS 418.200.**

10 **“(b) ‘Foster parent’ has the meaning given that term in ORS**  
11 **441.402.**

12 **“(2) The Office of the Foster Child Ombudsman is established. The**  
13 **Foster Child Ombudsman shall:**

14 **“(a) Provide foster children and individuals acting on their behalf**  
15 **with information regarding the rights of foster children set forth in**  
16 **ORS 418.201;**

17 **“(b) Investigate a complaint made by or on behalf of a foster child**  
18 **if the allegations contained in the complaint may adversely affect the**  
19 **health, safety, welfare or rights of the foster child, including by**  
20 **subpoenaing any person to appear, to give sworn testimony or to**  
21 **produce documentary or other evidence, to the extent permitted by**  
22 **state and federal law, that is reasonably material to any matter under**  
23 **investigation;**

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

30 **“(d) Assist foster children and individuals acting on their behalf in**

1 **locating and accessing resources in the community and in connecting**  
2 **with local service providers;**

3 **“(e) Work with foster children and individuals acting on their be-**  
4 **half to identify and recommend processes for:**

5 **“(A) A foster child or individual acting on behalf of the foster child**  
6 **to make complaints about the foster child’s care or interaction with**  
7 **the individuals and entities described in paragraph (c) of this sub-**  
8 **section; and**

9 **“(B) Engaging the participation of foster children and individuals**  
10 **acting on behalf of foster children in general studies, conferences, in-**  
11 **quiries or meetings related to foster care in this state;**

12 **“(f) Organize, participate in or cooperate with persons and agencies**  
13 **in general studies, conferences, inquiries or meetings that may result**  
14 **in recommendations for improvements in the functioning of the foster**  
15 **care system in this state;**

16 **“(g) Monitor the development and implementation of federal, state**  
17 **and local laws and policies that relate to the foster care system in this**  
18 **state;**

19 **“(h) Collect and compile data necessary to prepare the report sub-**  
20 **mitted to the Governor under ORS 182.500 and provide a copy of the**  
21 **report to the Governor’s Child Foster Care Advisory Commission es-**  
22 **tablished by section 1, chapter 76, Oregon Laws 2016;**

23 **“(i) Provide information to state and local agencies about problems**  
24 **identified and reforms undertaken in the foster care system in this**  
25 **state and work closely with associations and citizen groups and with**  
26 **the state protection and advocacy system under ORS 192.517; and**

27 **“(j) Establish and maintain the hotline telephone number for foster**  
28 **children required by ORS 418.201 (7).**

29 **“(3) The Foster Child Ombudsman or a designee shall report to a**  
30 **foster child and to an individual that makes a complaint on behalf of**

1 the foster child the findings of the ombudsman or designee in the in-  
2 vestigation of the complaint and may make recommendations. If ap-  
3 propriate, the ombudsman or designee shall attempt to resolve the  
4 complaint using informal mediation or conflict resolution techniques.  
5 Complaints of conditions threatening the safety or well-being of a  
6 foster child that cannot be resolved must be referred to the depart-  
7 ment or law enforcement officials.

8 “(4) A foster child, or individual acting on behalf of a foster child,  
9 who makes a complaint to the Foster Child Ombudsman under this  
10 section or who participates in an investigation of a complaint may not  
11 be subjected to a penalty, sanction or restriction, or be denied any  
12 right, privilege or benefit, on account of making the complaint or  
13 participating in the investigation of the complaint.

14 “(5) In order to encourage foster children and individuals acting on  
15 behalf of foster children to communicate with the Foster Child Om-  
16 budsman, any foster child, or individual acting on behalf of a foster  
17 child, who makes a complaint to the ombudsman in good faith under  
18 this section, or who participates in an investigation of a complaint,  
19 shall have immunity from any civil or criminal liability that might  
20 otherwise be incurred or imposed with respect to the communication.

21 “(6) The Foster Child Ombudsman and each designee shall have  
22 access to records of any public agency, to the extent permitted by  
23 state and federal law, including direct access to electronic records,  
24 that are necessary to carry out the duties of the ombudsman. The  
25 provisions of ORS 192.553 to 192.581 are not intended to limit the access  
26 of the ombudsman to a foster child’s records, including medical re-  
27 cords as authorized by the foster child or individual acting on behalf  
28 of the foster child, if needed to investigate a complaint.

29 “(7) The Foster Child Ombudsman and the department shall enter  
30 into a confidentiality agreement to ensure that records obtained by the

1 ombudsman from the department that are confidential, privileged or  
2 otherwise protected from disclosure are not further disclosed, except  
3 as permitted by state and federal law.

4 “(8) A foster child or individual acting on behalf of the foster child  
5 shall have the right to participate in planning any course of action to  
6 be taken on behalf of the foster child by the Foster Child Ombudsman  
7 or the designee.

8 “(9) All state agencies shall cooperate with and assist the Foster  
9 Child Ombudsman in the performance of the ombudsman’s duties and  
10 functions.

11 “(10) Writings and information provided to, and communications  
12 with, the Foster Child Ombudsman are subject to ORS 441.407.

13 **“SECTION 5. (1) The Foster Child Ombudsman may appoint**  
14 **designees to serve as representatives of the ombudsman in local com-**  
15 **munities. The ombudsman shall regularly monitor the functions of**  
16 **designees.**

17 “(2) The appointments of designees by the Foster Child Ombudsman  
18 shall be made in consultation with a local screening committee that  
19 may consist of but need not be limited to persons representing:

20 “(a) The Department of Human Services.

21 “(b) Elected officials.

22 “(c) The Oregon Health Authority.

23 “(d) Foster youth or former foster children.

24 “(e) Court appointed special advocates.

25 “(f) Local citizen review boards.

26 “(3) To be appointed as a designee, a person must complete an ini-  
27 tial training and attend quarterly training sessions that are approved  
28 by the Office of the Foster Child Ombudsman.

29 “(4) Designees must sign a contract with the Office of the Foster  
30 Child Ombudsman that outlines the scope of their duties.

1       “(5) The qualifications of designees shall include experience working  
2 with foster children and the ability to communicate well, to under-  
3 stand laws, rules and regulations and to be assertive and objective.

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

7       “SECTION 6. The Foster Child Ombudsman shall establish proce-  
8 dures to maintain the confidentiality of the records and files of foster  
9 children. The procedures must meet the following requirements:

10       “(1) The Foster Child Ombudsman or designee may not disclose,  
11 except to law enforcement or state agencies, the identity of any foster  
12 child, or individual acting on behalf of a foster child, without written  
13 consent signed by the foster child, the legal representative of the fos-  
14 ter child or the individual acting on behalf of the foster child. The  
15 written consent must specify to whom the disclosure may be made.

16       “(2) The identity of any foster child or individual providing infor-  
17 mation on behalf of the foster child shall be confidential. If the com-  
18 plaint becomes the subject of judicial proceedings, the investigative  
19 information held by the ombudsman or designee shall be disclosed for  
20 the purpose of the proceedings if requested by the court.

21       “(3) The Foster Child Ombudsman and the Foster Parent Ombuds-  
22 man may not exchange information concerning a foster child or foster  
23 parent without the written consent described in subsection (1) of this  
24 section.

25       “SECTION 7. (1) The Foster Child Ombudsman Advisory Committee  
26 is established consisting of five members appointed by the Governor  
27 and confirmed by the Senate under ORS 171.562 and 171.565.

28       “(2) The term of office for each member is four years. Before the  
29 expiration of the term of a member, the Governor shall appoint a  
30 successor whose term begins July 1 next following. A member is eli-

1 gible for reappointment. If there is a vacancy for any cause, the Gov-  
2 ernor shall make an appointment to become immediately effective for  
3 the unexpired term.

4 “(3) The members of the committee must:

5 “(a) Be residents of this state;

6 “(b) Include individuals who are or who represent current or former  
7 foster children, including racial and ethnic minorities;

8 “(c) Have knowledge and interest in the problems of foster children;  
9 and

10 “(d) Be representative of all areas of this state and the demo-  
11 graphics of groups served by the Foster Child Ombudsman.

12 “(4) The committee shall select one of its members as chairperson  
13 and another as vice chairperson, for such terms and with duties and  
14 powers necessary for the performance of the functions of such offices  
15 as the committee determines.

16 “(5) A majority of the members of the committee constitutes a  
17 quorum for the transaction of business. Decisions may be made by a  
18 majority of the quorum.

19 “(6) The committee shall meet at least once each month at a place,  
20 day and hour determined by the committee. The committee also shall  
21 meet at other times and places specified by the call of the chairperson  
22 or of a majority of the members of the committee. The committee  
23 shall confer each month with the Foster Child Ombudsman.

24 “(7) Members of the committee are not entitled to compensation  
25 or reimbursement for expenses and serve as volunteers on the com-  
26 mittee.

27 “SECTION 8. ORS 417.810 is amended to read:

28 “417.810. (1) The Office of Children’s Advocate is established in the [*De-*  
29 *partment of Human Services*] **Office of the Foster Child Ombudsman**. The  
30 Office of Children’s Advocate is under the supervision and control of the



1 Children’s Advocate, who is responsible for the performance of the duties,  
2 functions and powers of the Office **of Children’s Advocate**. With the con-  
3 currence of the Governor, the [*Director of Human Services*] **Foster Care**  
4 **Ombudsman** shall appoint the Children’s Advocate and may terminate the  
5 Children’s Advocate.

6 “(2) Subject to available funds and the applicable provisions of ORS  
7 chapter 240, the Children’s Advocate may hire staff to carry out the duties,  
8 functions and powers of the Office **of Children’s Advocate** and shall pre-  
9 scribe their duties and fix their compensation.

10 “(3) The Children’s Advocate shall be a person who has background and  
11 experience in:

12 “(a) Law enforcement with particular emphasis on crimes involving child  
13 victims; or

14 “(b) Social work with particular emphasis on child abuse.

15 **“SECTION 9.** ORS 417.815 is amended to read:

16 “417.815. (1) The Office of Children’s Advocate shall be accessible to the  
17 public through the state toll-free telephone line maintained pursuant to ORS  
18 417.805 and through other electronic and written forms of communication.  
19 The office shall:

20 “(a) Disseminate information and educate the public about the detection  
21 and prevention of child abuse and about the prosecution of persons accused  
22 of child abuse;

23 “(b) Cooperate with [*other units within*] **the Foster Child Ombudsman**,  
24 the Department of Human Services and law enforcement officials in per-  
25 forming duties under ORS 418.747 and 418.748 and 419B.005 to 419B.050 when  
26 the investigation involves alleged child abuse;

27 “(c) Provide technical assistance in the development and implementation  
28 of state and local programs that relate to child abuse;

29 “(d) In cooperation with the department, objectively review the  
30 department’s systems for handling child abuse cases; and

1 “(e) Analyze data collected by the office to discern general patterns and  
2 trends, chronic problems and other systemic difficulties in the detection, re-  
3 porting, investigation, prosecution and resolution of cases of child abuse.

4 “(2) In addition to the duties required under subsection (1) of this section,  
5 the office shall:

6 “(a) Review any complaint regarding the department’s involvement in a  
7 specific child abuse case, unless the office determines there is an adequate  
8 remedy for the complaint;

9 “(b) Make any appropriate referrals of the complaint or complainant at  
10 the time the office receives the complaint or during the office’s review pro-  
11 cess;

12 “(c) Inform the complainant of the referral of the complaint or any other  
13 action taken by the office on the complaint;

14 “(d) Inform the department of the office’s intention to review the  
15 department’s action, unless the office determines that advance notice will  
16 unduly hinder the review; and

17 “(e) Conduct a review of the department’s action when appropriate, and  
18 inform the department of the results of the review, including any recom-  
19 mendation the Children’s Advocate believes would resolve any case or any  
20 systemic issues identified in the review.

21 “(3) If the office has knowledge of confidential information relating to a  
22 child involved or allegedly involved in child abuse, the office shall keep the  
23 information confidential from public disclosure. However, the office is sub-  
24 ject to legal mandates in ORS 418.747 and 418.748 and 419B.005 to 419B.050.

25 “(4) A person who files a complaint under this section or ORS 417.805 or  
26 participates in any investigation under this section may not be, because of  
27 that action:

28 “(a) Subject to any penalties, sanctions or restrictions imposed by the  
29 department;

30 “(b) Subject to any penalties, sanctions or restrictions connected with the

1 person's employment; or

2 “(c) Denied any right, privilege or benefit.

3 “(5) If deemed necessary by the Children's Advocate for the purposes of  
4 carrying out the duties of the office, the office may conduct criminal records  
5 checks pursuant to ORS 181A.200 on a person through the Law Enforcement  
6 Data System maintained by the Department of State Police.

7 **“SECTION 10.** ORS 417.825 is amended to read:

8 “417.825. (1) In addition to any other fees provided by law, the appropriate  
9 agency:

10 “(a) When records of live birth are registered with the state, shall pay a  
11 \$1 fee on each record of live birth registered with the agency.

