

HB 2630-5
(LC 1821)
4/7/17 (BLS/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2630**

1 On page 1 of the printed bill, line 2, after the first semicolon insert
2 “creating new provisions; and” and delete “125.315” and insert “125.320”.

3 On page 2, line 3, after the comma insert “less restrictive”.

4 After line 13, insert:

5 “(k) A statement that indicates whether the petitioner is petitioning for
6 plenary authority or specified limited authority for the person nominated as
7 fiduciary.”.

8 On page 4, line 24, delete “or” and insert “and”.

9 On page 5, line 30, after “the guardian” insert “changes the abode of the
10 adult protected person or”.

11 On page 6, delete lines 2 through 42 and insert:

12 **“SECTION 5.** ORS 125.320 is amended to read:

13 “125.320. (1) A guardian may not authorize the sterilization of the pro-
14 tected person.

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

19 “(3)(a) Before a guardian may **change the abode of an adult protected**
20 **person or** place an adult protected person in a mental health treatment fa-
21 cility, a nursing home or other residential facility, the guardian must file

1 **with the court and serve** a statement *[with the court informing the court]*
2 **declaring** that the guardian intends to make the **change of abode or**
3 **placement in the manner set forth in paragraph (b) of this subsection.**

4 “(b)(A) *[Notice of]* The statement *[of intent]* must be *[given]* **filed and**
5 **served** in the manner provided *[by]* **for serving a motion under** ORS
6 125.065 to the persons specified in ORS 125.060 (3)[.] **and (8) at least 30 days**
7 **prior to each change or placement of the protected person.**

8 **(B) When the guardian determines that the change or placement**
9 **must occur in less than 30 days to protect the immediate health, wel-**
10 **fare or safety of the protected person or others, the statement shall**
11 **declare that the change or placement must occur in less than 30 days**
12 **to protect the immediate health, welfare or safety of the protected**
13 **person or others. The statement must be filed and served with as**
14 **much advance notice as possible, in no event later than two judicial**
15 **days after the change or placement occurs. The guardian may make**
16 **the change of abode or placement prior to a hearing on any objection.**

17 “*[(c) In addition to the requirements of paragraph (b) of this subsection,*
18 *notice of the statement of intent must be given in the manner provided by ORS*
19 *125.065 by the guardian to the following persons:]*

20 “*[(A) Any attorney who represented the protected person at any time during*
21 *the protective proceeding.]*

22 “*[(B) If the protected person is a resident of a nursing home or residential*
23 *facility, or if the notice states the intention to place the protected person in a*
24 *nursing home or residential facility, the office of the Long Term Care Om-*
25 *budsman.]*

26 “*[(C) If the protected person is a resident of a mental health treatment fa-*
27 *ility or a residential facility for individuals with developmental disabilities,*
28 *or if the notice states the intention to place the protected person in such a fa-*
29 *ility, the system described in ORS 192.517 (1).]*

30 “*[(d)] (c)* In addition to the requirements of ORS 125.070 (1), the notice

1 given to the protected person must clearly indicate the manner in which the
2 protected person may object to the proposed placement.

3 **“(d) The court shall schedule a hearing on any objection to a**
4 **statement filed under this subsection made in the manner provided by**
5 **ORS 125.075 for presenting objections to a petition or motion in a**
6 **protective proceeding. If no objection is made, the guardian may**
7 **change the abode of the adult protected person or place the adult**
8 **protected person in a mental health treatment facility, a nursing home**
9 **or other residential facility without further court order.**

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

15 *“[(f)] (e) The requirement that notice be served on an attorney for a*
16 *protected person under [paragraph (c)(A) of this subsection] ORS 125.060 (8)*
17 *does not impose any responsibility on the attorney receiving the notice to*
18 *represent the protected person in the protective proceeding.”.*

19 On page 8, line 4, delete “incapable” and insert “incapacitated”.

20 On page 9, after line 4, insert:

21 **“SECTION 7. The amendments to ORS 125.055, 125.060, 125.075,**
22 **125.225, 125.320 and 125.325 by sections 1 to 6 of this 2017 Act apply to**
23 **protective proceedings occurring on or after the effective date of this**
24 **2017 Act.”.**

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