

Requested by Representative STARK

**PROPOSED AMENDMENTS TO
HOUSE BILL 2170**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and lines 3 through 5 and insert “21.007, 125.060, 125.075, 125.242, 125.320,
3 125.410, 125.675, 125.678, 125.680, 125.683, 125.685, 125.687, 410.550, 418.201,
4 418.648, 418.848, 419B.005, 441.402, 441.403, 441.406, 441.407, 441.408, 441.409,
5 441.411, 441.412, 441.413, 441.414, 441.416, 441.417, 441.418, 441.419, 443.455,
6 443.738, 443.767, 443.825 and 476.030; and declaring an emergency.”.

7 After line 5, insert:

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

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

13

14

“OFFICE OF OREGON OMBUDSMEN

15

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

18 **“(a) Office of the Long Term Care Ombudsman;**

19 **“(b) Office of the Residential Facilities Ombudsman;**

20 **“(c) Office of the Oregon Public Guardian;**

21 **“(d) Office of the Foster Parent Ombudsman; and**

1 “(e) Office of the Foster Child Ombudsman.

2 “(2) The Governor shall appoint an administrator of the Office of
3 Oregon Ombudsmen who:

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

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

7 “(c) Shall, at least annually, provide a report to the Legislative
8 Assembly, in the manner provided in ORS 192.245, on the activities of
9 the offices listed in subsection (1)(a) to (e) of this section.

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

11 “441.419. The [*Long Term Care Ombudsman*] **Office of Oregon**
12 **Ombudsmen** Account is established in the State Treasury, separate and
13 distinct from the General Fund. [*All miscellaneous receipts, gifts and federal*
14 *and other grants received by the Long Term Care Ombudsman shall be de-*
15 *posited into the Long Term Care Ombudsman Account and are continuously*
16 *appropriated to the Long Term Care Ombudsman for carrying out the respon-*
17 *sibilities of the Long Term Care Ombudsman and the Oregon Public Guardian*
18 *and Conservator.*] **The Office of the Long Term Care Ombudsman, the**
19 **Office of the Residential Facilities Ombudsman, the Office of the Fos-**
20 **ter Child Ombudsman and the Office of the Foster Parent Ombudsman**
21 **shall each have a dedicated subaccount in the Office of Oregon**
22 **Ombudsmen Account. All miscellaneous receipts, gifts and federal and**
23 **other grants received by the Office of the Long Term Care Ombuds-**
24 **man, the Office of the Residential Facilities Ombudsman, the Office**
25 **of the Foster Child Ombudsman and the Office of the Foster Parent**
26 **Ombudsman shall be deposited in the appropriate subaccount. The**
27 **moneys in each subaccount are continuously appropriated to the Of-**
28 **fice of the Long Term Care Ombudsman, the Office of the Residential**
29 **Facilities Ombudsman, the Office of the Foster Child Ombudsman and**
30 **the Office of the Foster Parent Ombudsman, as appropriate.**

1 **“SECTION 3. The Department of Human Services shall transfer**
2 **funds to be deposited in the subaccount of the Office of Oregon**
3 **Ombudsmen Account dedicated to the Office of the Foster Child Om-**
4 **budsman as necessary to support the Office of the Foster Child Om-**
5 **budsman.**

6
7 **“FOSTER CHILD OMBUDSMAN**

8
9 **“SECTION 4. Sections 5 to 8 and 10 to 13 of this 2017 Act are added**
10 **to and made a part of ORS chapter 418.**

11 **“SECTION 5. (1) As used in this section:**

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

13 **“(b) ‘Foster parent’ has means an individual who has a certificate**
14 **to operate a foster home issued under ORS 418.635 and who is provid-**
15 **ing care to a foster child in the individual’s home.**

16 **“(2) The Office of the Foster Child Ombudsman is established. The**
17 **Governor shall appoint the Foster Child Ombudsman for a four-year**
18 **term in consultation with the Foster Child Ombudsman Advisory**
19 **Committee. The Governor shall fill a vacancy within 60 days.**

20 **“(3) The Foster Child Ombudsman shall:**

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

24 **“(b) Investigate a complaint made by or on behalf of a foster child**
25 **if the allegations contained in the complaint may adversely affect the**
26 **health, safety, welfare or rights of the foster child;**

27 **“(c) Collaborate with the Department of Human Services, foster**
28 **parents, attorneys, foster child advocates and supporters, court ap-**
29 **pointed special advocates and local citizen review boards to obtain**
30 **timely responses to inquiries and requests and to resolve issues;**

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

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

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

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

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

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

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

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

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

30 “(4) The Foster Child Ombudsman or a designee shall report to a

1 foster child and to an individual that makes a complaint on behalf of
2 the foster child the findings of the ombudsman or designee in the in-
3 vestigation of the complaint and may make recommendations. If ap-
4 propriate, the ombudsman or designee shall attempt to resolve the
5 complaint using informal mediation or conflict resolution techniques.
6 Complaints of conditions threatening the safety or well-being of a
7 foster child must be reported to the department or law enforcement
8 officials.

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

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

23 “(7) The Foster Child Ombudsman and each designee shall have
24 access to records of any public agency, to the extent permitted by
25 state and federal law, that are necessary to carry out the duties of the
26 ombudsman. The provisions of ORS 192.553 to 192.581 are not intended
27 to limit the access of the ombudsman to a foster child’s records, in-
28 cluding medical records as authorized by the foster child or individual
29 legally authorized to act on behalf of the foster child, if needed to in-
30 vestigate a complaint.

1 **“(8) The Foster Child Ombudsman and the department shall enter**
2 **into a confidentiality agreement permitting the ombudsman and each**
3 **designee to have access to electronic records of the department that**
4 **are necessary to carry out the duties of the ombudsman, if permitted**
5 **by state and federal law. The agreement must ensure that records**
6 **obtained by the ombudsman from the department that are confiden-**
7 **tial, privileged or otherwise protected from disclosure are not further**
8 **disclosed, except as permitted by state and federal law.**

9 **“(9) A foster child or individual legally authorized to act on behalf**
10 **of the foster child shall have the right to participate in planning any**
11 **course of action to be taken on behalf of the foster child by the Foster**
12 **Child Ombudsman or the designee.**

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

16 **“SECTION 6. (1) The Foster Child Ombudsman may appoint**
17 **designees to serve as representatives of the ombudsman in local com-**
18 **munities. The ombudsman shall regularly monitor the functions of**
19 **designees.**

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

23 **“(a) The Department of Human Services.**

24 **“(b) Elected officials.**

25 **“(c) The Oregon Health Authority.**

26 **“(d) Foster youth or former foster children.**

27 **“(e) Court appointed special advocates.**

28 **“(f) Local citizen review boards.**

29 **“(3) To be appointed as a designee, a person must complete an ini-**
30 **tial training and attend quarterly training sessions that are approved**

1 by the Office of the Foster Child Ombudsman.

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

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

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

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

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

20 “(2) The identity of any foster child or individual providing infor-
21 mation on behalf of the foster child shall be confidential. If the com-
22 plaint becomes the subject of judicial proceedings, the investigative
23 information held by the Foster Child Ombudsman or designee shall be
24 disclosed for the purpose of the proceedings if requested by the court.

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

29 **“SECTION 8.** (1) The Foster Child Ombudsman Advisory Committee
30 is established consisting of five members appointed by the Governor

1 and confirmed by the Senate under ORS 171.562 and 171.565.

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

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

9 “(a) Be residents of this state;

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

12 “(c) Have knowledge and interest in the problems of foster children;
13 and

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

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

20 “(5) A majority of the members of the committee constitutes a
21 quorum for the transaction of business. Decisions may be made by a
22 majority of the quorum.

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

28 “(7) Members of the committee are not entitled to compensation
29 or reimbursement for expenses and serve as volunteers.

30 “SECTION 9. ORS 418.201 is amended to read:

1 “418.201. It is the intent of the Legislative Assembly that each foster child
2 have certain essential rights, including but not limited to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 “(8) **To be informed about the Office of the Foster Child Ombuds-**
27 **man and have access to the services described in section 5 of this 2017**
28 **Act.**

29

30

“FOSTER PARENT OMBUDSMAN

1 **SECTION 10. (1) As used in this section:**

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

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

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

10 **“(B) Respite care;**

11 **“(C) Training; and**

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

13 **“(2) The Office of the Foster Parent Ombudsman is established. The**
14 **Governor shall appoint the Foster Parent Ombudsman for a four-year**
15 **term in consultation with the Foster Parent Ombudsman Advisory**
16 **Committee. The Governor shall fill a vacancy within 60 days.**

17 **“(3) The Foster Parent Ombudsman shall:**

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

21 **“(b) Investigate a complaint made by or on behalf of a foster parent**
22 **if the allegations contained in the complaint may adversely affect the**
23 **health, safety, welfare or rights of the foster parent;**

24 **“(c) Collaborate with the Department of Human Services, service**
25 **providers, attorneys, foster parent advocates and supporters and local**
26 **citizen review boards to obtain timely responses to inquiries and re-**
27 **quests and to resolve issues;**

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

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

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

6 **“(B) Engaging the participation of foster parents and individuals**
7 **legally authorized to act on behalf of foster parents in general studies,**
8 **conferences, inquiries or meetings related to foster care in this state;**

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

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

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

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

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

26 **“(4) The Foster Parent Ombudsman or a designee shall report to a**
27 **foster parent and to an individual that makes a complaint on behalf**
28 **of the foster parent the findings of the ombudsman or designee in the**
29 **investigation of the complaint and may make recommendations. If**
30 **appropriate, the ombudsman or designee shall attempt to resolve the**