12 “(b) That issues certified copies of records of live birth for the state or  
13 a county, shall collect a \$1 fee on each certified copy of a record of live birth  
14 issued by the agency.

15 “(2) The agencies paying or collecting the fees described in subsection (1)  
16 of this section shall transfer moneys from the fees imposed by this section  
17 to the State Treasurer for deposit in the [*Department of Human Services*]  
18 **Office of the Foster Child Ombudsman subaccount within the Office**  
19 **of Oregon Ombudsmen** Account established under ORS [*409.060*] **441.419**.  
20 The moneys deposited under this section are appropriated continuously to  
21 the [*Department of Human Services*] **Office of the Foster Child Ombuds-**  
22 **man** for use by the Office of Children's Advocate for the administration of  
23 ORS 417.805, 417.810 and 417.815.

24 **“SECTION 11.** ORS 418.201 is amended to read:

25 “418.201. It is the intent of the Legislative Assembly that each foster child  
26 have certain essential rights, including but not limited to the following:

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

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

6 “(3) To be provided with written contact information of specific individ-  
7 uals whom the foster child may contact regarding complaints, concerns or  
8 violations of rights, that is updated as necessary and kept current.

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

12 “(a) How to establish a bank account in the foster child’s name as allowed  
13 under state law;

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

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

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

18 “(e) How to obtain a copy of the foster child’s credit report, if any;

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

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

23 “(5) With respect to a foster child’s rights under the federal and state  
24 constitutions, laws, including case law, rules and regulations:

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

28 “(b) To have a document setting forth such rights that is age-appropriate  
29 and developmentally appropriate posted at the residences of all foster par-  
30 ents, child-caring agencies and independent resident facilities;

1 “(c) To have an annual review of such rights that is age-appropriate and  
2 developmentally appropriate while the foster child is in substitute care; and

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

4 “(A) To receive a document setting forth such rights that is age-  
5 appropriate and developmentally appropriate; and

6 “(B) To acknowledge in writing receipt of the document and that the  
7 rights contained in the document were explained in an age-appropriate  
8 manner.

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

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

20 “(8) **To be informed about the Office of the Foster Child Ombuds-**  
21 **man and have access to the services described in section 4 of this 2017**  
22 **Act.**

23

24 **“FOSTER PARENT OMBUDSMAN**

25

26 **“SECTION 12. (1) As used in this section:**

27 **“(a) ‘Foster parent’ has the meaning given that term in ORS 441.402.**

28 **“(b) ‘Service provider’ means an individual, entity, agency or pro-**  
29 **gram that provides information and services to foster parents, either**  
30 **directly or indirectly, including but not limited to:**

1       **“(A) Information and assistance in accessing parental and commu-**  
2 **nity support, services and resources;**

3       **“(B) Respite care;**

4       **“(C) Training; and**

5       **“(D) Coaching, mentoring or counseling.**

6       **“(2) The Office of the Foster Parent Ombudsman is established. The**  
7 **Foster Parent Ombudsman shall:**

8       **“(a) Provide foster parents and individuals acting on their behalf**  
9 **with information regarding the rights of foster parents set forth in**  
10 **ORS 418.648;**

11       **“(b) Investigate a complaint made by or on behalf of a foster parent**  
12 **if the allegations contained in the complaint may adversely affect the**  
13 **health, safety, welfare or rights of the foster parent, including by**  
14 **subpoenaing any person to appear, to give sworn testimony or to**  
15 **produce documentary or other evidence, to the extent permitted by**  
16 **state and federal law, that is reasonably material to any matter under**  
17 **investigation;**

18       **“(c) Collaborate with the Department of Human Services, service**  
19 **providers, caseworkers, caseworker supervisors, attorneys, foster par-**  
20 **ent advocates and supporters, local citizen review boards and depart-**  
21 **ment employees, including by obtaining timely responses to inquiries**  
22 **and requests and by resolving issues;**

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

26       **“(e) Work with foster parents and individuals acting on their behalf**  
27 **to identify and recommend processes for:**

28       **“(A) A foster parent or individual acting on behalf of the foster**  
29 **parent to make complaints regarding interactions with the individuals**  
30 **and entities described in paragraph (c) of this subsection; and**

1       **“(B) Engaging the participation of foster parents and individuals**  
2 **acting on behalf of foster parents in general studies, conferences, in-**  
3 **quiries or meetings related to foster care in this state;**

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

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

11       **“(h) Collect and compile data necessary to prepare the report sub-**  
12 **mitted to the Governor under ORS 182.500 and provide a copy of the**  
13 **report to the Governor’s Child Foster Care Advisory Commission es-**  
14 **tablished by section 1, chapter 76, Oregon Laws 2016;**

15       **“(i) Provide information to state and local agencies about problems**  
16 **identified and reforms undertaken in the foster care system in this**  
17 **state and work closely with associations and citizen groups and with**  
18 **the state protection and advocacy system under ORS 192.517; and**

19       **“(j) Establish and maintain the hotline telephone number for foster**  
20 **parents required by ORS 418.648 (12).**

21       **“(3) The Foster Parent Ombudsman or the designee shall report to**  
22 **a foster parent and to an individual that makes a complaint on behalf**  
23 **of the foster parent the findings of the ombudsman or designee in the**  
24 **investigation of the complaint and may make recommendations. If**  
25 **appropriate, the ombudsman or designee shall attempt to resolve the**  
26 **complaint using informal mediation or conflict resolution techniques.**

27       **“(4)(a) A foster parent, or individual acting on behalf of a foster**  
28 **parent, who makes a complaint to the Foster Parent Ombudsman un-**  
29 **der this section, or who participates in an investigation of a complaint,**  
30 **may not be subjected to a penalty, sanction or restriction in con-**

1 nection with the foster parent’s certification to operate a foster home,  
2 or be denied any right, privilege or benefit, on account of making the  
3 complaint or participating in the investigation of the complaint.

4 “(b) This subsection does not prohibit the department from taking  
5 action based on information obtained during the course of an investi-  
6 gation that demonstrates that the foster parent has failed to comply  
7 with requirements in this chapter.

8 “(5) In order to encourage foster parents and individuals acting on  
9 behalf of foster parents to communicate with the Foster Parent Om-  
10 budsman, any foster parent or individual acting on behalf of a foster  
11 parent who makes a complaint to the ombudsman in good faith under  
12 this section, or who participates in an investigation of a complaint,  
13 shall have immunity from any civil or criminal liability that might  
14 otherwise be incurred or imposed with respect to the communication.

15 “(6) The Foster Parent Ombudsman and each designee shall have  
16 access to records of any public agency, to the extent permitted by  
17 state and federal law, including direct access to electronic records,  
18 that are necessary to carry out the duties of the ombudsman. The  
19 provisions of ORS 192.553 to 192.581 are not intended to limit the access  
20 of the ombudsman to the records of a foster parent or foster child,  
21 including medical records of the foster child as authorized by the fos-  
22 ter child or individual acting on behalf of the foster child, if needed  
23 to investigate a complaint.

24 “(7) The Foster Parent Ombudsman and the department shall enter  
25 into a confidentiality agreement to ensure that records obtained by the  
26 ombudsman from the department that are confidential, privileged or  
27 otherwise protected from disclosure are not further disclosed, except  
28 as permitted by state and federal law.

29 “(8) A foster parent or individual acting on behalf of the foster  
30 parent shall have the right to participate in planning any course of



1 action to be taken on behalf of the foster parent by the Foster Parent  
2 Ombudsman or the designee.

3 “(9) All state agencies shall cooperate with and assist the Foster  
4 Parent Ombudsman in the performance of the ombudsman’s duties  
5 and functions.

6 “(10) Writings and information provided to, and communications  
7 with, the Foster Parent Ombudsman are subject to ORS 441.407.

8 **“SECTION 13. (1) The Foster Parent Ombudsman may appoint**  
9 **designees to serve as representatives of the ombudsman in local com-**  
10 **munities. The ombudsman shall regularly monitor the functions of**  
11 **designees.**

12 “(2) The appointments of designees by the Foster Parent Ombuds-  
13 man shall be made in consultation with a local screening committee  
14 that may consist of but need not be limited to persons representing:

15 “(a) The Department of Human Services.

16 “(b) Elected officials.

17 “(c) The Oregon Health Authority.

18 “(d) Foster care providers.

19 “(e) Court appointed special advocates.

20 “(f) Local citizen review boards.

21 “(3) To be appointed as a designee, a person must complete an ini-  
22 tial training and attend quarterly training sessions that are approved  
23 by the Office of the Foster Parent Ombudsman.

24 “(4) Designees must sign a contract with the Office of the Foster  
25 Parent Ombudsman that outlines the scope of their duties.

26 “(5) The qualifications of designees shall include experience working  
27 with foster care providers and the ability to communicate well, to  
28 understand laws, rules and regulations and to be assertive and objec-  
29 tive.

30 “(6) Applicants who have relevant experience in social work, mental

1 health, pediatrics or paralegal work shall be given preference in the  
2 appointment of designees.

3 **“SECTION 14. The Foster Parent Ombudsman shall establish pro-**  
4 **cedures to maintain the confidentiality of the records and files of fos-**  
5 **ter parents. The procedures must meet the following requirements:**

6 **“(1) The Foster Parent Ombudsman or designee may not disclose,**  
7 **except to law enforcement and state agencies, the identity of any fos-**  
8 **ter parent, or individual acting on behalf of a foster parent, without**  
9 **written consent signed by the foster parent, the legal representative**  
10 **of the foster parent or the individual acting on behalf of the foster**  
11 **parent. The written consent must specify to whom the disclosure may**  
12 **be made.**

13 **“(2) The identity of any foster parent or individual providing infor-**  
14 **mation on behalf of the foster parent shall be confidential. If the**  
15 **complaint becomes the subject of judicial proceedings, the investi-**  
16 **gative information held by the ombudsman or designee shall be dis-**  
17 **closed for the purpose of the proceedings if requested by the court.**

18 **“(3) The Foster Parent Ombudsman and the Foster Child Ombuds-**  
19 **man may not exchange information concerning a foster parent or**  
20 **foster child without the written consent described in subsection (1) of**  
21 **this section.**

22 **“SECTION 15. (1) The Foster Parent Ombudsman Advisory Com-**  
23 **mittee is established consisting of five members appointed by the**  
24 **Governor and confirmed by the Senate under ORS 171.562 and 171.565.**

25 **“(2) The term of office for each member is four years. Before the**  
26 **expiration of the term of a member, the Governor shall appoint a**  
27 **successor whose term begins July 1 next following. A member is eli-**  
28 **gible for reappointment. If there is a vacancy for any cause, the Gov-**  
29 **ernor shall make an appointment to become immediately effective for**  
30 **the unexpired term.**

1       **“(3) The members of the committee must:**

2       **“(a) Be residents of this state;**

3       **“(b) Include individuals who are or who represent current or former**  
4 **foster parents, including racial and ethnic minorities;**

5       **“(c) Have knowledge and interest in the problems of foster parents;**  
6 **and**

7       **“(d) Be representative of all areas of this state and the demo-**  
8 **graphics of groups served by the Foster Parent Ombudsman.**

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

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

16       **“(6) The committee shall meet at least once each month at a place,**  
17 **day and hour determined by the committee. The committee also shall**  
18 **meet at other times and places specified by the call of the chairperson**  
19 **or of a majority of the members of the committee. The committee**  
20 **shall confer each month with the Foster Parent Ombudsman.**

21       **“(7) Members of the committee are not entitled to compensation**  
22 **or reimbursement for expenses and serve as volunteers on the com-**  
23 **mittee.**

24       **“SECTION 16.** ORS 418.648 is amended to read:

25       **“418.648. A foster parent has the right to:**

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

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

30       **“(3) Receive support services, as resources permit, from the Department**

1 of Human Services that are designed to assist in the care of the foster child  
2 placed in the home of the foster parent.

3 “(4) Be informed of any condition that relates solely to a foster child  
4 placed in the home of the foster parent that may jeopardize the health or  
5 safety of the foster parent or other members of the home or alter the manner  
6 in which foster care should be provided to the foster child. The information  
7 shall include complete access to written reports, psychological evaluations  
8 and diagnoses that relate solely to a foster child placed in the home of the  
9 foster parent provided that confidential information given to a foster parent  
10 must be kept confidential by the foster parent, except as necessary to pro-  
11 mote or to protect the health and welfare of the foster child and the com-  
12 munity.

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

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

17 “(7) Be informed of all policies and procedures of the department that  
18 relate to the role of the foster parent.

19 “(8) Be informed of how to receive services and to have access to de-  
20 partment personnel or service providers 24 hours a day, seven days a week.

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

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

26 “(11) Be notified of the foster parent’s right to limited participation in  
27 proceedings in the juvenile court and provided with an explanation of that  
28 right.

