

SB 59-1
(LC 611)
3/13/17 (BLS/ps)

Requested by SENATE COMMITTEE ON HUMAN SERVICES (at the request of Long Term Care Ombudsman)

**PROPOSED AMENDMENTS TO
SENATE BILL 59**

1 On page 1 of the printed bill, delete lines 4 through 27 and delete page
2 2.

3 On page 3, delete lines 1 and 2 and insert:

4 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part**
5 **of ORS chapter 125.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Adult foster home’ has the meaning given that term in ORS**
8 **443.705.**

9 **“(b) ‘Long term care facility’ has the meaning given that term in**
10 **ORS 442.015.**

11 **“(c) ‘Long Term Care Ombudsman’ means the office of the Long**
12 **Term Care Ombudsman established in ORS 441.403.**

13 **“(d) ‘Party’ means, with respect to a petition for a protective order**
14 **made under this section:**

15 **“(A) The resident who is the subject of the petition.**

16 **“(B) A person who has petitioned for appointment, or who has been**
17 **appointed, as a fiduciary for the resident who is the subject of the**
18 **petition.**

19 **“(C) A person, not otherwise a party under this paragraph, who has**
20 **filed objections as allowed under this chapter in a protective proceed-**
21 **ing involving the resident who is the subject of the petition.**

1 **“(D) A visitor appointed by the court in a protective proceeding**
2 **involving the resident who is the subject of the petition.**

3 **“(e) ‘Protected information’ means ‘protected health information’**
4 **as defined in ORS 192.556, information maintained as confidential un-**
5 **der ORS 441.407 and legal information regarding the resident who is**
6 **the subject of the petition.**

7 **“(f) ‘Residential facility’ has the meaning given that term in ORS**
8 **441.402.**

9 **“(2)(a) As regards a resident in a long term care facility, a resi-**
10 **dential facility or an adult foster home, the Long Term Care Om-**
11 **budsman may petition for a protective order under this chapter to:**

12 **“(A) Terminate a protective proceeding;**

13 **“(B) Remove a fiduciary;**

14 **“(C) Modify the powers or authority of a fiduciary;**

15 **“(D) Approve or disapprove a fiduciary’s actions;**

16 **“(E) Appoint an attorney for the resident; or**

17 **“(F) Exercise any of the court’s authority pursuant to ORS 125.025**
18 **that will protect the resident or estate of a resident in a long term**
19 **care facility, a residential facility or an adult foster home, or of a re-**
20 **spondent or protected person who is a resident in a long term care**
21 **facility, a residential facility or an adult foster home.**

22 **“(b) The ombudsman may file a petition under this subsection when**
23 **the ombudsman believes the resident who is the subject of the petition**
24 **is in need of a protective order described in paragraph (a) of this sub-**
25 **section.**

26 **“(3)(a) The Long Term Care Ombudsman shall give notice of the**
27 **filing of a petition for a protective order under subsection (2) of this**
28 **section to:**

29 **“(A) All parties;**

30 **“(B) Any attorney, if known, who represented the resident who is**

1 the subject of the petition at any time during any other protective
2 proceeding involving the resident; and

3 “(C) Any other person that the court requires.

4 “(b) The notice required under this subsection must be given in the
5 manner set forth in ORS 125.065 and contain the information specified
6 in ORS 125.070.

7 “(4)(a) When the Long Term Care Ombudsman petitions for a pro-
8 tective order under subsection (2) of this section, the ombudsman shall
9 disclose to the court only the minimum amount of protected infor-
10 mation about the resident who is the subject of the petition that is
11 reasonably necessary to prevent or lessen a serious and imminent
12 threat to the health or safety of the resident who is the subject of the
13 petition.

14 “(b) The ombudsman may disclose protected information under this
15 subsection without authorization from the resident who is the subject
16 of the petition or the resident’s fiduciary, if any, provided the disclo-
17 sure is made in good faith and with the belief that the disclosure is
18 the minimum amount of protected information about the resident or
19 fiduciary that is reasonably necessary to prevent or lessen a serious
20 and imminent threat to the health or safety of the resident who is the
21 subject of the petition.

22 “(c) Any protected information disclosed by the ombudsman under
23 this subsection shall remain confidential and must be identified and
24 marked by the ombudsman as confidential and protected information
25 that is subject to the requirements of this subsection.

26 “(d) Protected information disclosed under this subsection is subject
27 to inspection only by the parties to the proceeding and their attorneys
28 as provided in paragraph (e) of this subsection. Protected information
29 disclosed under this subsection is not subject to inspection by mem-
30 bers of the public except pursuant to a court order entered after a

1 **showing of good cause.**

2 **“(e) The court may enter an order allowing inspection of protected**
3 **information subject to disclosure under this subsection upon the filing**
4 **of a written request for inspection and the payment of any fees or**
5 **costs charged to copy the protected information.**

6 **“(5) Notwithstanding ORS 125.155 (4), to the extent that the report**
7 **of a visitor appointed by the court under ORS 125.150 contains pro-**
8 **ected information that is subject to the requirements of subsection**
9 **(4) of this section, the report in its entirety shall be considered subject**
10 **to the requirements of subsection (4) of this section and may be dis-**
11 **closed only as provided in subsection (4)(d) and (e) of this section.**

12 **“(6) Nothing in this section is intended to limit the application of**
13 **ORS 125.050 to the use of protected information disclosed under this**
14 **section in proceedings under this chapter.”.**

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