1 **complaint using informal mediation or conflict resolution techniques.**

2 **“(5)(a) A foster parent, or individual acting on behalf of a foster**
3 **parent, who makes a complaint to the Foster Parent Ombudsman in**
4 **good faith under this section, or who participates in an investigation**
5 **of a complaint, may not be subjected to a penalty, sanction or re-**
6 **striction in connection with the foster parent’s certification to operate**
7 **a foster home, or be denied any right, privilege or benefit, on account**
8 **of making the complaint or participating in the investigation of the**
9 **complaint.**

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

14 **“(6) In order to encourage foster parents and individuals acting on**
15 **behalf of foster parents to communicate with the Foster Parent Om-**
16 **budsman, any foster parent or individual acting on behalf of a foster**
17 **parent 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 on account of making the complaint**
21 **or participating in the investigation of the complaint.**

22 **“(7) The Foster Parent Ombudsman and each designee shall have**
23 **access to records of any public agency, to the extent permitted by**
24 **state and federal law that are necessary to carry out the duties of the**
25 **ombudsman. The provisions of ORS 192.553 to 192.581 are not intended**
26 **to limit the access of the ombudsman to the records of a foster parent**
27 **or foster child, including medical records of the foster child as au-**
28 **thorized by the foster child or individual legally authorized to act on**
29 **behalf of the foster child, if needed to investigate a complaint.**

30 **“(8) The Foster Parent Ombudsman and the department shall enter**

1 into a confidentiality agreement permitting the ombudsman and each
2 designee to have access to electronic records that are necessary to
3 carry out the duties of the ombudsman, if permitted by state and
4 federal law. The agreement must ensure that records obtained by the
5 ombudsman from the department that are confidential, privileged or
6 otherwise protected from disclosure are not further disclosed, except
7 as permitted by state and federal law.

8 “(9) A foster parent or individual legally authorized to act on behalf
9 of the foster parent shall have the right to participate in planning any
10 course of action to be taken on behalf of the foster parent by the
11 Foster Parent Ombudsman or the designee.

12 “(10) All state agencies shall cooperate with and assist the Foster
13 Parent Ombudsman in the performance of the ombudsman’s duties
14 and functions.

15 **“SECTION 11. (1) The Foster Parent Ombudsman may appoint**
16 **designees to serve as representatives of the ombudsman in local com-**
17 **munities. The ombudsman shall regularly monitor the functions of**
18 **designees.**

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

22 “(a) The Department of Human Services.

23 “(b) Elected officials.

24 “(c) The Oregon Health Authority.

25 “(d) Foster care providers.

26 “(e) Court appointed special advocates.

27 “(f) Local citizen review boards.

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

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

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

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

10 “SECTION 12. The Foster Parent Ombudsman shall establish pro-
11 cedures to maintain the confidentiality of the records and files of fos-
12 ter parents. The procedures must meet the following requirements:

13 “(1) The Foster Parent Ombudsman or designee may not disclose,
14 except to law enforcement and state agencies, the identity of any fos-
15 ter parent, or individual acting on behalf of a foster parent, without
16 written consent signed by the foster parent, the legal representative
17 of the foster parent or an individual legally authorized to act on behalf
18 of the foster parent. The written consent must specify to whom the
19 disclosure may be made.

20 “(2) The identity of any foster parent or individual providing infor-
21 mation on behalf of the foster parent shall be confidential. If the
22 complaint becomes the subject of judicial proceedings, the investi-
23 gative information held by the Foster Parent Ombudsman or designee
24 shall be disclosed for the purpose of the proceedings if requested by
25 the court.

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

30 “SECTION 13. (1) The Foster Parent Ombudsman Advisory Com-

1 mittee is established consisting of five members appointed by the
2 Governor and confirmed by the Senate under ORS 171.562 and 171.565.

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

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

10 “(a) Be residents of this state;

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

13 “(c) Have knowledge and interest in the problems of foster parents;
14 and

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

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

21 “(5) A majority of the members of the committee constitutes a
22 quorum for the transaction of business. Decisions may be made by a
23 majority of the quorum.

24 “(6) The committee shall meet at least once each month at a place,
25 day and hour determined by the committee. The committee also shall
26 meet at other times and places specified by the call of the chairperson
27 or of a majority of the members of the committee. The committee
28 shall confer each month with the Foster Parent Ombudsman.

29 “(7) Members of the committee are not entitled to compensation
30 or reimbursement for expenses and serve as volunteers.

1 **“SECTION 14.** ORS 418.648 is amended to read:

2 “418.648. A foster parent has the right to:

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

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

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

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

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

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

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

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

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

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

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

6 “(12) **Have a hotline telephone number that is available to the foster
7 parent at all times for the purpose of enabling the foster parent to
8 make complaints and assert grievances regarding the foster parent’s
9 duties.**

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

14 “(14) **Be informed about the Office of the Foster Parent Ombudsman
15 and have access to the services described in section 10 of this 2017 Act.**

16

17 **MANDATORY REPORTING**

18

19 “**SECTION 15.** ORS 419B.005, as amended by section 39, chapter 106,
20 Oregon Laws 2016, is amended to read:

21 “419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
22 quires otherwise:

23 “(1)(a) ‘Abuse’ means:

24 “(A) Any assault, as defined in ORS chapter 163, of a child and any
25 physical injury to a child which has been caused by other than accidental
26 means, including any injury which appears to be at variance with the ex-
27 planation given of the injury.

28 “(B) Any mental injury to a child, which shall include only observable
29 and substantial impairment of the child’s mental or psychological ability to
30 function caused by cruelty to the child, with due regard to the culture of the

1 child.

2 “(C) Rape of a child, which includes but is not limited to rape, sodomy,
3 unlawful sexual penetration and incest, as those acts are described in ORS
4 chapter 163.

5 “(D) Sexual abuse, as described in ORS chapter 163.

6 “(E) Sexual exploitation, including but not limited to:

7 “(i) Contributing to the sexual delinquency of a minor, as defined in ORS
8 chapter 163, and any other conduct which allows, employs, authorizes, per-
9 mits, induces or encourages a child to engage in the performing for people
10 to observe or the photographing, filming, tape recording or other exhibition
11 which, in whole or in part, depicts sexual conduct or contact, as defined in
12 ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
13 a child or rape of a child, but not including any conduct which is part of
14 any investigation conducted pursuant to ORS 419B.020 or which is designed
15 to serve educational or other legitimate purposes; and

16 “(ii) Allowing, permitting, encouraging or hiring a child to engage in
17 prostitution as described in ORS 167.007 or a commercial sex act as defined
18 in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
19 or to engage in commercial sexual solicitation as described in ORS 167.008.

20 “(F) Negligent treatment or maltreatment of a child, including but not
21 limited to the failure to provide adequate food, clothing, shelter or medical
22 care that is likely to endanger the health or welfare of the child.

23 “(G) Threatened harm to a child, which means subjecting a child to a
24 substantial risk of harm to the child’s health or welfare.

25 “(H) Buying or selling a person under 18 years of age as described in ORS
26 163.537.

27 “(I) Permitting a person under 18 years of age to enter or remain in or
28 upon premises where methamphetamines are being manufactured.

29 “(J) Unlawful exposure to a controlled substance, as defined in ORS
30 475.005, that subjects a child to a substantial risk of harm to the child’s

1 health or safety.

2 “(b) ‘Abuse’ does not include reasonable discipline unless the discipline
3 results in one of the conditions described in paragraph (a) of this subsection.

4 “(2) ‘Child’ means an unmarried person who:

5 “(a) Is under 18 years of age; or

6 “(b) Is under 21 years of age and residing in or receiving care or services
7 at a child-caring agency as that term is defined in ORS 418.205.

8 “(3) ‘Higher education institution’ means:

9 “(a) A community college as defined in ORS 341.005;

10 “(b) A public university listed in ORS 352.002;

11 “(c) The Oregon Health and Science University; and

12 “(d) A private institution of higher education located in Oregon.

13 “(4) ‘Law enforcement agency’ means:

14 “(a) A city or municipal police department.

15 “(b) A county sheriff’s office.

16 “(c) The Oregon State Police.

17 “(d) A police department established by a university under ORS 352.121
18 or 353.125.

19 “(e) A county juvenile department.

20 “(5) ‘Public or private official’ means:

21 “(a) Physician or physician assistant licensed under ORS chapter 677 or
22 naturopathic physician, including any intern or resident.

23 “(b) Dentist.

24 “(c) School employee, including an employee of a higher education insti-
25 tution.

26 “(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
27 aide, home health aide or employee of an in-home health service.

28 “(e) Employee of the Department of Human Services, Oregon Health Au-
29 thority, Early Learning Division, Youth Development Division, Office of
30 Child Care, the Oregon Youth Authority, a local health department, a com-

1 munity mental health program, a community developmental disabilities pro-
2 gram, a county juvenile department, a child-caring agency as that term is
3 defined in ORS 418.205 or an alcohol and drug treatment program.

4 “(f) Peace officer.

5 “(g) Psychologist.

6 “(h) Member of the clergy.

7 “(i) Regulated social worker.

8 “(j) Optometrist.

9 “(k) Chiropractor.

10 “(L) Certified provider of foster care, or an employee thereof.

11 “(m) Attorney.

12 “(n) Licensed professional counselor.

13 “(o) Licensed marriage and family therapist.

14 “(p) Firefighter or emergency medical services provider.

15 “(q) A court appointed special advocate, as defined in ORS 419A.004.

16 “(r) A child care provider registered or certified under ORS 329A.030 and
17 329A.250 to 329A.450.