29 “(12) **Have a hotline telephone number that is available to the foster**  
30 **parent at all times for the purpose of enabling the foster parent to**

1 **make complaints and assert grievances regarding the foster parent’s**  
2 **duties.**

3 **“(13) Be provided with written contact information, that is updated**  
4 **as necessary and kept current, for specific individuals whom the foster**  
5 **parent may contact regarding complaints, concerns or violations of**  
6 **rights.**

7 **“(14) Be informed about the Office of the Foster Parent Ombudsman**  
8 **and have access to the services described in section 12 of this 2017 Act.**

9

10 **“OFFICE OF THE LONG TERM CARE OMBUDSMAN**

11

12 **“SECTION 17.** ORS 441.402 is amended to read:

13 **“441.402.** As used in ORS 441.402 to 441.419:

14 **“(1) ‘Administrative action’ means any action, inaction or decision,**  
15 **by an owner, employee or agent of a long term care facility or by a**  
16 **public agency, that affects the services to or quality of life of residents**  
17 **of the long term care facility.**

18 **“[(1)] (2) ‘Designee’ means an individual appointed by the Long Term Care**  
19 **Ombudsman to serve as a representative in order to carry out the purpose**  
20 **of ORS 441.402 to 441.419.**

21 **“[(2) ‘Residential facility’ includes a:]**

22 **“[(a) Long term care facility;]**

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

24 **“[(A) Facility housing persons committed under ORS 161.327; and]**

25 **“[(B) Facility licensed by the Oregon Health Authority to provide alcohol**  
26 **and drug treatment;]**

27 **“[(c) Licensed adult foster home as defined in ORS 443.705;]**

28 **“[(d) Developmental disability child foster home, as defined in ORS 443.830,**  
29 **that is certified by the Department of Human Services; and]**

30 **“[(e) Continuing care retirement community as defined in ORS 101.020.]**

1 “(3) ‘Foster parent’ means an individual who has a certificate to  
2 operate a foster home issued under ORS 418.635 and who is providing  
3 care to a foster child in the individual’s home.

4 “(4) ‘Long term care facility’ means any licensed skilled nursing  
5 facility, intermediate care facility as defined in rules adopted under  
6 ORS 442.015, adult foster homes with residents over 60 years of age and  
7 residential care facility as defined in ORS 443.400.

8 “SECTION 18. ORS 441.403 is amended to read:

9 “441.403. (1) The Office of the Long Term Care Ombudsman is established.  
10 The Long Term Care Ombudsman shall function separately and independ-  
11 ently from any other state agency. The Governor shall appoint the Long  
12 Term Care Ombudsman for a four-year term from a list of three nominees  
13 nominated by the [*Residential Facilities*] **Long Term Care Ombudsman**  
14 **Advisory Committee** established under ORS 441.416. The appointment of the  
15 Long Term Care Ombudsman is subject to Senate confirmation under ORS  
16 171.562 and 171.565. A vacancy shall be filled within 60 days in the same  
17 manner as an appointment is made.

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

21 “(3) The Long Term Care Ombudsman shall have background and experi-  
22 ence in the following areas:

23 “(a) The [*fields*] **field** of aging[, *mental health or developmental*  
24 *disabilities*];

25 “(b) [*Physical or behavioral*] Health care;

26 “(c) Working with community programs;

27 “(d) Strong understanding of long term care issues, both regulatory and  
28 policy;

29 “(e) Working with health care providers;

30 “(f) Working with and involvement in volunteer programs; and

1 “(g) Administrative and managerial experience.

2 “**SECTION 19.** ORS 441.406 is amended to read:

3 “441.406. [(1)] The Office of the Long Term Care Ombudsman shall carry  
4 out the following duties:

5 “[a] (1) Investigate and resolve complaints made by or for residents of  
6 [residential] **long term care** facilities about administrative actions that may  
7 adversely affect their health, safety, welfare or rights, including subpoenaing  
8 any person to appear, give sworn testimony or to produce documentary or  
9 other evidence that is reasonably material to any matter under investigation.

10 “[b] (2) Undertake, participate in or cooperate with persons and agen-  
11 cies in such conferences, inquiries, meetings or studies as may lead to im-  
12 provements in the functioning of [residential] **long term care** facilities.

13 “[c] (3) Monitor the development and implementation of federal, state  
14 and local laws, regulations and policies that relate to [residential] **long term**  
15 **care** facilities in this state.

16 “[d] (4) Provide information to public agencies about the problems of  
17 residents of [residential] **long term care** facilities.

18 “[e] (5) Work closely with cooperative associations and citizen groups  
19 in this state [*and the state protection and advocacy system under ORS*  
20 *192.517*].

21 “[f] (6) Widely publicize the Long Term Care Ombudsman’s service,  
22 purpose and mode of operation.

23 “[g] (7) Collaborate with the [*Oregon Health Authority, the*] Department  
24 of Human Services, the Nursing Home Administrators Board and any other  
25 appropriate agencies and organizations to establish a statewide system to  
26 collect and analyze information on complaints and conditions in  
27 [residential] **long term care** facilities for the purpose of publicizing im-  
28 provements and resolving significant problems.

29 “[h](A) *Identify and coordinate programs, services and other assistance for*  
30 *persons receiving public guardian and conservator services under ORS 125.675*

1 to 125.687, that are available statewide;]

2 “[B] Contract with qualified individuals and entities to provide programs,  
3 services and assistance to persons receiving public guardian and conservator  
4 services under ORS 125.675 to 125.687 who are located in areas of this state  
5 where such programs, services and other assistance are inadequate or nonex-  
6 istent; and]

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

13 “[i] (9) Appoint designees to serve as local representatives of the office  
14 in various districts of the state and regularly monitor their functions.

15 “[j] (10) Specify qualifications and duties of designees.

16 “[k] (11) Adopt rules necessary for carrying out ORS 441.402 to  
17 [441.414] **441.419**, after consultation with the [Residential Facilities] **Long**  
18 **Term Care Ombudsman** Advisory Committee.

19 “(12) **Collect and compile data necessary to prepare the report sub-**  
20 **mitted to the Governor under ORS 182.500.**

21 “[L] (13) Provide periodically, or at least annually, a report to the  
22 [Governor, authority,] department and **the** Legislative Assembly.

23 “[m] Prepare necessary reports with the assistance of the authority and the  
24 department.]

25 “[n] Supervise, monitor, advise and support the Oregon Public Guardian  
26 and Conservator appointed under ORS 125.678.]

27 “[2] At least quarterly, the Oregon Health Authority and the Department  
28 of Human Services shall provide the Long Term Care Ombudsman with a list  
29 of the number of licensed or certified beds in each residential facility for which  
30 the ombudsman has responsibilities under this section.]



1        “[3] *As used in this section, ‘administrative action’ means any action or*  
2 *decision made by an owner, employee or agent of a residential facility or by*  
3 *a public agency that affects the services to residents of the facility.*]

4        “**SECTION 20.** ORS 441.407 is amended to read:

5        “441.407. The Long Term Care Ombudsman shall establish procedures to  
6 maintain the confidentiality of the records and files of residents of [*residen-*  
7 *tial*] **long term care** facilities. These procedures must meet the following  
8 requirements:

9        “(1) The ombudsman or designee may not disclose, except to [*state agen-*  
10 *cies*] **law enforcement**, the identity of any resident unless the complainant  
11 or the resident, or the legal representative of either, consents in writing to  
12 the disclosure and specifies to whom the disclosure may be made.

13        “(2) The identity of any complainant or resident on whose behalf a com-  
14 plaint is made, or individual providing information on behalf of the  
15 complainant or the resident, shall be confidential. If the complaint becomes  
16 the subject of judicial proceedings, the investigative information held by the  
17 ombudsman or designee shall be disclosed for the purpose of the proceedings  
18 if requested by the court.

19        “**SECTION 21.** ORS 441.408 is amended to read:

20        “441.408. (1) The Long Term Care Ombudsman and each designee shall  
21 have the right of entry into [*residential*] **long term care** facilities at any  
22 time considered necessary and reasonable by the ombudsman or the designee  
23 for the purpose of:

24        “(a) Investigating and resolving complaints made by residents or made on  
25 their behalf;

26        “(b) Interviewing residents, with their consent, in private;

27        “(c) Offering the services of the ombudsman or the designee to any resi-  
28 dent, in private;

29        “(d) Interviewing employees or agents of the facility;

30        “(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 shall have access to any resident’s  
3 records, and to records of any public agency, **including direct access to**  
4 **electronic records**, necessary to **carry out** the duties of the ombudsman,  
5 including records on patient abuse complaints made pursuant to ORS [430.735  
6 to 430.765,] 441.630 to 441.680 and 441.995. The provisions of ORS 192.553 to  
7 192.581 are not intended to limit the access of the Long Term Care Om-  
8 budsman to medical records of residents of [*residential*] **long term care** fa-  
9 cilities. Designees may have access to individual resident’s records, including  
10 medical records as authorized by the resident or resident’s legal represen-  
11 tative, if needed to investigate a complaint.

12 “(3) Entry and investigation authorized by this section shall be done in  
13 a manner that does not disrupt significantly the providing of nursing, resi-  
14 dential or other personal care or treatment to residents.

15 “(4) The **Long Term Care** Ombudsman or the designee must show iden-  
16 tification to the person in charge of the facility. The resident shall have the  
17 right to refuse to communicate with the ombudsman or the designee. The  
18 refusal shall be made directly to the ombudsman or the designee and not  
19 through an intermediary.

20 “(5) The resident shall have the right to participate in planning any  
21 course of action to be taken on behalf of the resident by the **Long Term**  
22 **Care** Ombudsman or the designee.

23 **“SECTION 22.** ORS 441.409 is amended to read:

24 “441.409. (1) Following an investigation, the Long Term Care Ombudsman  
25 or the designee shall report opinions or recommendations to the party or  
26 parties affected and, if appropriate, shall attempt to resolve the complaint  
27 using informal techniques of mediation, conciliation and persuasion. Com-  
28 plaints of conditions adversely affecting residents of [*residential*] **long term**  
29 **care** facilities, or complaints of conditions threatening the safety or well-  
30 being of residents that cannot be resolved in the manner described in this

1 section, shall be referred to an appropriate state agency.

2 “(2) Programs that promote the safety or emotional or physical well-being  
3 of residents of [*residential*] **long term care** facilities shall be promoted and  
4 publicized by the **Long Term Care** Ombudsman and the designees.

5 **“SECTION 23.** ORS 441.411 is amended to read:

6 “441.411. (1) The Long Term Care Ombudsman shall prepare and distribute  
7 to each [*residential*] **long term care** facility in this state a written notice  
8 describing the procedures to follow in making a complaint, including the  
9 address and telephone number of the ombudsman and local designee, if any,  
10 and a poster describing the **Office of the** Long Term Care Ombudsman  
11 [*Program*] and providing contact information.

12 “(2) The administrator of each [*residential*] **long term care** facility shall  
13 post the written notice and poster required by this section in conspicuous  
14 places in the facility in accordance with procedures provided by the **Long**  
15 **Term Care** Ombudsman and shall give the written notice to each resident  
16 and legally appointed guardian, if any.

17 **“SECTION 24.** ORS 441.412 is amended to read:

18 “441.412. (1) Any employee or agent of a [*residential*] **long term care** fa-  
19 cility acting in good faith in discussing resident care pursuant to ORS  
20 441.408 shall have immunity from any civil liability that might otherwise be  
21 incurred or imposed with respect to the making of such report.

22 “(2) Any employee or agent who makes a report pursuant to ORS 441.408  
23 may not be subjected to any retaliation by any official or other employee of  
24 a [*residential*] **long term care** facility solely for making a report, including  
25 but not limited to restriction of otherwise lawful access to the facility or to  
26 any resident of the facility, or, if an employee, to dismissal or harassment.

27 “(3) The Long Term Care Ombudsman or the designee acting in good faith  
28 in discussing resident care pursuant to ORS 441.408 shall have immunity  
29 from any civil liability, that might otherwise be incurred or imposed with  
30 respect to the discussion.

1       **“SECTION 25.** ORS 441.413 is amended to read:

2       “441.413. (1) The appointments of designees shall be made in consultation  
3 with a local screening committee that may consist of but not be limited to  
4 persons representing:

5       “(a) The area agency on aging.

6       “(b) The local office of the Department of Human Services.

7       “(c) The local health department.

8       “(d) Senior citizens groups in the area.

9       “(e) [*Residential*] **Long term care** facilities in the area.

10       “(f) Local elected officials.

11       “[(g) *The community mental health program director or local mental health*  
12 *authority.*]

13       “[(h) *The community developmental disabilities program director.*]

14       “[(i) *Representatives from the Oregon Health Authority.*]

15       “(2) To be appointed as a designee, a person must complete six days of  
16 initial training and attend quarterly training sessions that are approved by  
17 the Long Term Care Ombudsman and that shall be coordinated and funded  
18 by the Department of Human Services [*and the Oregon Health Authority*],  
19 subject to the availability of funds. Local screening committees shall be ap-  
20 pointed by and serve at the pleasure of the ombudsman.