18 “(s) Member of the Legislative Assembly.

19 “(t) Physical, speech or occupational therapist.

20 “(u) Audiologist.

21 “(v) Speech-language pathologist.

22 “(w) Employee of the Teacher Standards and Practices Commission di-
23 rectly involved in investigations or discipline by the commission.

24 “(x) Pharmacist.

25 “(y) An operator of a preschool recorded program under ORS 329A.255.

26 “(z) An operator of a school-age recorded program under ORS 329A.257.

27 “(aa) Employee of a private agency or organization facilitating the pro-
28 vision of respite services, as defined in ORS 418.205, for parents pursuant to
29 a properly executed power of attorney under ORS 109.056.

30 “(bb) Employee of a public or private organization providing child-related

1 services or activities:

2 “(A) Including but not limited to youth groups or centers, scout groups
3 or camps, summer or day camps, survival camps or groups, centers or camps
4 that are operated under the guidance, supervision or auspices of religious,
5 public or private educational systems or community service organizations;
6 and

7 “(B) Excluding community-based, nonprofit organizations whose primary
8 purpose is to provide confidential, direct services to victims of domestic vi-
9 olence, sexual assault, stalking or human trafficking.

10 “(cc) A coach, assistant coach or trainer of an amateur, semiprofessional
11 or professional athlete, if compensated and if the athlete is a child.

12 “(dd) Personal support worker, as defined by rule adopted by the Home
13 Care Commission.

14 “(ee) Home care worker, as defined in ORS 410.600.

15 “(ff) **The Foster Child Ombudsman or a designee appointed under**
16 **section 5 or 6 of this 2017 Act.**

17 “(gg) **The Foster Parent Ombudsman or a designee appointed under**
18 **section 10 or 11 of this 2017 Act.**

19

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

21

22 **“SECTION 16.** ORS 441.402 is amended to read:

23 “441.402. As used in ORS 441.402 to 441.419:

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

28 “[1] (2) ‘Designee’ means an individual appointed by the Long Term Care
29 Ombudsman to serve as a representative in order to carry out the purpose
30 of ORS 441.402 to 441.419.

1 “[(2) ‘Residential facility’ includes a:]
2 “[(a) Long term care facility;]
3 “[(b) Residential facility as defined in ORS 443.400, excluding a:]
4 “[(A) Facility housing persons committed under ORS 161.327; and]
5 “[(B) Facility licensed by the Oregon Health Authority to provide alcohol
6 and drug treatment;]
7 “[(c) Licensed adult foster home as defined in ORS 443.705;]
8 “[(d) Developmental disability child foster home, as defined in ORS 443.830,
9 that is certified by the Department of Human Services; and]
10 “[(e) Continuing care retirement community as defined in ORS 101.020.]

11 **“(3) ‘Long term care facility’ means:**

12 **“(a) A licensed skilled nursing facility;**

13 **“(b) An intermediate care facility as defined in rules adopted under
14 ORS 442.015;**

15 **“(c) An adult foster home with residents over 60 years of age;**

16 **“(d) A residential care facility as defined in ORS 443.400; and**

17 **“(e) A continuing care retirement community as defined in ORS
18 101.020.**

19 **“SECTION 17.** ORS 441.403 is amended to read:

20 “441.403. (1) The Office of the Long Term Care Ombudsman is established.
21 The Long Term Care Ombudsman shall function separately and independ-
22 ently from any other state agency. The Governor shall appoint the Long
23 Term Care Ombudsman for a four-year term from a list of three nominees
24 nominated by the [*Residential Facilities*] **Long Term Care Ombudsman**
25 Advisory Committee established under ORS 441.416. The appointment of the
26 Long Term Care Ombudsman is subject to Senate confirmation under ORS
27 171.562 and 171.565. A vacancy shall be filled within 60 days in the same
28 manner as an appointment is made.

29 “(2) The Long Term Care Ombudsman may be removed for just cause,
30 upon recommendation to the Governor by the [*Residential Facilities*] **Long**

1 **Term Care Ombudsman** Advisory Committee.

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

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

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

7 “(c) Working with community programs;

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

10 “(e) Working with health care providers;

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

12 “(g) Administrative and managerial experience.

13 **“SECTION 18.** ORS 441.406 is amended to read:

14 “441.406. *[(1)]* The Office of the Long Term Care Ombudsman shall carry
15 out the following duties:

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

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

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

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

29 “[*e*] **(5)** Work closely with cooperative associations and citizen groups
30 in this state and the state protection and advocacy system under ORS

1 192.517.

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

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

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

13 “[*B*] *Contract with qualified individuals and entities to provide programs,*
14 *services and assistance to persons receiving public guardian and conservator*
15 *services under ORS 125.675 to 125.687 who are located in areas of this state*
16 *where such programs, services and other assistance are inadequate or nonex-*
17 *istent; and]*

18 “[*C*] (8) Contract with the state protection and advocacy system de-
19 scribed in ORS 192.517 (1) to provide services and assistance to persons who
20 are prospective or current residents of a mental health treatment facility
21 [*or of a residential facility for individuals with developmental disabilities*]
22 when the system has received a notice regarding the person pursuant to ORS
23 125.060 (7)(c) or (8)(c).

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

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

27 “[*k*] (11) Adopt rules necessary for carrying out ORS 441.402 to
28 [*441.414*] **441.419**, after consultation with the [*Residential Facilities*] **Long**
29 **Term Care Ombudsman** Advisory Committee.

30 “(12) **Collect and compile data necessary to prepare the report sub-**

1 **mitted to the Governor under ORS 182.500.**

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

4 “[*m*] *Prepare necessary reports with the assistance of the authority and the*
5 *department.*”]

6 “[*n*] *Supervise, monitor, advise and support the Oregon Public Guardian*
7 *and Conservator appointed under ORS 125.678.*”]

8 “[*2*] (14) At least quarterly, [*the Oregon Health Authority and*] the De-
9 partment of Human Services shall provide the Long Term Care Ombudsman
10 with a list of the number of licensed or certified beds in each residential
11 facility for which the ombudsman has responsibilities under this section.

12 “[*3*] *As used in this section, ‘administrative action’ means any action or*
13 *decision made by an owner, employee or agent of a residential facility or by*
14 *a public agency that affects the services to residents of the facility.*”]

15 **“SECTION 19.** ORS 441.407 is amended to read:

16 “441.407. The Long Term Care Ombudsman shall establish procedures to
17 maintain the confidentiality of the records and files of residents of [*residen-*
18 *tial*] **long term care** facilities. These procedures must meet the following
19 requirements:

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

24 “(2) The identity of any complainant or resident on whose behalf a com-
25 plaint is made, or individual providing information on behalf of the
26 complainant or the resident, shall be confidential. If the complaint becomes
27 the subject of judicial proceedings, the investigative information held by the
28 ombudsman or designee shall be disclosed for the purpose of the proceedings
29 if requested by the court.

30 **“SECTION 20.** ORS 441.408 is amended to read:

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

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

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

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

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

11 “(e) Consulting regularly with the facility administration; and

12 “(f) Providing services authorized by law or by rule.

13 “(2) The Long Term Care Ombudsman shall have access to any resident’s
14 records, and to records of any public agency necessary to **carry out** the du-
15 ties of the ombudsman, including records on patient abuse complaints made
16 pursuant to ORS [430.735 to 430.765,] 441.630 to 441.680 and 441.995. The
17 provisions of ORS 192.553 to 192.581 are not intended to limit the access of
18 the Long Term Care Ombudsman to medical records of residents of [*residen-*
19 *tial*] **long term care** facilities. Designees may have access to individual
20 resident’s records, including medical records as authorized by the resident
21 or resident’s legal representative, if needed to investigate a complaint.

22 “(3) **The Long Term Care Ombudsman shall enter into**
23 **confidentiality agreements with the Department of Human Services**
24 **and with the Oregon Health Authority permitting the ombudsman and**
25 **each designee to have access to electronic records of the department**
26 **and the authority that are necessary to carry out the duties of the**
27 **ombudsman, if permitted by state and federal law. The agreement**
28 **must ensure that records obtained by the ombudsman from the de-**
29 **partment or the authority that are confidential, privileged or other-**
30 **wise protected from disclosure are not further disclosed, except as**

1 **permitted by state and federal law.**

2 “[3] (4) Entry and investigation authorized by this section shall be done
3 in a manner that does not disrupt significantly the providing of nursing,
4 residential or other personal care or treatment to residents.

5 “[4] (5) The **Long Term Care** Ombudsman or the designee must show
6 identification to the person in charge of the facility. The resident shall have
7 the right to refuse to communicate with the ombudsman or the designee. The
8 refusal shall be made directly to the ombudsman or the designee and not
9 through an intermediary.

10 “[5] (6) The resident shall have the right to participate in planning any
11 course of action to be taken on behalf of the resident by the **Long Term**
12 **Care** Ombudsman or the designee.

13 **“SECTION 21.** ORS 441.409 is amended to read:

14 “441.409. (1) Following an investigation, the Long Term Care Ombudsman
15 or the designee shall report opinions or recommendations to the party or
16 parties affected and, if appropriate, shall attempt to resolve the complaint
17 using informal techniques of mediation, conciliation and persuasion. Com-
18 plaints of conditions adversely affecting residents of [*residential*] **long term**
19 **care** facilities, or complaints of conditions threatening the safety or well-
20 being of residents that cannot be resolved in the manner described in this
21 section, shall be referred to an appropriate state agency.