21       “(3) Designees must sign a contract with [*the state*] **Office of the Long**  
22 **Term Care Ombudsman** that outlines the scope of their duties. In districts  
23 where a designee is an employee or agent of a local entity, a three-party  
24 contract shall be executed. Violation of the contract is cause for the termi-  
25 nation of the appointment. A directory of all designees shall be maintained  
26 in the Office of the Long Term Care Ombudsman.

27       “(4) The qualifications of designees shall include experience with [*resi-*  
28 *dential*] **long term care** facilities or residents or potential residents of [*resi-*  
29 *dential*] **long term care** facilities, and the ability to communicate well, to  
30 understand laws, rules and regulations, and to be assertive, yet objective.

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

4 “(6) The contract shall include statements that the purpose of the **Office**  
5 **of the** Long Term Care Ombudsman [*Program*] is to:

6 “(a) Promote rapport and trust between the residents and staff of the  
7 [*residential*] **long term care** facilities and **the** Long Term Care Ombudsman  
8 **and designees**;

9 “(b) Assist residents with participating more actively in determining the  
10 delivery of services at the facilities;

11 “(c) Serve as an educational resource;

12 “(d) Receive, resolve or relay concerns to the Long Term Care Ombuds-  
13 man or the appropriate agency; and

14 “(e) Ensure equitable resolution of problems.

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

16 “(a) Visit each assigned [*residential*] **long term care** facility on a regular  
17 basis:

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

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

21 “(C) Visit individual residents and resident councils.

22 “(b) Maintain liaison with appropriate agencies and the Long Term Care  
23 Ombudsman.

24 “(c) Report, in writing, monthly to the Long Term Care Ombudsman.

25 “(d) Keep residents and staff informed of the **Office of the** Long Term  
26 Care Ombudsman [*Program*].

27 “(e) Periodically review the patients’ bill of rights prescribed in ORS  
28 441.605, 441.610 and 441.612 with residents, families, guardians, administra-  
29 tors and staff of [*residential*] **long term care** facilities.

30 “(f) Perform other related duties as specified.

1       **“SECTION 26.** ORS 441.414 is amended to read:

2       “441.414. Nothing in ORS 441.402 to 441.419 shall affect the right of resi-  
3 dents of a [*residential*] **long term care** facility to see visitors of their choice.

4       **“SECTION 27.** ORS 441.416 is amended to read:

5       “441.416. (1) There is established a [*Residential Facilities Advisory Com-*  
6 *mittee of 11 members to be appointed in the following manner:*]

7       “[(a) *One person appointed by the Speaker of the House of*  
8 *Representatives;*]

9       “[(b) *One person appointed by the President of the Senate;*]

10       “[(c) *One person appointed by the House Minority Leader;*]

11       “[(d) *One person appointed by the Senate Minority Leader;*]

12       “[(e) *One person appointed by the Governor from each list of four names*  
13 *submitted by organizations for seniors, organizations for persons with mental*  
14 *illness and the Oregon Council on Developmental Disabilities; and]*

15       “[(f) *Four persons appointed by the Governor, two of whom must have ex-*  
16 *pertise in the provision of guardianship, conservatorship and other fiduciary*  
17 *services for persons with inadequate resources.] **Long Term Care Ombuds-***

18 **man Advisory Committee consisting of five members appointed by the**

19 **Governor, two of whom must be selected by the Governor from a list**

20 **of four names submitted by organizations for seniors.**

21       “(2) Members [*described in subsection (1)(e) and (f) of this section*] are  
22 subject to confirmation by the Senate under ORS 171.562 and 171.565.

23       “(3) The term of office of each member is four years. Before the expiration  
24 of the term of a member, the [*appointing authority*] **Governor** shall appoint  
25 a successor whose term begins on July 1 next following. A member is eligible  
26 for reappointment. If there is a vacancy for any cause, the [*appointing au-*  
27 *thority*] **Governor** shall make an appointment to become immediately effec-  
28 tive for the unexpired term.

29       “(4) The members of the committee must be residents of this state who  
30 are broadly representative, to the extent possible, of persons [*residing in*

1 *residential facilities*] **over 60 years of age**, including members of racial and  
2 ethnic minorities, who have knowledge and interest in the problems of **sen-**  
3 **iors** [*persons residing in residential facilities,*] and who are representative  
4 of all areas of this state [*and the demographics of groups served by the Long*  
5 *Term Care Ombudsman*].

6 “(5) A member of the committee may not have a financial or fiduciary  
7 interest in [*residential*] **long term care** facilities or service providers, or  
8 involvement in the licensing or certification of [*residential*] **long term care**  
9 facilities or service providers.

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

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

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

23 “(9) A member of the committee is **not** entitled to compensation [*and ex-*  
24 *penses as provided in ORS 292.495*] **or reimbursement for expenses and**  
25 **serves as a volunteer on the committee.**

26 “**SECTION 28.** ORS 441.417 is amended to read:

27 “441.417. The [*Residential Facilities*] **Long Term Care Ombudsman Ad-**  
28 **visory Committee** shall:

29 “(1) Monitor the **Office of the** Long Term Care Ombudsman [*Program*].

30 “(2) Advise the Governor and the Legislative Assembly on the **Office of**

1 **the** Long Term Care Ombudsman [*Program*].

2 “(3) Nominate, after interviews and according to prescribed criteria, three  
3 persons to fill the Long Term Care Ombudsman position or to fill a vacancy  
4 in the position.

5 **“SECTION 29.** ORS 441.418 is amended to read:

6 “441.418. (1) A [*residential*] **long term care** facility that files a complaint  
7 against a designee appointed under ORS 441.413 and objects to the action of  
8 the Long Term Care Ombudsman in resolving the complaint may appeal the  
9 ombudsman’s action to a panel of the [*Residential Facilities*] **Long Term**  
10 **Care Ombudsman** Advisory Committee.

11 “(2) The committee on its own motion may review any action by the **Long**  
12 **Term Care** Ombudsman appealable under this section. The review shall  
13 provide an opportunity for written and oral presentation by the  
14 [*residential*] **long term care** facility and the ombudsman. The committee  
15 shall issue its findings and any instructions to the ombudsman in written  
16 form consistent with the federal Older Americans Act or other applicable  
17 federal law.

18 “(3) If the committee disagrees with the action of the **Long Term Care**  
19 Ombudsman, the committee may refer the resolution back to the ombudsman  
20 with instructions consistent with the federal Older Americans Act or other  
21 applicable federal law to conform the ombudsman’s action in the matter to  
22 the recommendations of the committee.

23 **“SECTION 30.** ORS 410.550 is amended to read:

24 “410.550. (1) The Medicaid Long Term Care Quality and Reimbursement  
25 Advisory Council is created, to consist of [*12*] **13** members. Appointed mem-  
26 bers shall be residents of [*the State of Oregon*] **this state** and representative  
27 of the geographic locations of all long term care facilities and [*community-*  
28 *based care*] **residential** facilities in this state. The members shall include:

29 “(a) The Long Term Care Ombudsman, who shall serve as a standing  
30 member of the council;



1       **“(b) The Residential Facilities Ombudsman, who shall serve as a**  
2 **standing member of the council;**

3       “[(b)] (c) A representative of the Governor’s Commission on Senior Ser-  
4 vices, to be appointed by the commission;

5       “[(c)] (d) A representative of the Oregon Disabilities Commission, to be  
6 appointed by the commission;

7       “[(d)] (e) A representative of the Oregon Association of Area Agencies  
8 on Aging and Disabilities, to be appointed by the Governor;

9       “[(e)] (f) A representative of a senior or disabilities advocacy organization  
10 or an individual who advocates on behalf of seniors or persons with disabil-  
11 ities, to be appointed by the Governor;

12       “[(f)] (g) A nursing home administrator licensed under ORS 678.710 to  
13 678.820 who has practiced continuously in Oregon in long term care for three  
14 years immediately preceding appointment, to be appointed by the Speaker of  
15 the House of Representatives;

16       “[(g)] (h) [*Two consumers of residential facilities*] **One resident of a long**  
17 **term care facility**, as defined in ORS 441.402, or [*community-based care fa-*  
18 *cilities or family members of such residents*] **family member of a resident**,  
19 to be appointed by the Speaker of the House of Representatives;

20       **“(i) One resident of a residential facility, as defined in section 31**  
21 **of this 2017 Act, or family member of a resident, to be appointed by**  
22 **the Speaker of the House of Representatives;**

23       “[(h)] (j) A director of nurses of an Oregon long term care facility who  
24 has practiced in this state in long term care for three years preceding ap-  
25 pointment, to be appointed by the Speaker of the House of Representatives;

26       “[(i)] (k) A representative of an assisted living facility or a residential  
27 care facility, to be appointed by the President of the Senate;

28       “[(j)] (L) A representative of an adult foster home, to be appointed by the  
29 President of the Senate; and

30       “[(k)] (m) An in-home care agency provider, to be appointed by the Pres-

1 ident of the Senate.

2 “(2) The term of office for each member appointed under this section shall  
3 be three years or until a successor has been appointed and qualified.

4 “(3) Members of the council shall receive no compensation for their ser-  
5 vices but unpaid volunteers not otherwise compensated shall be allowed ac-  
6 tual and necessary travel expenses incurred in the performance of their  
7 duties.

8 “(4) The council shall:

9 “(a) Elect a chairperson from among its members and elect or appoint a  
10 secretary, each of whom shall hold office for one year or until successors are  
11 elected;

12 “(b) Hold an annual meeting and hold other meetings at such times and  
13 places as the Department of Human Services or the chairperson of the  
14 council may direct;

15 “(c) Keep a record of its proceedings that is open to inspection at all  
16 times; and

17 “(d) Act in an advisory capacity to the department on matters pertaining  
18 to quality of long term care facilities and [*community-based care*] **residential**  
19 facilities and reimbursement for long term care services and community-  
20 based care services.

21

22 **“RESIDENTIAL FACILITIES OMBUDSMAN**

23

24 **“SECTION 31. As used sections 31 to 37 of this 2017 Act:**

25 **“(1) ‘Administrative action’ means an action, inaction or a decision,**  
26 **by an owner, employee or agent of a residential facility or by a state,**  
27 **local, social service or health agency, that affects the services to or**  
28 **quality of life of residents of the facility.**

29 **“(2) ‘Designee’ means an individual appointed by the Residential**  
30 **Facilities Ombudsman in accordance with section 37 of this 2017 Act.**

1       **“(3) ‘Legal representative’ means a person to whom a resident or a**  
2 **court has granted legal authority to permit access to the resident’s**  
3 **personal information and medical records.**

4       **“(4) ‘Resident’ means an individual who resides in a residential fa-**  
5 **cility.**

6       **“(5)(a) ‘Residential facility’ means one of the following:**

7       **“(A) A residential training facility, as defined in ORS 443.400.**

8       **“(B) A residential training home, as defined in ORS 443.400.**

9       **“(C) A licensed adult foster home, as defined in ORS 443.705.**

10       **“(D) A developmental disability child foster home, as defined in**  
11 **ORS 443.830.**

12       **“(b) ‘Residential facility’ does not include a:**

13       **“(A) Facility housing persons committed under ORS 161.327; or**

14       **“(B) Facility licensed by the Oregon Health Authority to provide**  
15 **alcohol and drug treatment.**

16       **“SECTION 32. (1) The Residential Facilities Ombudsman program**  
17 **is established in the Office of the Long Term Care Ombudsman. The**  
18 **Long Term Care Ombudsman shall appoint the Residential Facilities**  
19 **Ombudsman for a four-year term from a list of three nominees nomi-**  
20 **nated by the Residential Facilities Ombudsman Advisory Committee**  
21 **established under section 33 of this 2017 Act. A vacancy shall be filled**  
22 **within 60 days in the same manner as an appointment is made.**

23       **“(2) The Residential Facilities Ombudsman may be removed for just**  
24 **cause, upon recommendation to the Long Term Care Ombudsman by**  
25 **the Residential Facilities Ombudsman Advisory Committee.**

26       **“(3) The Residential Facilities Ombudsman shall have background**  
27 **and experience in the following areas:**

28       **“(a) The fields of mental health or intellectual or developmental**  
29 **disabilities and behavioral health care;**

30       **“(b) Working with community programs;**

1       **“(c) Knowledge of and experience with residential facility regulatory**  
2 **and policy issues;**

3       **“(d) Working with and involvement in volunteer programs; and**

4       **“(e) Administrative and managerial experience.**

5       **“(4) The Residential Facilities Ombudsman or a designee shall:**

6       **“(a) Provide residents, families of residents, guardians, community**  
7 **members and administrators and staff of residential facilities with in-**  
8 **formation regarding the rights of residents as set forth in ORS 427.107**  
9 **and 430.210, and any other applicable rights of residents.**

10       **“(b) Widely publicize the Residential Facilities Ombudsman pro-**  
11 **gram services, purpose and mode of operation.**

12       **“(c) Identify, investigate and resolve complaints that are made by**  
13 **or on behalf of a resident, in accordance with sections 34 and 35 of this**  
14 **2017 Act, concerning an administrative action.**

15       **“(d) Provide services to residents to assist them in protecting their**  
16 **health, safety, welfare and rights.**

17       **“(e) Ensure that residents have regular, timely, private and unim-**  
18 **peded access to Residential Facilities Ombudsman program services**  
19 **and that a resident, and an individual acting on behalf of a resident,**  
20 **who files a complaint receives a timely response to the complaint from**  
21 **the ombudsman or designee.**

22       **“(f) Represent the interests of residents before government agencies**  
23 **and seek administrative, legal or other appropriate remedies to protect**  
24 **the health, safety, welfare and rights of residents.**

25       **“(g) Analyze, comment on and monitor the development and im-**  
26 **plementation of federal, state and local laws and other governmental**  
27 **policies pertaining to the health, safety, welfare and rights of resi-**  
28 **dents.**

29       **“(h) Recommend any changes to state or local laws to improve the**  
30 **health, safety and welfare of residents.**

1       “(i) Facilitate public comment on laws and policies that affect the  
2 health, safety and welfare of residents.