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

25 **“SECTION 22.** ORS 441.411 is amended to read:

26 “441.411. (1) The Long Term Care Ombudsman shall prepare and distribute
27 to each [*residential*] **long term care** facility in this state a written notice
28 describing the procedures to follow in making a complaint, including the
29 address and telephone number of the ombudsman and local designee, if any,
30 and a poster describing the **Office of the** Long Term Care Ombudsman

1 [Program] and providing contact information.

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

7 **“SECTION 23.** ORS 441.412 is amended to read:

8 “441.412. (1) Any employee or agent of a [residential] **long term care** fa-
9 cility acting in good faith in discussing resident care pursuant to ORS
10 441.408 shall have immunity from any civil liability that might otherwise be
11 incurred or imposed with respect to the making of such report.

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

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

21 **“SECTION 24.** ORS 441.413 is amended to read:

22 “441.413. (1) The appointments of designees shall be made in consultation
23 with a local screening committee that may consist of but not be limited to
24 persons representing:

25 “(a) The area agency on aging.

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

27 “(c) The local health department.

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

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

30 “(f) Local elected officials.

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

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

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

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

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

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

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

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

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

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

1 “(c) Serve as an educational resource;

2 “(d) Receive, resolve or relay concerns to the Long Term Care Ombuds-

3 man or the appropriate agency; and

4 “(e) Ensure equitable resolution of problems.

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

6 “(a) Visit each assigned [*residential*] **long term care** facility on a regular

7 basis:

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

9 “(B) Review, with a specified staff member, any problems or concerns that

10 need to be considered.

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

12 “(b) Maintain liaison with appropriate agencies and the Long Term Care

13 Ombudsman.

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

15 “(d) Keep residents and staff informed of the **Office of the Long Term**

16 **Care Ombudsman** [*Program*].

17 “(e) Periodically review the patients’ bill of rights prescribed in ORS

18 441.605, 441.610 and 441.612 with residents, families, guardians, administra-

19 tors and staff of [*residential*] **long term care** facilities.

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

21 **“SECTION 25.** ORS 441.414 is amended to read:

22 “441.414. Nothing in ORS 441.402 to 441.419 shall affect the right of resi-

23 dents of a [*residential*] **long term care** facility to see visitors of their choice.

24 **“SECTION 26.** ORS 441.416 is amended to read:

25 “441.416. (1) There is established a [*Residential Facilities Advisory Com-*

26 *mittee of 11 members to be appointed in the following manner:*]

27 “[*(a) One person appointed by the Speaker of the House of*

28 *Representatives;*]

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

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

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

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

5 “[(f) Four persons appointed by the Governor, two of whom must have ex-
6 pertise in the provision of guardianship, conservatorship and other fiduciary
7 services for persons with inadequate resources.] **Long Term Care Ombuds-**
8 **man Advisory Committee consisting of five members appointed by the**
9 **Governor, two of whom must be selected by the Governor from a list**
10 **of four names submitted by organizations for seniors.**

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

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

19 “(4) The members of the committee must be residents of this state who
20 are broadly representative, to the extent possible, of persons [*residing in*
21 *residential facilities*] **over 60 years of age**, including members of racial and
22 ethnic minorities, who have knowledge and interest in the problems of **sen-**
23 **iors** [*persons residing in residential facilities,*] and who are representative
24 of all areas of this state [*and the demographics of groups served by the Long*
25 *Term Care Ombudsman*].

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

30 “(6) The committee shall select one of its members as chairperson and

1 another as vice chairperson, for such terms and with duties and powers
2 necessary for the performance of the functions of such offices as the com-
3 mittee determines.

4 “(7) A majority of the members of the committee constitutes a quorum for
5 the transaction of business. Decisions may be made by a majority of the
6 quorum.

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

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

16 “**SECTION 27.** ORS 441.417 is amended to read:

17 “441.417. The [*Residential Facilities*] **Long Term Care Ombudsman Ad-**
18 **visory Committee** shall:

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

20 “(2) Advise the Governor and the Legislative Assembly on the **Office of**
21 **the** Long Term Care Ombudsman [*Program*].

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

25 “**SECTION 28.** ORS 441.418 is amended to read:

26 “441.418. (1) A [*residential*] **long term care** facility that files a complaint
27 against a designee appointed under ORS 441.413 and objects to the action of
28 the Long Term Care Ombudsman in resolving the complaint may appeal the
29 ombudsman’s action to a panel of the [*Residential Facilities*] **Long Term**
30 **Care Ombudsman** Advisory Committee.

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

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

13 **“SECTION 29.** ORS 410.550 is amended to read:

14 “410.550. (1) The Medicaid Long Term Care Quality and Reimbursement
15 Advisory Council is created, to consist of [12] **13** members. Appointed mem-
16 bers shall be residents of [*the State of Oregon*] **this state** and representative
17 of the geographic locations of all long term care facilities and [*community-*
18 *based care*] **residential** facilities in this state. The members shall include:

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

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

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

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

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

29 “[*(e)*] (f) A representative of a senior or disabilities advocacy organization
30 or an individual who advocates on behalf of seniors or persons with disabil-

1 ities, to be appointed by the Governor;

2 “[*f*] (g) A nursing home administrator licensed under ORS 678.710 to
3 678.820 who has practiced continuously in Oregon in long term care for three
4 years immediately preceding appointment, to be appointed by the Speaker of
5 the House of Representatives;

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

10 **“(i) One resident of a residential facility, as defined in section 30**
11 **of this 2017 Act, or family member of a resident, to be appointed by**
12 **the Speaker of the House of Representatives;**

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

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

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

20 “[*k*] (m) An in-home care agency provider, to be appointed by the Pres-
21 ident of the Senate.

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

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

28 “(4) The council shall:

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

1 elected;

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

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

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

11

12 **“RESIDENTIAL FACILITIES OMBUDSMAN**

13

14 **“SECTION 30. As used sections 30 to 39 of this 2017 Act:**

15 **“(1) ‘Administrative action’ means an action, inaction or a decision,**
16 **by an owner, employee or agent of a residential facility or by a state,**
17 **local, social service or health agency, that affects the health, safety,**
18 **welfare or rights of residents of the facility.**

19 **“(2) ‘Designee’ means an individual appointed by the Residential**
20 **Facilities Ombudsman in accordance with section 39 of this 2017 Act.**

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

24 **“(4) ‘Long Term Care Ombudsman’ means the individual appointed**
25 **by the Governor under ORS 441.403.**

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

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

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

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

1 “(C) A residential treatment facility, as defined in ORS 443.400.

2 “(D) A residential treatment home, as defined in ORS 443.400.

3 “(E) A licensed adult foster home, as defined in ORS 443.705, that
4 provides care to persons with mental illness or developmental disabili-
5 ties.

6 “(F) A developmental disability child foster home, as defined in ORS
7 443.830.

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

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

10 “(B) Facility licensed by the Oregon Health Authority to provide
11 alcohol and drug treatment.

12 “SECTION 31. (1) The Office of the Residential Facilities Ombuds-
13 man is established in the Office of Oregon Ombudsmen. The Governor
14 shall appoint the Residential Facilities Ombudsman for a four-year
15 term from a list of three nominees nominated by the Residential Fa-
16 cilities Ombudsman Advisory Committee established under section 32
17 of this 2017 Act. A vacancy shall be filled within 60 days in the same
18 manner as an appointment is made.

19 “(2) The Residential Facilities Ombudsman may be removed for just
20 cause, upon recommendation to the Governor by the Residential Fa-
21 cilities Ombudsman Advisory Committee.

22 “(3) The Residential Facilities Ombudsman shall have background
23 and experience in the following areas:

24 “(a) The fields of mental health or intellectual or developmental
25 disabilities and behavioral health care;

26 “(b) Working with community programs;

27 “(c) Knowledge of and experience with residential facility regulatory
28 and policy issues;

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

30 “(e) Administrative and managerial experience.

- 1 **“(4) The Residential Facilities Ombudsman or a designee shall:**
- 2 **“(a) Provide residents, families of residents, guardians, community**
3 **members and administrators and staff of residential facilities with in-**
4 **formation regarding the rights of residents as set forth in ORS 427.107**
5 **and 430.210, and any other applicable rights of residents.**
- 6 **“(b) Widely publicize the services, purpose and mode of operation**
7 **of the Office of the Residential Facilities Ombudsman.**
- 8 **“(c) Identify, investigate and resolve complaints that are made by**
9 **or on behalf of a resident, in accordance with section 34 of this 2017**
10 **Act, concerning an administrative action.**
- 11 **“(d) Provide services to residents to assist them in protecting their**
12 **health, safety, welfare and rights.**
- 13 **“(e) Ensure that residents have regular, timely, private and unim-**
14 **peded access to Residential Facilities Ombudsman services and that a**
15 **resident, and an individual acting on behalf of a resident, who files a**
16 **complaint receives a timely response to the complaint from the om-**
17 **budsman or designee.**
- 18 **“(f) Represent the interests of residents before government agencies**
19 **and seek administrative, legal or other appropriate remedies to protect**
20 **the health, safety, welfare and rights of residents.**
- 21 **“(g) Analyze, comment on and monitor the development and im-**
22 **plementation of federal, state and local laws and other governmental**
23 **policies pertaining to the health, safety, welfare and rights of resi-**
24 **dents.**
- 25 **“(h) Recommend any changes to state or local laws to improve the**
26 **health, safety and welfare of residents.**
- 27 **“(i) Facilitate public comment on laws and policies that affect the**
28 **health, safety and welfare of residents.**
- 29 **“(j) Train designees.**
- 30 **“(k) Promote the development of organizations to advocate on be-**

1 **half of residents of residential facilities.**

2 **“(L) Work closely with cooperative associations and citizen groups**
3 **in this state and the state protection and advocacy system under ORS**
4 **192.517.**

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

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

10 **“(o) Undertake, participate in or cooperate with residents, other**
11 **persons and agencies in such conferences, inquiries, meetings or**
12 **studies as may lead to improvements in the functioning of residential**
13 **facilities.**

14 **“(p) Make recommendations for improvements in the functioning**
15 **of the residential facility system in this state.**

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

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

24 **“(s) Provide information to public agencies about the problems of**
25 **residents.**

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

28 **“(u) Adopt rules necessary for carrying out sections 30 to 39 of this**
29 **2017 Act, in accordance with ORS chapter 183, in consultation with**
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 each resident
10 in the residential facilities for which the ombudsman or designee has
11 responsibilities under this section.

12 “(7) All state agencies and service providers shall cooperate with
13 and assist the Residential Facilities Ombudsman and designees in the
14 performance of the ombudsman’s duties and functions.

15 “SECTION 32. (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 33. (1) The Residential Facilities Ombudsman and each**
26 **designee shall have:**

27 **“(a) Private and unimpeded access to residential facilities and resi-**
28 **dents at any time considered necessary and reasonable by the om-**
29 **budsman or the designee for the purpose of:**

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

1 of residents, including by subpoenaing any person to appear and give
2 sworn testimony or to produce documentary or other evidence that is
3 reasonably material to the matter under investigation;

4 “(B) Offering the services of the ombudsman or the designee to any
5 resident, in private;

6 “(C) Interviewing residents, with their consent, in private;

7 “(D) Interviewing employees or agents of the facility;

8 “(E) Consulting regularly with the facility administration; and

9 “(F) Providing other services authorized by law or by rule.

10 “(b) Notwithstanding ORS 192.553 to 192.581, access to all of the
11 following if necessary to investigate a complaint:

12 “(A) Residents’ records, including medical records, with the consent
13 of a resident or a resident’s representative.

14 “(B) For a resident who is unable to communicate consent and the
15 resident’s legal representative denies consent, access to the resident’s
16 records, including medical records, without consent if the ombudsman
17 has reasonable cause to believe that the legal representative is not
18 acting in the resident’s best interests.

19 “(C) Records of any public agency to the extent permitted by state
20 and federal law, including abuse reports maintained under ORS 430.757.

21 “(c) Access to, upon request, copies of all licensing and certification
22 records, including records of corrective actions, maintained by the
23 Department of Human Services or the Oregon Health Authority with
24 respect to residential facilities.

25 “(d) Access to the administrative records, policies and documents
26 of residential facilities to which residents or the general public has
27 access.

28 “(2) The Residential Facilities Ombudsman shall:

29 “(a) Conduct each investigation in a manner that does not signif-
30 icantly disrupt the provision of residential care or treatment to resi-

1 dents.

2 “(b) Show identification to the person in charge of a facility prior
3 to entering the facility.

4 “(3) The Residential Facilities Ombudsman shall enter into
5 confidentiality agreements with the department and with the author-
6 ity permitting the ombudsman and each designee to have access to
7 electronic records of the department and the authority that are nec-
8 essary to carry out the duties of the ombudsman. The agreement shall
9 ensure that records obtained by the ombudsman from the department
10 or the authority that are confidential, privileged or otherwise pro-
11 tected from disclosure are not further disclosed, except as permitted
12 by state and federal law.

13 **“SECTION 34. (1) If a complaint is made on behalf of a resident who
14 has limited or no decision-making capacity and is unable to commu-
15 nicate consent for the Residential Facilities Ombudsman to investigate
16 the complaint, and:**

17 **“(a) The resident has no known legal representative:**

18 **“(A) The ombudsman shall seek to discern the outcome that the
19 resident desires and shall work to accomplish that outcome; or**

20 **“(B) If the ombudsman is unable to discern the resident’s desired
21 outcome, it shall be assumed that the resident desires to have the
22 resident’s health, safety, welfare and rights protected; or**

23 **“(b) The resident has a legal representative who refuses to consent
24 to the investigation, the ombudsman may proceed without consent if
25 the ombudsman has reasonable cause to believe that it is in the
26 resident’s best interests.**

27 **“(2) A resident shall have the right to refuse to communicate with
28 the ombudsman or the designee. The refusal shall be made directly to
29 the ombudsman or the designee and not through an intermediary.**

30 **“(3) Following an investigation of a complaint, the Residential Fa-**

1 cilities Ombudsman or the designee shall report the findings and con-
2 clusions to the resident who made the complaint and to a complainant
3 acting on behalf of a resident. If the ombudsman or designee finds
4 conditions threatening the health, safety or welfare of a resident that
5 cannot be resolved informally, the ombudsman or designee shall refer
6 the findings to the Department of Human Services, the Oregon Health
7 Authority or law enforcement officials.

8 “(4) A resident shall have the right to participate in planning any
9 course of action to be taken on behalf of the resident by the ombuds-
10 man or the designee.

11 “(5) A resident or an individual who makes a complaint to the
12 Residential Facilities Ombudsman in good faith under this section, or
13 who participates in an investigation of a complaint, may not be sub-
14 jected to a penalty, sanction or restriction or be denied any right,
15 privilege or benefit, on account of making the complaint or partic-
16 ipating in the investigation of the complaint.

17 “(6) The Department of Human Services shall prohibit retaliation
18 or reprisals by a residential facility or other entity with respect to any
19 resident, employee or other person who files a complaint, provides in-
20 formation or otherwise cooperates with the Residential Facilities Om-
21 budsman or a designee and shall provide by rule for appropriate
22 sanctions with respect to the retaliation and reprisals.

23 “(7) In order to encourage residents and individuals acting on behalf
24 of residents to communicate with the Residential Facilities Ombuds-
25 man, any resident or individual acting on behalf of a resident who
26 makes a complaint to the ombudsman in good faith under this section,
27 or who participates in an investigation of a complaint, shall have im-
28 munity from any civil or criminal liability that might otherwise be
29 incurred or imposed on account of making the complaint or partic-
30 ipating in the investigation of the complaint.

1 **“SECTION 35. (1) The Residential Facilities Ombudsman shall pre-**
2 **pare and distribute to each residential facility in this state a written**
3 **notice describing the procedures to follow in making a complaint, in-**
4 **cluding the address and telephone number of the ombudsman and a**
5 **poster describing the Office of the Residential Facilities Ombudsman**
6 **and providing contact information. The Department of Human Ser-**
7 **vices shall facilitate the distribution of information regarding the of-**
8 **fice to residents, providers and the public.**

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

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

18 **“(1) The Residential Facilities Ombudsman or a designee may not**
19 **disclose, except to state agencies or law enforcement, the identity of**
20 **any resident or individual acting on behalf of a resident without the**
21 **consent of the resident or the legal representative of the resident.**

22 **“(2) The identity of any resident or individual providing information**
23 **on behalf of the resident shall be confidential. If a complaint becomes**
24 **the subject of judicial proceedings, the investigative information held**
25 **by the Residential Facilities Ombudsman or the designee shall be dis-**
26 **closed for the purpose of the proceedings if requested by the court.**

27 **“SECTION 37. The Residential Facilities Ombudsman appointed**
28 **under section 31 of this 2017 Act may solicit and accept, gifts, grants**
29 **and donations from public and private sources for the purpose of car-**
30 **rying out sections 30 to 39 of this 2017 Act and the moneys shall be**

1 deposited in the Office of Oregon Ombudsmen Account established
2 under ORS 441.419.

3 **“SECTION 38. The Residential Facilities Ombudsman shall establish**
4 **procedures to maintain the confidentiality of the records and files of**
5 **residents. The procedures must meet the following requirements:**

6 **“(1) The Residential Facilities Ombudsman or a designee may not**
7 **disclose, except to state agencies or law enforcement, the identity of**
8 **any resident or individual acting on behalf of a resident without the**
9 **consent of the resident, communicated in any manner the resident is**
10 **able to communicate, legal representative of the resident or the indi-**
11 **vidual legally authorized to act on behalf of the resident.**

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

18 **“SECTION 39. (1) The Residential Facilities Ombudsman may ap-**
19 **point designees to serve as representatives of the ombudsman in local**
20 **communities. The ombudsman shall regularly monitor the functions**
21 **of designees.**

22 **“(2) The Residential Facilities Ombudsman shall specify qualifica-**
23 **tions and duties of designees.**

24 **“(3) To be appointed as a designee, a person must complete an ini-**
25 **tial training and attend quarterly training sessions that are approved**
26 **by the Residential Facilities Ombudsman.**

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

29 **“SECTION 40. ORS 443.825 is amended to read:**

30 **“443.825. All penalties recovered under ORS 443.790 to 443.815 shall be**

1 deposited:

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

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

9

10 **“OFFICE OF THE OREGON PUBLIC GUARDIAN**

11

12 **“SECTION 41. Sections 42 to 47 of this 2017 Act are added to and**
13 **made a part of ORS 125.675 to 125.687.**

14 **“SECTION 42. The Office of the Oregon Public Guardian is estab-**
15 **lished to:**

16 **“(1) Provide guardianship and conservator services described in ORS**
17 **125.675 to 125.687 to persons in need of public guardian and conservator**
18 **services who are located in areas of this state where public guardian**
19 **and conservator programs, services and other assistance are inade-**
20 **quate or nonexistent; and**

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

23 **“SECTION 43. For the purpose of requesting a state or nationwide**
24 **criminal records check under ORS 181A.195, the Oregon Public**
25 **Guardian may require the fingerprints of an employee of the Office**
26 **of the Oregon Public Guardian, an applicant for employment with the**
27 **Office of the Oregon Public Guardian or a volunteer or party under**
28 **contract with the Office of the Oregon Public Guardian.**

29 **“SECTION 44. (1) There is established an Oregon Public Guardian**
30 **Advisory Committee consisting of five members appointed by the**

1 Governor, two of whom must have expertise in the provision of
2 guardianship, conservatorship and other fiduciary services for persons
3 with inadequate resources.