3       “(j) Train designees.

4       “(k) Promote the development of organizations to advocate on be-  
5 half of residents of residential facilities.

6       “(L) To the extent practicable, assist residents who move from a  
7 residential facility to a home care setting.

8       “(m) Assist residents, and individuals acting on their behalf, in lo-  
9 cating and accessing resources in the community and in connecting  
10 with local service providers.

11       “(n) Engage the participation of residents in general studies, con-  
12 ferences, inquiries or meetings related to residential care in this state.

13       “(o) Make recommendations for improvements in the functioning  
14 of the residential facility system in this state.

15       “(p) Collaborate with the Oregon Health Authority, the Department  
16 of Human Services and any other appropriate agencies and organiza-  
17 tions to establish a statewide system to collect and analyze informa-  
18 tion on complaints and conditions in residential facilities for the  
19 purpose of publicizing improvements and resolving significant prob-  
20 lems for residents.

21       “(q) Work with residents to identify and recommend processes for  
22 making complaints about service providers and entities.

23       “(r) Provide information to public agencies about the problems of  
24 residents.

25       “(s) Collect and compile data necessary to prepare the report sub-  
26 mitted to the Governor under ORS 182.500.

27       “(t) Adopt rules necessary for carrying out sections 31 to 37 of this  
28 2017 Act, in accordance with ORS chapter 183, in consultation with the  
29 Long Term Care Ombudsman, the Oregon Public Guardian and the  
30 Residential Facilities Ombudsman Advisory Committee.

1       “(5) The Residential Facilities Ombudsman shall contract with the  
2 state protection and advocacy system described in ORS 192.517 (1) to  
3 provide services and assistance to persons who are prospective or  
4 current residents of a residential facility for individuals with develop-  
5 mental disabilities when the system has received a notice regarding  
6 the person pursuant to ORS 125.060 (7)(c) or (8)(c).

7       “(6) The authority and the department shall provide the Residential  
8 Facilities Ombudsman and the designees monthly, in a format speci-  
9 fied by the ombudsman, demographic information about the residents  
10 in the residential facilities for which the ombudsman has responsibil-  
11 ities under this section.

12       “(7) All state agencies shall cooperate with and assist the Residen-  
13 tial Facilities Ombudsman in the performance of the ombudsman’s  
14 duties and functions.

15       “SECTION 33. (1) The Residential Facilities Ombudsman Advisory  
16 Committee is established consisting of five members appointed by the  
17 Governor, one of whom must be selected by the Governor from a list  
18 of four names submitted by an organization for persons with mental  
19 illness and one of whom must be selected by the Governor from a list  
20 of four names submitted by the Oregon Council on Developmental  
21 Disabilities. Members are subject to confirmation by the Senate under  
22 ORS 171.562 and 171.565.

23       “(2) The term of office for each member is four years. Before the  
24 expiration of the term of a member, the Governor shall appoint a  
25 successor whose term begins July 1 next following. A member is eli-  
26 gible for reappointment. If there is a vacancy for any cause, the Gov-  
27 ernor shall make an appointment to become immediately effective for  
28 the unexpired term.

29       “(3) The members of the committee must be residents of this state  
30 who are broadly representative of persons residing in residential fa-

1 cilities, including members of racial and ethnic minorities, who have  
2 knowledge and interest in the problems of individuals residing in res-  
3 idential facilities and who are representative of all areas of this state  
4 and the demographics of groups served by the Residential Facilities  
5 Ombudsman.

6 “(4) A member of the committee may not have a financial or  
7 fiduciary interest in residential facilities or service providers, or in-  
8 volvement in the licensing or certification of residential facilities or  
9 service providers.

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

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

17 “(7) The committee shall meet at least once each month at a place,  
18 day and hour determined by the committee. The committee also shall  
19 meet at other times and places specified by the call of the chairperson  
20 or of a majority of the members of the committee. The committee  
21 shall confer each month with the Residential Facilities Ombudsman.

22 “(8) Members of the committee are not entitled to compensation  
23 or reimbursement for expenses and serve as volunteers on the com-  
24 mittee.

25 **“SECTION 34. The Residential Facilities Ombudsman and designees**  
26 **shall have:**

27 “(1) Private and unimpeded access to residential facilities and resi-  
28 dents at any time considered necessary and reasonable by the Resi-  
29 dential Facilities ombudsman or the designee for the purpose of:

30 “(a) Investigating and resolving complaints made by or on behalf

1 of residents;

2 “(b) Offering the services of the ombudsman or the designee to any  
3 resident, in private;

4 “(c) Interviewing employees or agents of the facility and, with their  
5 consent, residents;

6 “(d) Consulting regularly with the facility administration; and

7 “(e) Providing other services authorized by law or by rule.

8 “(2) Access to the administrative records, policies and documents  
9 of residential facilities that are available to residents or the general  
10 public.

11 “(3) Access to and, upon request, copies of all licensing and certi-  
12 fication records maintained by the Department of Human Services  
13 with respect to residential facilities. The Residential Facilities Om-  
14 budsman shall have direct access to the department’s electronic re-  
15 cords.

16 **“SECTION 35. (1) The Residential Facilities Ombudsman shall pre-  
17 pare and distribute to each residential facility in this state a written  
18 notice describing the procedures to follow in making a complaint, in-  
19 cluding the address and telephone number of the ombudsman, and a  
20 poster describing the Residential Facilities Ombudsman program and  
21 providing contact information. The Department of Human Services  
22 shall facilitate the distribution of information regarding the Residen-  
23 tial Facilities Ombudsman program services to residents, providers  
24 and the public.**

25 **“(2) The administrator of each residential facility shall post the  
26 written notice and poster required by this section in conspicuous  
27 places in the facility in accordance with procedures provided by the  
28 Residential Facilities Ombudsman and shall give the written notice to  
29 each resident and legal representative, if any, at least annually during  
30 the care planning process.**



1       **“(3)(a) If a complaint is made on behalf of a resident who has lim-**  
2 **ited or no decision-making capacity, who has no known legal repre-**  
3 **sentative and who is unable to communicate consent for the**  
4 **Residential Facilities Ombudsman to investigate the complaint, the**  
5 **ombudsman shall seek to discern the outcome that the resident desires**  
6 **and shall work to accomplish that outcome.**

7       **“(b) If the Residential Facilities Ombudsman is unable to discern**  
8 **the resident’s desired outcome, it shall be assumed that the resident**  
9 **desires to have the resident’s health, safety, welfare and rights pro-**  
10 **ected.**

11       **“(4) The Residential Facilities Ombudsman or a designee investi-**  
12 **gating a complaint:**

13       **“(a) May subpoena any person to appear, to give sworn testimony**  
14 **or to produce documentary or other evidence that is reasonably ma-**  
15 **terial to the matter under investigation.**

16       **“(b) Shall have access to any resident’s records, including medical**  
17 **records, necessary to investigate a complaint if:**

18       **“(A) The resident or the legal representative of the resident con-**  
19 **sents; or**

20       **“(B) For a resident who is unable to communicate consent and ei-**  
21 **ther has no known legal representative or the legal representative re-**  
22 **fuses to consent, the ombudsman or a designee, with the approval of**  
23 **the ombudsman, has reasonable cause to believe that it is in the best**  
24 **interests of the resident.**

25       **“(5) A resident shall have the right to refuse to communicate with**  
26 **the Residential Facilities Ombudsman or the designee. The refusal**  
27 **shall be made directly to the ombudsman or the designee and not**  
28 **through an intermediary.**

29       **“(6) Following an investigation of a complaint, the Residential Fa-**  
30 **cilities Ombudsman or a designee shall report the ombudsman’s or**

1 designee's findings and conclusions to the resident who reported the  
2 abuse and to a complainant acting on behalf of a resident. If the om-  
3 budsman or designee finds conditions threatening the safety or well-  
4 being of a resident that cannot be resolved informally, the findings  
5 must be referred to the department, the Oregon Health Authority or  
6 law enforcement officials.

7 “(7) The resident shall have the right to participate in planning any  
8 course of action to be taken on behalf of the resident by the Resident  
9 Facilities Ombudsman or designee.

10 “(8) The identity of any complainant, resident on whose behalf a  
11 complaint is made or individual providing information on behalf of the  
12 complainant or the resident shall be confidential. If the complaint  
13 becomes the subject of judicial proceedings, the investigative infor-  
14 mation held by the Residential Facilities Ombudsman or designee shall  
15 be disclosed for the purpose of the proceedings, if requested by the  
16 court.

17 “(9) A resident, or concerned individual, who makes a complaint to  
18 the Residential Facilities Ombudsman under this section, or who par-  
19 ticipates in an investigation of a complaint, may not be subjected to  
20 a penalty, sanction or restriction, or be denied any right, privilege or  
21 benefit, on account of making the complaint or participating in the  
22 investigation of the complaint.

23 “(10) The department shall prohibit retaliation or reprisals by a  
24 residential facility or other entity with respect to any resident, em-  
25 ployee or other person who files a complaint, provides information or  
26 otherwise cooperates with the Residential Facilities Ombudsman or a  
27 designee and shall provide by rule for appropriate sanctions with re-  
28 spect to the interference, retaliation and reprisals.

29 “(11) In order to encourage residents and individuals acting on be-  
30 half of residents to communicate with the Residential Facilities Om-

1   budsman or designee, any resident, or individual acting on behalf of  
2   a resident, who makes a complaint to the ombudsman in good faith  
3   under this section, or who participates in an investigation of a com-  
4   plaint, shall have immunity from any civil or criminal liability that  
5   might otherwise be incurred or imposed with respect to the commu-  
6   nication.

7       **“SECTION 36.** The Residential Facilities Ombudsman shall establish  
8   procedures to maintain the confidentiality of the records and files of  
9   residents. The procedures must meet the following requirements:

10       “(1) The Residential Facilities Ombudsman or a designee may not  
11   disclose, except to law enforcement, the identity of any resident or  
12   individual acting on behalf of a resident without a written consent  
13   signed by the resident, legal representative of the resident or the in-  
14   dividual acting on behalf of the resident. The written consent must  
15   specify to whom the disclosure may be made.

16       “(2) The identity of any resident or individual providing information  
17   on behalf of the resident shall be confidential. If the complaint be-  
18   comes the subject of judicial proceedings, the investigative informa-  
19   tion held by the Residential Facilities Ombudsman or designee shall  
20   be disclosed for the purpose of the proceedings if requested by the  
21   court.

22       **“SECTION 37.** (1) The Residential Facilities Ombudsman may ap-  
23   point designees to serve as representatives of the ombudsman in local  
24   communities. The ombudsman shall regularly monitor the functions  
25   of designees.

26       “(2) The Residential Facilities Ombudsman shall specify qualifica-  
27   tions and duties of designees.

28       “(3) To be appointed as a designee, a person must complete an ini-  
29   tial training and attend required continuing educational training ses-  
30   sions that are approved by the Residential Facilities Ombudsman.

1       **“(4) Designees must sign a contract with the Residential Facilities**  
2 **Ombudsman that outlines the scope of their duties.**

3       **“SECTION 38.** ORS 443.825 is amended to read:

4       “443.825. All penalties recovered under ORS 443.790 to 443.815 shall be  
5 deposited:

6       “(1) In the Quality Care Fund established in ORS 443.001 if paid by an  
7 adult foster home licensed to provide residential care to persons with phys-  
8 ical disabilities.

9       “(2) In the [*Long Term Care Ombudsman*] **Residential Facilities Om-**  
10 **budsman subaccount in the Office of Oregon Ombudsmen** Account es-  
11 tablished in ORS 441.419 if paid by an adult foster home licensed to provide  
12 care to persons with mental illness or developmental disabilities.