4 “(2) Members of the Oregon Public Guardian Advisory Committee
5 are subject to confirmation by the Senate under ORS 171.562 and
6 171.565.

7 “(3) The term of office of each member is four years. Before the
8 expiration of the term of a member, the Governor shall appoint a
9 successor whose term begins on July 1 next following. A member is
10 eligible for reappointment. If there is a vacancy for any cause, the
11 Governor shall make an appointment to become immediately effective
12 for the unexpired term.

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

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

20 “(6) The committee shall meet at least once each month at a place,
21 day and hour determined by the committee. The committee also shall
22 meet at other times and places specified by the call of the chairperson
23 or of a majority of the members of the committee. The committee
24 shall confer each month with the Oregon Public Guardian. All
25 meetings are subject to ORS 192.610 to 192.690.

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

29 **“SECTION 45. (1) The Oregon Public Guardian Fund is established**
30 **in the State Treasury, separate and distinct from the General Fund.**

1 Interest earned by the Oregon Public Guardian Fund shall be credited
2 to the fund. The fund consists of:

3 “(a) Moneys appropriated or otherwise transferred to the fund by
4 the Legislative Assembly;

5 “(b) Moneys received from federal, state or local sources;

6 “(c) Amounts donated to the fund;

7 “(d) Investment earnings received on moneys in the fund; and

8 “(e) Other amounts deposited in the fund from any source.

9 “(2) Moneys in the fund are continuously appropriated to the
10 Oregon Public Guardian for the purposes of ORS 125.675 to 125.687.

11 “(3) Moneys in the fund may be invested and reinvested as provided
12 in ORS 293.701 to 293.857.

13 “(4) Moneys in the fund may be used by the Oregon Public Guardian
14 for administrative costs and expenses of the Oregon Public Guardian
15 in performing the duties and functions under ORS 125.675 to 125.687.

16 **“SECTION 46. (1) The Oregon Public Guardian Protected Person**
17 **Trust Account is established in the State Treasury separate and dis-**
18 **tinct from the General Fund and the Oregon Public Guardian Fund.**
19 **Moneys in the Oregon Public Guardian Protected Person Trust Ac-**
20 **count consists of moneys received on behalf of persons for whom the**
21 **Oregon Public Guardian has been appointed as a guardian or**
22 **conservator. All moneys in the account are continuously appropriated**
23 **to the Oregon Public Guardian to be used for the benefit of a person**
24 **for whom the Oregon Public Guardian has been appointed as a**
25 **guardian or conservator and on whose behalf the Oregon Public**
26 **Guardian has received moneys.**

27 “(2) The Oregon Public Guardian shall administer the trust ac-
28 count:

29 “(a) For the benefit of persons for whom the Oregon Public Guard-
30 ian has been appointed a guardian or conservator and on whose behalf

1 **the Oregon Public Guardian has received moneys; and**

2 **“(b) In accordance with the provisions of this chapter or as ordered**
3 **by the court.**

4 **“(3) The Oregon Public Guardian may establish subaccounts within**
5 **the Oregon Public Guardian Protected Person Trust Account when the**
6 **Oregon Public Guardian determines that subaccounts are necessary**
7 **or desirable. Interest earned by the account or subaccounts, if any,**
8 **shall accrue to the benefit of the account or subaccounts.**

9 **“SECTION 47. The Oregon Public Guardian shall establish proce-**
10 **dures to maintain the confidentiality of the records and files related**
11 **to guardianship or conservator services.**

12 **“SECTION 48. ORS 125.675 is amended to read:**

13 **“125.675. For purposes of ORS 125.675 to 125.687:**

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

16 **“(2) ‘Deputy public guardian [*and conservator*]’ means a person who is**
17 **employed by or under contract with the Oregon Public Guardian [*and***
18 ***Conservator*], who is certified by the Oregon Public Guardian [*and***
19 ***Conservator*] and who provides services as a fiduciary [*appointed by the court***
20 ***to clients*] under ORS 125.675 to 125.687.**

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

26 **“SECTION 49. ORS 125.678 is amended to read:**

27 **“125.678. (1) The [*Long Term Care Ombudsman appointed under ORS***
28 ***441.403, in consultation with the Residential Facilities Advisory Committee,*]**
29 ****Governor** shall appoint the Oregon Public Guardian [*and Conservator in the***
30 ***office of the Long Term Care Ombudsman*] for a four-year term. The Oregon**

1 Public Guardian [*and Conservator*] serves at the pleasure of the [*Long Term*
2 *Care Ombudsman and may be removed by the Long Term Care Ombudsman*]
3 **Governor and may be removed** for good cause. If there is a vacancy for
4 any cause, the [*Long Term Care Ombudsman*] **Governor** shall make an ap-
5 pointment within 60 days. The Oregon Public Guardian [*and Conservator*]
6 shall receive a salary as fixed by the [*Long Term Care Ombudsman*] **Gover-**
7 **nor** and be reimbursed for all reasonable travel and other expenses incurred
8 in the performance of official duties.

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

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

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

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

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

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

27 “(4) [*The Long Term Care Ombudsman may hire or contract with staff to*
28 *serve in the office of the Long Term Care Ombudsman*] **The Oregon Public**
29 **Guardian may hire or contract with staff to serve in the Office of the**
30 **Oregon Public Guardian** as necessary to carry out the powers, duties and

1 functions of the [*Long Term Care Ombudsman in supervising, monitoring,*
2 *advising and supporting the Oregon Public Guardian and Conservator as re-*
3 *quired under ORS 441.406*] **Office of the Oregon Public Guardian.**

4 “(5)(a) The Oregon Public Guardian [*and Conservator*] may delegate the
5 exercise or discharge of any power, duty or function that is vested in or
6 imposed by law upon the Oregon Public Guardian [*and Conservator*] to a
7 deputy public guardian [*and conservator*], staff person or volunteer hired by
8 or under contract with the Oregon Public Guardian [*and Conservator*] as
9 appropriate for the purpose of conducting an official act in the name of the
10 Oregon Public Guardian [*and Conservator*]. The official act of any person
11 acting in the name of the Oregon Public Guardian [*and Conservator*] by the
12 authority of the Oregon Public Guardian [*and Conservator*] is an official act
13 of the Oregon Public Guardian [*and Conservator*].

14 “(b) **Notwithstanding paragraph (a) of this subsection, a court may**
15 **not appoint a deputy public guardian as a fiduciary in a proceeding**
16 **under ORS 125.675 to 125.687 but shall appoint the Oregon Public**
17 **Guardian as the fiduciary in the proceeding.**

18 “(6) The Oregon Public Guardian [*and Conservator*] may solicit and accept
19 gifts, grants and donations from public and private sources for the purpose
20 of carrying out the provisions of ORS 125.675 to 125.687, which moneys shall
21 be deposited in the [*Long Term Care Ombudsman Account*] **Oregon Public**
22 **Guardian Fund** established under [*ORS 441.419*] **section 45 of this 2017**
23 **Act.**

24 “**SECTION 50.** ORS 125.680 is amended to read:

25 “125.680. The Oregon Public Guardian [*and Conservator*] shall:

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

29 “(2) Provide public guardian and conservator services for persons who do
30 not have relatives or friends willing or able to assume the duties of

1 guardianship or conservatorship and who lack the financial resources to ob-
2 tain a private guardian or conservator.

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

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

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

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

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

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

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

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

23 **“SECTION 51.** ORS 125.683 is amended to read:

24 “125.683. (1) In providing public guardian and conservator services, the
25 Oregon Public Guardian [*and Conservator*] shall conduct a needs assessment
26 for a person who claims or is claimed not to have relatives or friends willing
27 or able to assume the duties of guardianship or conservatorship and who
28 claims or is claimed to lack the financial resources to obtain a private
29 guardian or conservator. The purpose of the needs assessment is to determine
30 the person’s eligibility to receive public guardian and conservator services

1 and to determine the appropriateness of filing a petition for the appointment
2 of a fiduciary or other pleading on behalf of the person in a court having
3 probate jurisdiction. The **needs** assessment shall, at a minimum:

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

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

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

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

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

12 “(c) Determine whether the [*available*] information **that is available**
13 about the person is sufficient to support a finding that the person is inca-
14 pacitated or financially incapable[,] and the entry of a court order for the
15 appointment of a fiduciary under ORS 125.010;

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

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

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

26 **“(2)(a) If the person is a resident of a nursing home as defined in**
27 **ORS 678.710 or a residential facility as defined in section 30 of this 2017**
28 **Act, the nursing home or residential facility shall provide the Oregon**
29 **Public Guardian access to the person’s records as is necessary to**
30 **conduct the needs assessment required under this section.**

1 **“(b) Any other public agency that has provided or is providing care**
2 **or services to the person shall disclose to the Oregon Public Guardian,**
3 **upon request, a minimum amount of information about the person for**
4 **whom the needs assessment is being conducted, including protected**
5 **health information as defined in ORS 192.556 and financial informa-**
6 **tion, as is reasonably necessary to prevent or lessen a serious and**
7 **imminent threat to the health or safety of the person who is the sub-**
8 **ject of the needs assessment. For purposes of this paragraph, a request**
9 **from the Oregon Public Guardian for the purpose of conducting a**
10 **needs assessment is presumed to be a situation that will prevent or**
11 **lessen a serious and imminent threat to the health or safety of the**
12 **person.**