13  
14                   **“OFFICE OF THE OREGON PUBLIC GUARDIAN**

15  
16       **“SECTION 39.** Sections 40, 41 and 48 of this 2017 Act are added to  
17 and made a part of ORS 125.675 to 125.687.

18       **“SECTION 40.** The Office of the Oregon Public Guardian is estab-  
19 lished to:

20       “(1) Provide guardianship and conservator services described in ORS  
21 125.675 to 125.687 to persons in need of public guardian and conservator  
22 services who are located in areas of this state where public guardian  
23 and conservator programs, services and other assistance are inade-  
24 quate or nonexistent; and

25       “(2) Identify and coordinate programs, services and other assistance  
26 that are available statewide for such persons.

27       **“SECTION 41.** (1) The Office of the Oregon Public Guardian shall  
28 establish procedures to maintain the confidentiality of the records and  
29 files related to guardianship or conservator services.

30       “(2) The Oregon Public Guardian or a deputy public guardian may

1 **not disclose, except to law enforcement or state agencies, the identity**  
2 **of client without written consent signed by the client or a legal rep-**  
3 **resentative of the client. The written consent must specify to whom**  
4 **the disclosure may be made.**

5 **“SECTION 42.** ORS 125.675 is amended to read:

6 “125.675. For purposes of ORS 125.675 to 125.687:

7 “(1) ‘Client’ means a person who receives public guardian and conservator  
8 services from the **Office of the** Oregon Public Guardian [*and Conservator*].

9 “(2) ‘Deputy public guardian [*and conservator*]’ means a person who is  
10 employed by or under contract with the **Office of the** Oregon Public  
11 Guardian [*and Conservator*], who is certified by the Oregon Public Guardian  
12 [*and Conservator*] and who provides services as a fiduciary appointed by the  
13 court to clients under ORS 125.675 to 125.687.

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

19 **“SECTION 43.** ORS 125.678 is amended to read:

20 “125.678. (1) The [*Long Term Care Ombudsman appointed under ORS*  
21 *441.403, in consultation with the Residential Facilities Advisory Committee,*]  
22 **Governor** shall appoint the Oregon Public Guardian [*and Conservator in the*  
23 *office of the Long Term Care Ombudsman*] for a four-year term. The Oregon  
24 Public Guardian [*and Conservator*] serves at the pleasure of the [*Long Term*  
25 *Care Ombudsman and may be removed by the Long Term Care Ombudsman*]  
26 **Governor and may be removed** for good cause. If there is a vacancy for  
27 any cause, the [*Long Term Care Ombudsman*] **Governor** shall make an ap-  
28 pointment within 60 days. The Oregon Public Guardian [*and Conservator*]  
29 shall receive a salary as fixed by the [*Long Term Care Ombudsman*] **Gover-**  
30 **nor** and be reimbursed for all reasonable travel and other expenses incurred

1 in the performance of official duties.

2 “(2) The Oregon Public Guardian [*and Conservator*] shall be responsible  
3 for carrying out the powers, duties and functions of the Oregon Public  
4 Guardian [*and Conservator*] pursuant to ORS 125.675 to 125.687[, *within the*  
5 *office of the Long Term Care Ombudsman, and subject to the direction,*  
6 *supervision and control of the Long Term Care Ombudsman*].

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

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

13 “(b) Prescribe the duties and assignments of persons hired or under con-  
14 tract with the Oregon Public Guardian [*and Conservator*];

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

19 “(d) Adopt rules to carry out the provisions of ORS 125.675 to 125.687.

20 “(4) [*The Long Term Care Ombudsman may hire or contract with staff to*  
21 *serve in the office of the Long Term Care Ombudsman*] **The Oregon Public**  
22 **Guardian may hire or contract with staff to serve in the Office of the**  
23 **Oregon Public Guardian** as necessary to carry out the powers, duties and  
24 functions of the [*Long Term Care Ombudsman in supervising, monitoring,*  
25 *advising and supporting the Oregon Public Guardian and Conservator as re-*  
26 *quired under ORS 441.406*] **Office of the Oregon Public Guardian.**

27 “(5) The Oregon Public Guardian [*and Conservator*] may delegate the ex-  
28 ercise or discharge of any power, duty or function that is vested in or im-  
29 posed by law upon the Oregon Public Guardian [*and Conservator*] to a deputy  
30 public guardian [*and conservator*], staff person or volunteer hired by or under

1 contract with the Oregon Public Guardian [*and Conservator*] as appropriate  
2 for the purpose of conducting an official act in the name of the Oregon  
3 Public Guardian [*and Conservator*]. The official act of any person acting in  
4 the name of the Oregon Public Guardian [*and Conservator*] by the authority  
5 of the Oregon Public Guardian [*and Conservator*] is an official act of the  
6 Oregon Public Guardian [*and Conservator*].

7 “(6) The Oregon Public Guardian [*and Conservator*] may solicit and accept  
8 gifts, grants and donations from public and private sources for the purpose  
9 of carrying out the provisions of ORS 125.675 to 125.687, which moneys shall  
10 be deposited in the [*Long Term Care Ombudsman*] **Office of the Oregon**  
11 **Public Guardian subaccount within the Office of Oregon Ombudsmen**  
12 Account established under ORS 441.419.

13 **“SECTION 44.** ORS 125.680 is amended to read:

14 “125.680. The Oregon Public Guardian [*and Conservator*] shall:

15 “(1) Educate the public about the role and function of the **Office of the**  
16 Oregon Public Guardian [*and Conservator*] and about public guardian and  
17 conservator services.

18 “(2) Provide public guardian and conservator services for persons who do  
19 not have relatives or friends willing or able to assume the duties of  
20 guardianship or conservatorship and who lack the financial resources to ob-  
21 tain a private guardian or conservator.

22 “(3) Certify deputy public guardians [*and conservators*].

23 “(4) Develop model standards of eligibility and professional conduct for  
24 deputy public guardians [*and conservators*] and of practice and procedure in  
25 public guardianship and conservatorship proceedings.

26 “(5) Develop and implement training and educational materials for deputy  
27 public guardians [*and conservators*].

28 “(6) Establish and operate a program to recruit, train and supervise vol-  
29 unteers to provide assistance to the Oregon Public Guardian [*and*  
30 *Conservator*], deputy public guardians [*and conservators*] and clients.

1 “(7) Establish a process, including criteria and standards, to determine  
2 the eligibility of persons to receive public guardian and conservator services  
3 and for the needs assessment required under ORS 125.683.

4 “(8) Cooperate with offices of county public guardian and conservator  
5 operating under ORS 125.700.

6 “(9) Work with existing local and county programs and with other or-  
7 ganizations and entities to develop and expand public guardian and  
8 conservator services in this state.

9 “(10) Make recommendations to the Legislative Assembly for policy and  
10 legislation regarding implementation, improvement and expansion of public  
11 guardian and conservator services in this state.

12 **“SECTION 45.** ORS 125.683 is amended to read:

13 “125.683. (1) In providing public guardian and conservator services, the  
14 Oregon Public Guardian [*and Conservator*] shall conduct a needs assessment  
15 for a person who claims or is claimed not to have relatives or friends willing  
16 or able to assume the duties of guardianship or conservatorship and who  
17 claims or is claimed to lack the financial resources to obtain a private  
18 guardian or conservator. The purpose of the needs assessment is to determine  
19 the person’s eligibility to receive public guardian and conservator services  
20 and to determine the appropriateness of filing a petition for the appointment  
21 of a fiduciary or other pleading on behalf of the person in a court having  
22 probate jurisdiction. The assessment shall, at a minimum:

23 “(a) Assess the person’s capacity to:

24 “(A) Care for the person’s own safety;

25 “(B) Manage the person’s own financial affairs; and

26 “(C) Attend to and provide for necessities such as food, shelter, clothing  
27 and medical care;

28 “(b) Assess the person’s financial resources, based on information avail-  
29 able or supplied to the Oregon Public Guardian [*and Conservator*] at the time  
30 of the assessment;



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

5 “(d) Determine whether any other person may be willing and able to serve  
6 as the person’s guardian or conservator and, if appropriate, locate and con-  
7 tact that other person;

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

11 “(f) Determine how best to provide public guardian and conservator ser-  
12 vices to the person that are least restrictive to the person’s liberty, that are  
13 least intrusive to the person and that provide for the greatest degree of in-  
14 dependence that the person is capable of exercising.

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

21 **“SECTION 46.** ORS 125.685 is amended to read:

22 “125.685. (1) A deputy public guardian [*and conservator*] providing public  
23 guardian and conservator services under ORS 125.675 to 125.687:

24 “(a) Must be certified as a deputy public guardian [*and conservator*] by  
25 the Oregon Public Guardian [*and Conservator*]; and

26 “(b) If appointed by the court as public guardian [*and*] **or** conservator for  
27 a client, shall serve as provided in this chapter and ORS 127.005 and 127.015,  
28 except as expressly stated otherwise in ORS 125.675 to 125.687.

29 “(2) A volunteer of the Oregon Public Guardian [*and Conservator*] must  
30 provide, in writing, the volunteer’s criminal history and must submit or

1 consent to a criminal records check, including fingerprint identification.

2 “(3) Volunteers:

3 “(a) May not conduct the needs assessments required under ORS 125.683;

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

6 “(c) Shall be under the supervision and control of the Oregon Public  
7 Guardian [*and Conservator*] or of a deputy public guardian [*and*  
8 *conservator*];

9 “(d) Shall be instructed in confidentiality and shall maintain the  
10 confidentiality of clients and of written information and materials relating  
11 to clients;

12 “(e) May not receive compensation or any other benefit but may be re-  
13 imbursed for reasonable travel and other expenses incurred in the perform-  
14 ance of their duties on behalf of the Oregon Public Guardian [*and*  
15 *Conservator*]; and

16 “(f) Except for intentional misconduct or conduct that is grossly  
17 negligent, are immune from civil liability for any acts or omissions occur-  
18 ring, or errors in judgment made in good faith, in the course of providing  
19 authorized public guardian and conservator services.

20 **“SECTION 47.** ORS 125.687 is amended to read:

21 “125.687. (1) A court may not appoint the Oregon Public Guardian [*and*  
22 *Conservator*] or a deputy public guardian [*and conservator*] as a fiduciary for  
23 a person unless the Oregon Public Guardian [*and Conservator*] or deputy  
24 public guardian [*and conservator*] has petitioned for or consented to the ap-  
25 pointment.

26 “(2) The Oregon Public Guardian [*and Conservator*] shall file an official  
27 bond in such amount as may be fixed from time to time by the [*Long Term*  
28 *Care Ombudsman*] **administrator of the Office of Oregon Ombudsmen.**  
29 The bond shall inure to the joint benefit of the several public guardianship  
30 and conservatorship estates in which the Oregon Public Guardian [*and*

1 *Conservator*] is providing services, but a bond is not required to be filed in  
2 individual estates.

3 “(3) The court may not charge a fee for the filing of a petition or any  
4 other pleading under this chapter by the Oregon Public Guardian [*and*  
5 *Conservator*] or a deputy public guardian [*and conservator*] when the filing  
6 is made in connection with the provision of public guardian and conservator  
7 services under ORS 125.675 to 125.687.

8 “(4)(a) The court shall order the client or the client’s estate to pay for  
9 reasonable expenses incurred, including compensation for services rendered,  
10 in the provision of public guardian and conservator services to the client,  
11 including but not limited to court costs and attorney fees.

12 “(b) If a client is indigent, the Oregon Public Guardian [*and Conservator*  
13 *and the office of the Long Term Care Ombudsman*] shall have a claim against  
14 the client or the client’s estate for the portion of any payment ordered under  
15 paragraph (a) of this subsection that remains unpaid.

16 “(5) The court may not order the Oregon Public Guardian [*and*  
17 *Conservator,*] **or** a deputy public guardian [*and conservator or the office of the*  
18 *Long Term Care Ombudsman*] to pay court costs or attorney fees in a pro-  
19 ceeding brought on behalf of a client under ORS 125.675 to 125.687.

20 **“SECTION 48. (1) There is established an Oregon Public Guardian**  
21 **Advisory Committee consisting of five members appointed by the**  
22 **Governor, two of whom must have expertise in the provision of**  
23 **guardianship, conservatorship and other fiduciary services for persons**  
24 **with inadequate resources.**

25 **“(2) Members of the Oregon Public Guardian Advisory Committee**  
26 **are subject to confirmation by the Senate under ORS 171.562 and**  
27 **171.565.**

28 **“(3) The term of office of each member is four years. Before the**  
29 **expiration of the term of a member, the Governor shall appoint a**  
30 **successor whose term begins on July 1 next following. A member is**

1 eligible for reappointment. If there is a vacancy for any cause, the  
2 Governor shall make an appointment to become immediately effective  
3 for the unexpired term.

4 “(4) The committee shall select one of its members as chairperson  
5 and another as vice chairperson, for such terms and with duties and  
6 powers necessary for the performance of the functions of such offices  
7 as the committee determines.

8 “(5) A majority of the members of the committee constitutes a  
9 quorum for the transaction of business. Decisions may be made by a  
10 majority of the quorum.

11 “(6) The committee shall meet at least once each month at a place,  
12 day and hour determined by the committee. The committee also shall  
13 meet at other times and places specified by the call of the chairperson  
14 or of a majority of the members of the committee. The committee  
15 shall confer each month with the Oregon Public Guardian. All  
16 meetings are subject to ORS 192.610 to 192.690.

17 “(7) Members of the committee are not entitled to compensation  
18 or reimbursement for expenses and serve as volunteers on the com-  
19 mittee.

20

21 “CONFORMING AMENDMENTS

22

23 “SECTION 49. ORS 21.007 is amended to read:

24 “21.007. It is the intent of the Legislative Assembly that funding be pro-  
25 vided to the following entities by appropriations each biennium to fund pro-  
26 grams, services and activities that were funded through court fees before the  
27 2011-2013 biennium:

28 “(1) To the counties of this state for the purposes of funding mediation  
29 services, conciliation services and other services in domestic relations cases.

30 “(2) To the counties of this state for the purposes of funding the operation

1 of law libraries or of providing law library services.

2 “(3) To Portland State University and the University of Oregon to fund  
3 the programs and expenses of the Mark O. Hatfield School of Government  
4 and the University of Oregon School of Law under ORS 36.100 to 36.238 and  
5 183.502.

6 “(4) To the Housing and Community Services Department for the purpose  
7 of funding programs that defray the cost of rent for dwelling units for very  
8 low income households.

9 “(5) To the Higher Education Coordinating Commission to fund clinical  
10 legal education programs at accredited institutions of higher education that  
11 provide civil legal services to victims of domestic violence, stalking or sexual  
12 assault.

13 “(6) To the State Department of Agriculture for the purpose of funding  
14 mediation programs established by the department, other than individual  
15 farm credit mediations.

16 “(7) To the Judicial Department for the purposes of funding the appellate  
17 settlement program established under ORS 2.560.

18 “(8) To the [*Department of Human Services*] **Office of the Foster Child**  
19 **Ombudsman** for the funding of the Office of Children’s Advocate.

20 “**SECTION 50.** ORS 125.060 is amended to read:

21 “125.060. (1) The notices required by this section must be given to all  
22 persons whose identities and addresses can be ascertained in the exercise of  
23 reasonable diligence by the person required to give the notice.

24 “(2) Notice of the filing of a petition for the appointment of a fiduciary  
25 or entry of other protective order must be given by the petitioner to the  
26 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  
30 person or persons most closely related to the respondent.

1       “(d) Any person who is cohabiting with the respondent and who is inter-  
2       ested in the affairs or welfare of the respondent.

3       “(e) Any person who has been nominated as fiduciary or appointed to act  
4       as fiduciary for the respondent by a court of any state, any trustee for a  
5       trust established by or for the respondent, any person appointed as a health  
6       care representative under the provisions of ORS 127.505 to 127.660 and any  
7       person acting as attorney-in-fact for the respondent under a power of attor-  
8       ney.

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

12       “(g) If the respondent is a minor and has no living parents, any person  
13       nominated to act as fiduciary for the minor in a will or other written in-  
14       strument prepared by a parent of the minor.

15       “(h) If the respondent is receiving moneys paid or payable by the United  
16       States through the Department of Veterans Affairs, a representative of the  
17       United States Department of Veterans Affairs regional office that has re-  
18       sponsibility for the payments to the protected person.

19       “(i) If the respondent is receiving moneys paid or payable for public as-  
20       sistance provided under ORS chapter 411 by the State of Oregon through the  
21       Department of Human Services, a representative of the department.

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

25       “(k) If the respondent is committed to the legal and physical custody of  
26       the Department of Corrections, the Attorney General and the superintendent  
27       or other officer in charge of the facility in which the respondent is confined.

28       “(L) If the respondent is a foreign national, the consulate for the  
29       respondent’s country.

30       “(m) Any other person that the court requires.

1 “(3) Notice of a motion for the termination of the protective proceedings,  
2 for removal of a fiduciary, for modification of the powers or authority of a  
3 fiduciary, for approval of a fiduciary’s actions or for protective orders in  
4 addition to those sought in the petition must be given by the person making  
5 the motion to the following persons:

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

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

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

11 “(d) If the protected person is receiving moneys paid or payable by the  
12 United States through the Department of Veterans Affairs, a representative  
13 of the United States Department of Veterans Affairs regional office that has  
14 responsibility for the payments to the protected person.

15 “(e) If the protected person is committed to the legal and physical custody  
16 of the Department of Corrections, the Attorney General and the superinten-  
17 dent or other officer in charge of the facility in which the protected person  
18 is confined.

19 “(f) Any other person that the court requires.

20 “(4) A request for notice under subsection (3)(b) of this section must be  
21 in writing and include the name, address and phone number of the person  
22 requesting notice. A copy of the request must be mailed by the person mak-  
23 ing the request to the petitioner or to the fiduciary if a fiduciary has been  
24 appointed. The original request must be filed with the court. The person fil-  
25 ing the request must pay the fee specified by ORS 21.135.

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

1 “(6) If the Department of Human Services is nominated as guardian for  
2 the purpose of consenting to the adoption of a minor, the notice provided for  
3 in this section must also be given to the minor’s brothers, sisters, aunts,  
4 uncles and grandparents.

5 “(7) In addition to the requirements of subsection (2) of this section, no-  
6 tice of the filing of a petition for the appointment of a guardian for a person  
7 who is alleged to be incapacitated must be given by the petitioner to the  
8 following persons:

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

10 “(b) If the respondent is a resident of a nursing home or residential fa-  
11 cility, or if the person nominated to act as fiduciary intends to place the  
12 respondent in a nursing home or residential facility, the Office of the Long  
13 Term Care Ombudsman **or the Residential Facilities Ombudsman pro-**  
14 **gram.**

15 “(c) If the respondent is a resident of a mental health treatment facility  
16 or a residential facility for individuals with developmental disabilities, or if  
17 the person nominated to act as fiduciary intends to place the respondent in  
18 such a facility, the system described in ORS 192.517 (1).

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

23 “(a) Any attorney who represented the protected person at any time dur-  
24 ing the protective proceeding.

25 “(b) If the protected person is a resident of a nursing home or residential  
26 facility, or if the motion seeks authority to place the protected person in a  
27 nursing home or residential facility, the Office of the Long Term Care Om-  
28 budsman **or the Residential Facilities Ombudsman program.**

29 “(c) If the protected person is a resident of a mental health treatment  
30 facility or a residential facility for individuals with developmental disabili-



1 ties, or if the motion seeks authority to place the protected person in such  
2 a facility, the system described in ORS 192.517 (1).

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

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

9 **“SECTION 51.** ORS 125.075 is amended to read:

10 “125.075. (1) Any person who is interested in the affairs or welfare of a  
11 respondent or protected person may present objections to a petition or to a  
12 motion in a protective proceeding, including but not limited to:

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

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

15 “(c) Any other person the court may allow.

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

25 “(3) If objections are presented by any of the persons listed in subsection  
26 (1) of this section, the court shall schedule a hearing on the objections. The  
27 petitioner or person making the motion shall give notice to all persons en-  
28 titled to notice under ORS 125.060 (3) of the date, time and place of the  
29 scheduled hearing at least 15 days before the date set for hearing. Notice  
30 shall be given in the manner prescribed by ORS 125.065.

1 “(4) Notwithstanding ORS 21.170, the court may not charge or collect any  
2 fee for the filing of objections under the provisions of this section or for the  
3 filing of any motion from any of the following:

4 “(a) The respondent or the protected person;

5 “(b) The Office of the Long Term Care Ombudsman **or the Residential**  
6 **Facilities Ombudsman program**; or

7 “(c) The system described in ORS 192.517 (1).

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

10 **“SECTION 52.** ORS 125.320 is amended to read:

11 “125.320. (1) A guardian may not authorize the sterilization of the pro-  
12 tected person.

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

17 “(3)(a) Before a guardian may place an adult protected person in a mental  
18 health treatment facility, a nursing home or other residential facility, the  
19 guardian must file a statement with the court informing the court that the  
20 guardian intends to make the placement.

21 “(b) Notice of the statement of intent must be given in the manner pro-  
22 vided by ORS 125.065 to the persons specified in ORS 125.060 (3).

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

26 “(A) Any attorney who represented the protected person at any time  
27 during the protective proceeding.

28 “(B) If the protected person is a resident of a nursing home or residential  
29 facility, or if the notice states the intention to place the protected person in  
30 a nursing home or residential facility, the Office of the Long Term Care

1 Ombudsman **or the Residential Facilities Ombudsman program.**

2 “(C) If the protected person is a resident of a mental health treatment  
3 facility or a residential facility for individuals with developmental disabili-  
4 ties, or if the notice states the intention to place the protected person in  
5 such a facility, the system described in ORS 192.517 (1).

6 “(d) In addition to the requirements of ORS 125.070 (1), the notice given  
7 to the protected person must clearly indicate the manner in which the pro-  
8 tected person may object to the proposed placement.

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

14 “(f) The requirement that notice be served on an attorney for a protected  
15 person under paragraph (c)(A) of this subsection does not impose any re-  
16 sponsibility on the attorney receiving the notice to represent the protected  
17 person in the protective proceeding.

18 **“SECTION 53.** ORS 443.455 is amended to read:

19 “443.455. (1) Except as provided in subsection (5) of this section, for pur-  
20 poses of imposing civil penalties, residential facilities approved under ORS  
21 443.400 to 443.455 are subject to ORS 441.705 to 441.745.

22 “(2) The Director of Human Services shall by rule prescribe a schedule  
23 of penalties for residential care facilities, residential training facilities and  
24 residential training homes that are not in compliance with ORS 443.400 to  
25 443.455.

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

29 “(4) If the department or authority investigates and makes a finding of  
30 abuse arising from deliberate or other than accidental action or inaction that

1 is likely to cause a negative outcome by a person with a duty of care toward  
2 a resident of a residential facility and if the abuse resulted in the death,  
3 serious injury, rape or sexual abuse of a resident, the department or au-  
4 thority shall impose a civil penalty of not less than \$2,500 for each occur-  
5 rence of substantiated abuse, not to exceed \$15,000 in any 90-day period. As  
6 used in this subsection:

7 “(a) ‘Negative outcome’ includes serious injury, rape, sexual abuse or  
8 death.

9 “(b) ‘Rape’ means rape in the first, second or third degree as described in  
10 ORS 163.355, 163.365 and 163.375.

11 “(c) ‘Serious injury’ means physical injury that creates a substantial risk  
12 of death or that causes serious and protracted disfigurement, protracted  
13 impairment of health or protracted loss or impairment of the function of any  
14 bodily organ.

15 “(d) ‘Sexual abuse’ means any form of sexual contact between an employee  
16 of a residential facility or a person providing services in the residential fa-  
17 cility and a resident of that facility, including but not limited to sodomy,  
18 sexual coercion, sexually explicit photographing and sexual harassment.

19 “(5) Civil penalties recovered from a residential training facility, resi-  
20 dential training home, residential treatment facility or residential treatment  
21 home shall be deposited in the [*Long Term Care Ombudsman*] **appropriate**  
22 **subaccount in the Office of Oregon Ombudsmen** Account established in  
23 ORS 441.419.

24 “**SECTION 54.** ORS 443.738 is amended to read:

25 “443.738. (1) Except as provided in subsection (3) of this section, all pro-  
26 viders, resident managers and substitute caregivers for adult foster homes  
27 shall satisfactorily meet all educational requirements established by the li-  
28 censing agency. After consultation with representatives of providers, edu-  
29 cators, residents’ advocates and the [*Long Term Care*] **Residential Facilities**  
30 Ombudsman, the licensing agency shall adopt by rule standards governing

1 the educational requirements. The rules shall require that a person may not  
2 provide care to any resident prior to acquiring education or supervised  
3 training designed to impart the basic knowledge and skills necessary to  
4 maintain the health, safety and welfare of the resident. Each provider shall  
5 document compliance with the educational requirements for persons subject  
6 to the requirements.

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

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

14 “(b) A requirement that a provider pass a test before being licensed or  
15 becoming a resident manager. The test shall evaluate the ability to under-  
16 stand and respond appropriately to emergency situations, changes in medical  
17 conditions, physicians’ orders and professional instructions, nutritional  
18 needs, residents’ preferences and conflicts; and

19 “(c) A requirement that, after being licensed, a provider or resident  
20 manager successfully completes continuing education as described in ORS  
21 443.742.