13 **“(c) Any health care provider not identified in paragraph (a) or (b)**
14 **of this subsection may disclose protected health information to the**
15 **Oregon Public Guardian in accordance with 45 C.F.R. 164.512 (j) to**
16 **prevent or lessen a serious or imminent threat to the health or safety**
17 **of a person if the health care provider, in good faith, believes the dis-**
18 **closure is necessary to prevent or lessen the threat. For purposes of**
19 **this paragraph, a request from the Oregon Public Guardian for dis-**
20 **closure under this paragraph for the purposes of conducting a needs**
21 **assessment, or the good faith belief and disclosure of the health care**
22 **provider under this paragraph, are presumed to be situations that will**
23 **prevent or lessen a serious and imminent threat to the health or safety**
24 **of the person.**

25 **“[(2)] (3) For each person determined to be eligible for public guardian**
26 **and conservator services under this section, the Oregon Public Guardian**
27 **[and Conservator] shall develop a written plan setting forth the type and**
28 **duration of services to be provided by the Oregon Public Guardian [and**
29 **Conservator]. The plan shall be included in any nonemergency petition or**
30 **pleading filed with the court.**

1 **SECTION 52.** ORS 125.685 is amended to read:

2 “125.685. (1) A deputy public guardian [*and conservator*] providing public
3 guardian and conservator services under ORS 125.675 to 125.687[:]

4 “[(a)] must be certified as a deputy public guardian [*and conservator*] by
5 the Oregon Public Guardian. [*and Conservator; and*]

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

9 “(2) A volunteer of the Oregon Public Guardian [*and Conservator*] must
10 provide, in writing, the volunteer’s criminal history and must submit or
11 consent to a criminal records check, including fingerprint identification.

12 “(3) Volunteers:

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

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

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

19 “(d) Shall be instructed in confidentiality and shall maintain the
20 confidentiality of clients and of written information and materials relating
21 to clients;

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

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

30 **SECTION 53.** ORS 125.687 is amended to read:

1 “125.687. (1) A court may not appoint the Oregon Public Guardian [*and*
2 *Conservator or a deputy public guardian and conservator*] as a fiduciary for
3 a person unless the Oregon Public Guardian [*and Conservator or deputy*
4 *public guardian and conservator*] has petitioned for or consented to the ap-
5 pointment. **If appointed as a fiduciary by the court, the Oregon Public**
6 **Guardian, and any deputy public guardian, shall serve as provided in**
7 **this chapter and ORS 127.005 and 127.015, except as expressly stated**
8 **otherwise in ORS 125.675 to 125.687 or by order of the court.**

9 “(2) The Oregon Public Guardian [*and Conservator*] shall file an official
10 bond in [*such amount as may be fixed from time to time by the Long Term*
11 *Care Ombudsman*] **an amount determined in consultation with the**
12 **Oregon Department of Administrative Services.** The bond shall inure to
13 the joint benefit of the several public guardianship and conservatorship es-
14 tates in which the Oregon Public Guardian [*and Conservator*] is providing
15 services, but a bond is not required to be filed in individual estates.

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

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

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

29 “(5) The court may not order the Oregon Public Guardian [*and*
30 *Conservator, a deputy public guardian and conservator or the office of the*

1 *Long Term Care Ombudsman*] to pay court costs or attorney fees in a pro-
2 ceeding brought on behalf of a client under ORS 125.675 to 125.687.

3 **SECTION 54.** ORS 125.242 is amended to read:

4 125.242. ORS 125.221 and 125.240 do not apply to a financial institution,
5 as defined in ORS 706.008, [*or*] a trust company, as defined in ORS 706.008,
6 **or the Oregon Public Guardian in proceedings under ORS 125.675 to**
7 **125.687.**

8

9 **“CONFORMING AMENDMENTS**

10

11 **“SECTION 55.** ORS 21.007 is amended to read:

12 “21.007. It is the intent of the Legislative Assembly that funding be pro-
13 vided to the following entities by appropriations each biennium to fund pro-
14 grams, services and activities that were funded through court fees before the
15 2011-2013 biennium:

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

18 “(2) To the counties of this state for the purposes of funding the operation
19 of law libraries or of providing law library services.

20 “(3) To Portland State University and the University of Oregon to fund
21 the programs and expenses of the Mark O. Hatfield School of Government
22 and the University of Oregon School of Law under ORS 36.100 to 36.238 and
23 183.502.

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

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

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

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

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

8 **“SECTION 56.** ORS 125.060 is amended to read:

9 “125.060. (1) The notices required by this section must be given to all
10 persons whose identities and addresses can be ascertained in the exercise of
11 reasonable diligence by the person required to give the notice.

12 “(2) Notice of the filing of a petition for the appointment of a fiduciary
13 or entry of other protective order must be given by the petitioner to the
14 following persons:

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

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

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

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

21 “(e) Any person who has been nominated as fiduciary or appointed to act
22 as fiduciary for the respondent by a court of any state, any trustee for a
23 trust established by or for the respondent, any person appointed as a health
24 care representative under the provisions of ORS 127.505 to 127.660 and any
25 person acting as attorney-in-fact for the respondent under a power of attor-
26 ney.

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

30 “(g) If the respondent is a minor and has no living parents, any person

1 nominated to act as fiduciary for the minor in a will or other written in-
2 strument prepared by a parent of the minor.

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

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

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

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

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

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

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

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

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

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

29 “(d) If the protected person is receiving moneys paid or payable by the
30 United States through the Department of Veterans Affairs, a representative

1 of the United States Department of Veterans Affairs regional office that has
2 responsibility for the payments to the protected person.

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

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

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

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

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

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

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

28 “(b) If the respondent is a resident of a nursing home or residential fa-
29 cility, or if the person nominated to act as fiduciary intends to place the
30 respondent in a nursing home or residential facility, the Office of the Long

1 Term Care Ombudsman **or the Office of the Residential Facilities Om-**
2 **budsman.**

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

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

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

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

17 “(c) If the protected person is a resident of a mental health treatment
18 facility or a residential facility for individuals with developmental disabili-
19 ties, or if the motion seeks authority to place the protected person in such
20 a facility, the system described in ORS 192.517 (1).

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

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

27 **“SECTION 57.** ORS 125.075 is amended to read:

28 “125.075. (1) Any person who is interested in the affairs or welfare of a
29 respondent or protected person may present objections to a petition or to a
30 motion in a protective proceeding, including but not limited to:

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

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

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

4 “(2) Objections to a petition may be either written or oral. Objections

5 to a motion must be in writing. Objections to a petition or to a motion must

6 be made or filed with the court within 15 days after notice of the petition

7 or motion is served or mailed in the manner prescribed by ORS 125.065. The

8 court shall designate a place where oral objections may be made. If a person

9 appears within the time allowed at the place designated by the court for the

10 purpose of making oral objections, the clerk of the court shall provide a

11 means of reducing the oral objections to a signed writing for the purpose of

12 filing the objection.

13 “(3) If objections are presented by any of the persons listed in subsection

14 (1) of this section, the court shall schedule a hearing on the objections. The

15 petitioner or person making the motion shall give notice to all persons en-

16 titled to notice under ORS 125.060 (3) of the date, time and place of the

17 scheduled hearing at least 15 days before the date set for hearing. Notice

18 shall be given in the manner prescribed by ORS 125.065.

19 “(4) Notwithstanding ORS 21.170, the court may not charge or collect any

20 fee for the filing of objections under the provisions of this section or for the

21 filing of any motion from any of the following:

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

23 “(b) The Office of the Long Term Care Ombudsman **or the Office of the**

24 **Residential Facilities Ombudsman;** or

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

26 “(5) The court for good cause shown may provide for a different method

27 or time of giving notice under subsection (3) of this section.

28 “**SECTION 58.** ORS 125.320 is amended to read:

29 “125.320. (1) A guardian may not authorize the sterilization of the pro-

30 tected person.

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

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

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

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

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

16 “(B) If the protected person is a resident of a nursing home or residential
17 facility, or if the notice states the intention to place the protected person in
18 a nursing home or residential facility, the Office of the Long Term Care
19 Ombudsman **or the Office of the Residential Facilities Ombudsman.**

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

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

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

1 as practicable.

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

6 **“SECTION 59.** ORS 125.410 is amended to read:

7 “125.410. (1) Except as provided in subsection (2) of this section, the court
8 shall require a conservator to furnish a bond conditioned upon faithful dis-
9 charge of all duties of the conservator according to law, with sureties as
10 specified by the court. Unless otherwise directed, the bond must be in the
11 amount of the aggregate capital value of the property of the estate in the
12 control of the conservator plus one year’s estimated income minus the value
13 of securities and money deposited under arrangements requiring an order of
14 the court for their removal and the value of any real property that the
15 conservator, by express limitation of power, lacks power to sell or convey
16 without court authorization.

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

18 “(b) Subsection (1) of this section does not affect the provisions of ORS
19 709.240, relating to a trust company acting as fiduciary, ORS 125.715, relating
20 to a county public guardian and conservator acting as fiduciary, ORS
21 125.687, relating to the Oregon Public Guardian [*and Conservator*] or a dep-
22 uty public guardian [*and conservator*] acting as fiduciary under ORS 125.675
23 to 125.687, or ORS 406.050 (10), relating to the Department of Veterans’ Af-
24 fairs acting as fiduciary.

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

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

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

1 “(6) The court may at any time increase or reduce the amount of the bond
2 required of a conservator for the protection of the protected person and the
3 estate of the protected person.

4 “(7) If a surety on a bond required by this section gives notice of intent
5 to cancel the bond, the conservator shall execute and file in the protective
6 proceeding a new bond before the cancellation date specified by the surety.
7 The new bond shall be in the amount and subject to those conditions that
8 may be required by the court. If the conservator fails to file a new bond, the
9 authority of the conservator ends on the date specified by the surety for
10 cancellation of the bond. The letters of conservatorship issued to the
11 conservator are void from that date, and the conservator must make and file
12 the final accounting of the conservator.

13 **“SECTION 60.** ORS 443.455 is amended to read:

14 “443.455. (1) Except as provided in subsection (5) of this section, for pur-
15 poses of imposing civil penalties, residential facilities approved under ORS
16 443.400 to 443.455 are subject to ORS 441.705 to 441.745.

17 “(2) The Director of Human Services shall by rule prescribe a schedule
18 of penalties for residential care facilities, residential training facilities and
19 residential training homes that are not in compliance with ORS 443.400 to
20 443.455.

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

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

1 used in this subsection:

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

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

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

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

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

19 **“SECTION 61.** ORS 443.738 is amended to read:

20 “443.738. (1) Except as provided in subsection (3) of this section, all pro-
21 viders, resident managers and substitute caregivers for adult foster homes
22 shall satisfactorily meet all educational requirements established by the li-
23 censing agency. After consultation with representatives of providers, edu-
24 cators, residents’ advocates and the [*Long Term Care*] **Residential Facilities**
25 Ombudsman, the licensing agency shall adopt by rule standards governing
26 the educational requirements. The rules shall require that a person may not
27 provide care to any resident prior to acquiring education or supervised
28 training designed to impart the basic knowledge and skills necessary to
29 maintain the health, safety and welfare of the resident. Each provider shall
30 document compliance with the educational requirements for persons subject

1 to the requirements.

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

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

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

14 “(c) A requirement that, after being licensed, a provider or resident
15 manager successfully completes continuing education as described in ORS
16 443.742.

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

24 “(4) The licensing agency may permit a person who has not completed the
25 training or passed the test required in subsection (2)(a) and (b) of this section
26 to act as a resident manager until the training and testing are completed or
27 for 60 days, whichever is shorter, if the licensing agency determines that an
28 unexpected and urgent staffing need exists. The licensed provider must notify
29 the licensing agency of the situation and demonstrate that the provider is
30 unable to find a qualified resident manager, that the person has met the re-

1 quirements for a substitute caregiver for the adult foster home and that the
2 provider will provide adequate supervision.

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

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

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

19 “(8) If a resident dies or leaves an adult foster home for medical reasons
20 and indicates in writing the intent to not return, the provider may not
21 charge the resident for more than 15 days or the time specified in the pro-
22 vider contract, whichever is less, after the resident has left the adult foster
23 home. The provider has an affirmative duty to take reasonable actions to
24 mitigate the damages by accepting a new resident. However, if a resident
25 dies or leaves an adult foster home due to neglect or abuse by the provider
26 or due to conditions of imminent danger to life, health or safety, the provider
27 may not charge the resident beyond the resident’s last day in the home. The
28 provider shall refund any advance payments within 30 days after the resident
29 dies or leaves the adult foster home.

30 “(9) Chemical and physical restraints may be used only after considering

1 all other alternatives and only when required to treat a resident's medical
2 symptoms or to maximize a resident's physical functioning. Restraints may
3 not be used for discipline of a resident or for the convenience of the adult
4 foster home. Restraints may be used only as follows:

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

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

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

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

23 “(b) The provider shall give the resident and the resident's legal repre-
24 sentative, guardian or conservator written notice at least 30 days prior to
25 the proposed transfer or discharge, except in a medical emergency including
26 but not limited to a resident's experiencing an increase in level of care needs
27 or engaging in behavior that poses an imminent danger to self or others. In
28 such cases, the provider shall give the resident written notice as soon as
29 possible under the circumstances.

30 “(c) The resident has the right to an administrative hearing prior to an

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

8 “(12) The provider may not include any illegal or unenforceable provision
9 in a contract with a resident and may not ask or require a resident to waive
10 any of the resident’s rights.

11 “(13) Any lessor of a building in which an adult foster home is located
12 may not interfere with the admission, discharge or transfer of any resident
13 in the adult foster home unless the lessor is a provider or coprovider on the
14 license.

15 **“SECTION 62.** ORS 443.767 is amended to read:

16 “443.767. (1) When the licensing agency receives a complaint that alleges
17 that a resident of a licensed adult foster home has been injured, abused or
18 neglected, and that the resident’s health or safety is in imminent danger, or
19 that the resident has died or been hospitalized, the investigation shall begin
20 immediately after the complaint is received. If the investigator determines
21 that the complaint is substantiated, the licensing agency shall take appro-
22 priate corrective action immediately.

23 “(2) When the licensing agency receives a complaint that alleges the ex-
24 istence of any circumstance that could result in injury, abuse or neglect of
25 a resident of a licensed adult foster home, and that the circumstance could
26 place the resident’s health or safety in imminent danger, the agency shall
27 investigate the complaint promptly. If the investigator determines that the
28 complaint is substantiated, the agency shall take appropriate corrective
29 action promptly.

30 “(3) After public hearing, the licensing agency shall by rule set standards

1 for the procedure, content and time limits for the initiation and completion
2 of investigations of complaints. The time limits shall be as short as possible
3 and shall vary in accordance with the severity of the circumstances alleged
4 in the complaint. In no event shall the investigation exceed a duration of 60
5 days, unless there is an ongoing concurrent criminal investigation, in which
6 case the licensing agency may take a reasonable amount of additional time
7 in which to complete the investigation.

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

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

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

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

17 “(C) The facility; and

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

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

21 “(6)(a) The complaint and the investigation report shall be available to
22 the public at the local office of the licensing agency or the type B area
23 agency [*on aging*], if appropriate. When the licensing agency or type B area
24 agency [*on aging*] concludes the investigation of a complaint, the licensing
25 agency or type B area agency [*on aging*] shall clearly designate the outcome
26 of the complaint investigation and make the designation available to the
27 public together with the complaint and the investigation report.

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

30 “(7) A copy of the report shall be forwarded to the licensing agency

1 whether or not the investigation report concludes that the complaint is
2 substantiated.

3 **SECTION 63.** ORS 476.030 is amended to read:

4 “476.030. (1) The State Fire Marshal shall enforce all statutes, and make
5 rules relating to:

6 “(a) The prevention of fires.

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

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

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

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

21 “(3) If, in the opinion of the State Fire Marshal, a governmental subdivi-
22 sion of the state has enacted adequate regulations generally conforming to
23 state and national standards concerning fire prevention, fire safety measures
24 and building construction requirements for safety, and if the governmental
25 subdivision provides reasonable enforcement of its regulations, the State Fire
26 Marshal may exempt the area subject to such regulation either partially or
27 fully from the statutes, rules and regulations administered by the State Fire
28 Marshal. Prior to adoption of any such exemption, the State Fire Marshal
29 may request from the Department of Public Safety Standards and Training
30 consideration of and recommendations regarding the exemption. The ex-

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

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

19 “(5) The State Fire Marshal shall provide training in fire safety in-
20 spection to the Department of Human Services, area agencies, the Oregon
21 Health Authority, community mental health programs, developmental disa-
22 bilities programs and designees of the Long Term Care Ombudsman **and the**
23 **Residential Facilities Ombudsman**. If an adult foster home has been in-
24 spected by the Department of Human Services, the Oregon Health Authority,
25 an area agency, a community mental health program or a developmental
26 disabilities program and the agency conducting the inspection reasonably
27 believes that the adult foster home is not in compliance with applicable fire
28 safety rules, the agency conducting the inspection may request the State Fire
29 Marshal to inspect or cause an inspection to be made. If a designee of the
30 [*Long Term Care*] **Residential Facilities Ombudsman**, in the course of vis-

1 iting an adult foster home, believes that the adult foster home is not in
2 compliance with applicable fire safety rules, the designee shall report the
3 problem to the appropriate agency to request a fire safety inspection by the
4 office of the State Fire Marshal or by a designated representative of the of-
5 fice of the State Fire Marshal.

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

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

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

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

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

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

20

21 **“OPERATIVE DATE**

22

23 **“SECTION 64. Sections 1, 3, 5 to 8, 10 to 13, 30 to 39 and 42 to 47 of**
24 **this 2017 Act and the amendments to statutes by sections 2, 9, 14 to**
25 **29, 40 and 48 to 63 of this 2017 Act become operative on January 1, 2018.**

26 **“SECTION 65. The Long Term Care Ombudsman may take any**
27 **actions before the operative date specified in section 64 of this 2017**
28 **Act that are necessary to carry out sections 1, 3, 5 to 8, 10 to 13, 30 to**
29 **39 and 42 to 47 of this 2017 Act and the amendments to statutes by**
30 **sections 2, 9, 14 to 29, 40 and 48 to 63 of this 2017 Act on and after the**

1 **operative date specified in section 64 of this 2017 Act.**

2

3

“CAPTIONS

4

5 **“SECTION 66. The unit captions used in this 2017 Act are provided**
6 **only for the convenience of the reader and do not become part of the**
7 **statutory law of this state or express any legislative intent in the**
8 **enactment of this 2017 Act.**

9

10

“EMERGENCY CLAUSE

11

12 **“SECTION 67. This 2017 Act being necessary for the immediate**
13 **preservation of the public peace, health and safety, an emergency is**
14 **declared to exist, and this 2017 Act takes effect on its passage.”.**

15