22 “(3) After consultation with representatives of providers, educators,  
23 residents’ advocates and the [*Long Term Care*] **Residential Facilities** Om-  
24 budsman, the licensing agency may adopt by rule exceptions to the training  
25 requirements of subsections (1) and (2) of this section for persons who are  
26 appropriately licensed medical care professionals in Oregon or who possess  
27 sufficient education, training or experience to warrant an exception. The li-  
28 censing agency may not make any exceptions to the testing requirements.

29 “(4) The licensing agency may permit a person who has not completed the  
30 training or passed the test required in subsection (2)(a) and (b) of this section

1 to act as a resident manager until the training and testing are completed or  
2 for 60 days, whichever is shorter, if the licensing agency determines that an  
3 unexpected and urgent staffing need exists. The licensed provider must notify  
4 the licensing agency of the situation and demonstrate that the provider is  
5 unable to find a qualified resident manager, that the person has met the re-  
6 quirements for a substitute caregiver for the adult foster home and that the  
7 provider will provide adequate supervision.

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

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

16 “(7) Providers shall give at least 30 days’ written notice to the residents,  
17 and to the legal representative, guardian or conservator of any resident, be-  
18 fore selling, leasing or transferring the adult foster home business or the real  
19 property on which the adult foster home is located. Providers shall inform  
20 real estate licensees, prospective buyers, lessees and transferees in all writ-  
21 ten communications that the license to operate an adult foster home is not  
22 transferable and shall refer them to the licensing agency for information  
23 about licensing.

24 “(8) If a resident dies or leaves an adult foster home for medical reasons  
25 and indicates in writing the intent to not return, the provider may not  
26 charge the resident for more than 15 days or the time specified in the pro-  
27 vider contract, whichever is less, after the resident has left the adult foster  
28 home. The provider has an affirmative duty to take reasonable actions to  
29 mitigate the damages by accepting a new resident. However, if a resident  
30 dies or leaves an adult foster home due to neglect or abuse by the provider

1 or due to conditions of imminent danger to life, health or safety, the provider  
2 may not charge the resident beyond the resident's last day in the home. The  
3 provider shall refund any advance payments within 30 days after the resident  
4 dies or leaves the adult foster home.

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

10 “(a) Psychoactive medications may be used only pursuant to a pre-  
11 scription that specifies the circumstances, dosage and duration of use.

12 “(b) Physical restraints may be used only pursuant to a qualified  
13 practitioner's order that specifies the type, circumstances and duration of  
14 use in accordance with rules adopted by the licensing agency. The rules  
15 adopted by the licensing agency relating to physical restraints shall include  
16 standards for use and training.

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

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

28 “(b) The provider shall give the resident and the resident's legal repre-  
29 sentative, guardian or conservator written notice at least 30 days prior to  
30 the proposed transfer or discharge, except in a medical emergency including

1 but not limited to a resident's experiencing an increase in level of care needs  
2 or engaging in behavior that poses an imminent danger to self or others. In  
3 such cases, the provider shall give the resident written notice as soon as  
4 possible under the circumstances.

5 "(c) The resident has the right to an administrative hearing prior to an  
6 involuntary transfer or discharge. If the resident is being transferred or  
7 discharged for a medical emergency, or to protect the welfare of the resident  
8 or other residents, as defined by rule, the hearing must be held within seven  
9 days of the transfer or discharge. The provider shall hold a space available  
10 for the resident pending receipt of an administrative order. ORS 441.605 (4)  
11 and the rules thereunder governing transfer notices and hearings for resi-  
12 dents of long term care facilities shall apply to adult foster homes.

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

16 "(13) Any lessor of a building in which an adult foster home is located  
17 may not interfere with the admission, discharge or transfer of any resident  
18 in the adult foster home unless the lessor is a provider or coprovider on the  
19 license.

20 "**SECTION 55.** ORS 443.767 is amended to read:

21 "443.767. (1) When the licensing agency receives a complaint that alleges  
22 that a resident of a licensed adult foster home has been injured, abused or  
23 neglected, and that the resident's health or safety is in imminent danger, or  
24 that the resident has died or been hospitalized, the investigation shall begin  
25 immediately after the complaint is received. If the investigator determines  
26 that the complaint is substantiated, the licensing agency shall take appro-  
27 priate corrective action immediately.

28 "(2) When the licensing agency receives a complaint that alleges the ex-  
29 istence of any circumstance that could result in injury, abuse or neglect of  
30 a resident of a licensed adult foster home, and that the circumstance could



1 place the resident's health or safety in imminent danger, the agency shall  
2 investigate the complaint promptly. If the investigator determines that the  
3 complaint is substantiated, the agency shall take appropriate corrective  
4 action promptly.

5 “(3) After public hearing, the licensing agency shall by rule set standards  
6 for the procedure, content and time limits for the initiation and completion  
7 of investigations of complaints. The time limits shall be as short as possible  
8 and shall vary in accordance with the severity of the circumstances alleged  
9 in the complaint. In no event shall the investigation exceed a duration of 60  
10 days, unless there is an ongoing concurrent criminal investigation, in which  
11 case the licensing agency may take a reasonable amount of additional time  
12 in which to complete the investigation.

13 “(4) The licensing agency shall take no longer than 60 days from the  
14 completion of the investigation report to take appropriate corrective action  
15 in the case of any complaint that the investigator determines to be substan-  
16 tiated.

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

19 “(A) The complainant, unless the complainant requests anonymity;

20 “(B) The resident, and any person designated by the resident to receive  
21 information concerning the resident;

22 “(C) The facility; and

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

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

26 “(6)(a) The complaint and the investigation report shall be available to  
27 the public at the local office of the licensing agency or the type B area  
28 agency [*on aging*], if appropriate. When the licensing agency or type B area  
29 agency [*on aging*] concludes the investigation of a complaint, the licensing  
30 agency or type B area agency [*on aging*] shall clearly designate the outcome

1 of the complaint investigation and make the designation available to the  
2 public together with the complaint and the investigation report.

3 “(b) As used in this subsection, ‘area agency’ has the meaning given  
4 that term in ORS 410.040.

5 “(7) A copy of the report shall be forwarded to the licensing agency  
6 whether or not the investigation report concludes that the complaint is  
7 substantiated.

8 “**SECTION 56.** ORS 476.030 is amended to read:

9 “476.030. (1) The State Fire Marshal shall enforce all statutes, and make  
10 rules relating to:

11 “(a) The prevention of fires.

12 “(b) The storage and use of combustibles and explosives.

13 “(c) The maintenance and regulation of structural fire safety features in  
14 occupied structures and overseeing the safety of and directing the means and  
15 adequacy of exit in case of fire from factories, asylums, hospitals, churches,  
16 schools, halls, theaters, amphitheaters, all buildings, except private resi-  
17 dences, which are occupied for sleeping purposes, and all other places where  
18 large numbers of persons work, live or congregate from time to time for any  
19 purpose except that structural changes shall not be required in buildings  
20 built, occupied and maintained in conformity with state building code regu-  
21 lations applicable at the time of construction.

22 “(d) Standards for equipment used for fire protection purposes within this  
23 state including standard thread for fire hose couplings and hydrant fittings.

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

26 “(3) If, in the opinion of the State Fire Marshal, a governmental subdi-  
27 vision of the state has enacted adequate regulations generally conforming to  
28 state and national standards concerning fire prevention, fire safety measures  
29 and building construction requirements for safety, and if the governmental  
30 subdivision provides reasonable enforcement of its regulations, the State Fire

1 Marshal may exempt the area subject to such regulation either partially or  
2 fully from the statutes, rules and regulations administered by the State Fire  
3 Marshal. Prior to adoption of any such exemption, the State Fire Marshal  
4 may request from the Department of Public Safety Standards and Training  
5 consideration of and recommendations regarding the exemption. The ex-  
6 emption may extend for a two-year period, and may be renewed from time to  
7 time, but may be canceled by the State Fire Marshal following 30 days'  
8 written notice if the State Fire Marshal finds that the governmental  
9 subdivision's regulations or enforcement thereof are not reasonably suffi-  
10 cient. The governmental subdivision shall furnish a copy of such regulations  
11 to the State Fire Marshal and shall file with the State Fire Marshal any  
12 amendment thereto within 30 days before the effective date of such amend-  
13 ment. The State Fire Marshal shall designate a person or division within  
14 such governmental subdivision as an approved authority for exercising  
15 functions relating to fire prevention, fire safety measures and building con-  
16 struction. Upon request of a local official having enforcement responsibility  
17 and a showing of unusual fire hazard or other special circumstances, the  
18 State Fire Marshal shall make investigation and appropriate recommen-  
19 dations.

20 “(4) The State Fire Marshal may investigate or cause an investigation to  
21 be made to determine the probable cause, origin and circumstances of any  
22 fire and shall classify such findings as the State Fire Marshal may find ap-  
23 propriate to promote fire protection and prevention.

24 “(5) The State Fire Marshal shall provide training in fire safety in-  
25 spection to the Department of Human Services, area agencies, the Oregon  
26 Health Authority, community mental health programs, developmental disa-  
27 bilities programs and designees of the Long Term Care Ombudsman **and the**  
28 **Residential Facilities Ombudsman**. If an adult foster home has been in-  
29 spected by the Department of Human Services, the Oregon Health Authority,  
30 an area agency, a community mental health program or a developmental

1 disabilities program and the agency conducting the inspection reasonably  
2 believes that the adult foster home is not in compliance with applicable fire  
3 safety rules, the agency conducting the inspection may request the State Fire  
4 Marshal to inspect or cause an inspection to be made. If a designee of the  
5 [Long Term Care] **Residential Facilities** Ombudsman, in the course of vis-  
6 iting an adult foster home, believes that the adult foster home is not in  
7 compliance with applicable fire safety rules, the designee shall report the  
8 problem to the appropriate agency to request a fire safety inspection by the  
9 office of the State Fire Marshal or by a designated representative of the of-  
10 fice of the State Fire Marshal.

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

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

19 “(a) ‘Adult foster home’ has the meaning given that term in ORS 443.705.

20 “(b) ‘Area agency’ has the meaning given that term in ORS 410.040.

21 “(c) ‘Community mental health program’ means a program established  
22 under ORS 430.620 (1)(b).

23 “(d) ‘Developmental disabilities program’ means a program established  
24 under ORS 430.620 (1)(a).

25 **SECTION 57.** ORS 125.410 is amended to read:

26 125.410. (1) Except as provided in subsection (2) of this section, the court  
27 shall require a conservator to furnish a bond conditioned upon faithful dis-  
28 charge of all duties of the conservator according to law, with sureties as  
29 specified by the court. Unless otherwise directed, the bond must be in the  
30 amount of the aggregate capital value of the property of the estate in the

1 control of the conservator plus one year's estimated income minus the value  
2 of securities and money deposited under arrangements requiring an order of  
3 the court for their removal and the value of any real property that the  
4 conservator, by express limitation of power, lacks power to sell or convey  
5 without court authorization.

6 (2)(a) The court may waive a bond for good cause shown.

7 (b) Subsection (1) of this section does not affect the provisions of ORS  
8 709.240, relating to a trust company acting as fiduciary, ORS 125.715, relating  
9 to a county public guardian and conservator acting as fiduciary, ORS  
10 125.687, relating to the Oregon Public Guardian [*and Conservator*] or a dep-  
11 uty public guardian [*and conservator*] acting as fiduciary under ORS 125.675  
12 to 125.687, or ORS 406.050 (10), relating to the Department of Veterans' Af-  
13 fairs acting as fiduciary.

14 (3) Sureties for a bond required under this section are jointly and se-  
15 verally liable with the conservator and with each other.

16 (4) Letters of conservatorship may not be issued until the bond required  
17 by this section is approved by the court.

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

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

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

1 the final accounting of the conservator.

2  
3 **“OPERATIVE DATE**

4  
5 **“SECTION 58. Sections 1, 4 to 7, 12 to 15, 31 to 37, 40, 41 and 48 of**  
6 **this 2017 Act and the amendments to statutes by sections 2, 8 to 11,**  
7 **16 to 30, 38, 42 to 47 and 49 to 57 of this 2017 Act become operative on**  
8 **January 1, 2018.**

9 **“SECTION 59. The Long Term Care Ombudsman may take any**  
10 **actions before the operative date specified in section 58 of this 2017**  
11 **Act that are necessary to carry out sections 31 to 37, 40, 41 and 48 of**  
12 **this 2017 Act and the amendments to statutes by sections 17 to 30 and**  
13 **38 of this 2017 Act on and after the operative date specified in section**  
14 **58 of this 2017 Act.**

15  
16 **“CAPTIONS**

17  
18 **“SECTION 60. The unit captions used in this 2017 Act are provided**  
19 **only for the convenience of the reader and do not become part of the**  
20 **statutory law of this state or express any legislative intent in the**  
21 **enactment of this 2017 Act.**

22  
23 **“EMERGENCY CLAUSE**

24  
25 **“SECTION 61. This 2017 Act being necessary for the immediate**  
26 **preservation of the public peace, health and safety, an emergency is**  
27 **declared to exist, and this 2017 Act takes effect on its passage.”.**