

# A-Engrossed Senate Bill 1036

Ordered by the Senate April 16  
Including Senate Amendments dated April 16

Sponsored by COMMITTEE ON HUMAN SERVICES

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes Office of Oregon Ombudsmen **and Advocates** to provide administrative services and support to Office of the Long Term Care Ombudsman, Office of the Residential Facilities Ombudsman, Office of the Foster Parent Ombudsman, Office of the Foster Child Ombudsman and Office of the Oregon Public Guardian and Conservator. Specifies duties of administrator of Office of Oregon Ombudsmen **and Advocates**.

Establishes and specifies duties and powers of Foster Parent Ombudsman and Foster Child Ombudsman. Requires 24-hour hotline telephone number for foster parents to make complaints. Requires Department of Human Services to notify foster parents and foster children of availability of Foster Child Ombudsman and Foster Parent Ombudsman to investigate complaints.

Modifies duties of Residential Facilities Ombudsman. [*Gives ombudsmen access to records necessary for investigating complaints, subject to conditions.*]

Establishes advisory committees for ombudsman offices and Office of the Oregon Public Guardian and Conservator **and requires that members of ombudsmen advisory committees be paid compensation and expenses.**

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to ombudsmen; creating new provisions; amending ORS 125.060, 125.075, 125.678, 125.680,  
3 125.687, 418.201, 418.648, 418.992, 419B.005, 441.402, 441.403, 441.406, 441.411, 441.413, 441.416,  
4 441.417, 441.418, 443.380, 443.382, 443.386, 443.390, 443.396, 443.447, 443.455, 443.767 and 443.825;  
5 repealing ORS 441.419; and declaring an emergency.

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

## OFFICE OF OREGON OMBUDSMEN AND ADVOCATES

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10 **SECTION 1. (1) The Office of Oregon Ombudsmen and Advocates is established to provide**  
11 **administrative services and support to the:**

- 12 (a) **Office of the Long Term Care Ombudsman;**
- 13 (b) **Office of the Residential Facilities Ombudsman;**
- 14 (c) **Office of the Oregon Public Guardian and Conservator;**
- 15 (d) **Office of the Foster Parent Ombudsman; and**
- 16 (e) **Office of the Foster Child Ombudsman.**

17 (2) **The Governor shall appoint an administrator of the Office of Oregon Ombudsmen and**  
18 **Advocates who:**

- 19 (a) **Shall perform all administrative functions of the office;**
- 20 (b) **May appoint subordinate officers and employees for the office, prescribe their duties**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and set their compensation; and

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

4 **SECTION 2.** The Office of Oregon Ombudsmen and Advocates Account is established in  
5 the State Treasury, separate and distinct from the General Fund. The Office of the Long  
6 Term Care Ombudsman, the Office of the Residential Facilities Ombudsman, the Office of the  
7 Foster Child Ombudsman and the Office of the Foster Parent Ombudsman shall each have  
8 a dedicated subaccount in the Office of Oregon Ombudsmen and Advocates Account. All  
9 miscellaneous receipts, gifts and federal and other grants received by the Office of the Long  
10 Term Care Ombudsman, the Office of the Residential Facilities Ombudsman, the Office of the  
11 Foster Child Ombudsman and the Office of the Foster Parent Ombudsman shall be deposited  
12 in and are continuously appropriated to the corresponding subaccount of each office.

13  
14 **FOSTER CHILD OMBUDSMAN**  
15

16 **SECTION 3.** Sections 4 to 8 and 11 to 15 of this 2019 Act are added to and made a part  
17 of ORS chapter 418.

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

19 (a) "Foster child" has the meaning given that term in ORS 418.200.

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

22 (2) The Office of the Foster Child Ombudsman is established. The Governor shall appoint  
23 the Foster Child Ombudsman in consultation with the Foster Child Ombudsman Advisory  
24 Committee established in section 7 of this 2019 Act. The ombudsman shall be appointed for  
25 a four-year term. The Governor shall fill a vacancy in the position no later than 60 days after  
26 the vacancy occurs, in the same manner as the appointment is made. The ombudsman may  
27 be removed for just cause upon recommendation to the Governor by the Foster Child Om-  
28 budsman Advisory Committee.

29 (3) The Foster Child Ombudsman shall:

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

32 (b) Investigate any complaint made by or on behalf of a foster child if the allegations  
33 contained in the complaint may adversely affect the health, safety, welfare or rights of the  
34 foster child;

35 (c) Assist foster children and individuals acting on their behalf in identifying and ac-  
36 cessing resources in the community and in connecting with local service providers;

37 (d) Encourage foster children and individuals acting on behalf of foster children to par-  
38 ticipate in general studies, conferences, inquiries or meetings related to foster care in this  
39 state;

40 (e) Organize or collaborate with others in organizing general studies, conferences, in-  
41 quiries or meetings to develop recommendations for improving the foster care system in this  
42 state;

43 (f) Monitor the development and implementation of federal, state and local laws and pol-  
44 icies that impact the foster care system in this state;

45 (g) Collect and compile data necessary to prepare the report submitted to the Governor

1 under ORS 182.500 and provide a copy of the report to the Governor's Child Foster Care  
2 Advisory Commission established in ORS 418.041; and

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

6 (4)(a) The Foster Child Ombudsman shall:

7 (A) Maintain the hotline telephone number for foster children required by ORS 418.201  
8 (7); and

9 (B) In consultation with the Foster Child Ombudsman Advisory Committee, establish  
10 procedures for a foster child or an individual acting on behalf of a foster child to make a  
11 complaint about the child's care or about the interaction with individuals or agencies in-  
12 volved in the foster care system.

13 (b)(A) The ombudsman and each designee appointed under section 5 of this 2019 Act shall  
14 have access to records of any public agency, to the extent permitted by state and federal law,  
15 that are necessary to carry out the duties of the ombudsman. The provisions of ORS 192.553  
16 to 192.581 are not intended to limit the access of the ombudsman to a foster child's records,  
17 including medical records as authorized by the foster child or an individual legally authorized  
18 to act on behalf of the foster child, if needed to investigate a complaint.

19 (B) The ombudsman and the Department of Human Services shall enter into a  
20 confidentiality agreement permitting the ombudsman and each designee to have access to  
21 electronic records of the department that are necessary to carry out the duties of the om-  
22 budsman, if permitted by state and federal law. The agreement must ensure that records  
23 obtained by the ombudsman from the department that are confidential, privileged or other-  
24 wise protected from disclosure are not further disclosed, except as permitted by state and  
25 federal law.

26 (c) The ombudsman or a designee shall report to a foster child and to an individual that  
27 makes a complaint on behalf of the foster child the findings of the ombudsman or designee  
28 in the investigation of the complaint and may make recommendations. If appropriate, the  
29 ombudsman or designee shall attempt to resolve the complaint using informal mediation or  
30 conflict resolution techniques. Complaints of conditions threatening the safety or well-being  
31 of a foster child must be reported to the department or law enforcement officials.

32 (d) A foster child or an individual legally authorized to act on behalf of the foster child  
33 shall have the right to participate in planning any course of action to be taken on behalf of  
34 the foster child by the ombudsman or the designee.

35 (5) A foster child, or an individual acting on behalf of a foster child, who makes a com-  
36 plaint to the Foster Child Ombudsman in good faith under this section, or who participates  
37 in an investigation of a complaint:

38 (a) May not be subjected to a penalty, sanction or restriction, or be denied any right,  
39 privilege or benefit, on account of making the complaint or participating in the investigation  
40 of the complaint; and

41 (b) Shall have immunity from any civil or criminal liability that might otherwise be in-  
42 curred or imposed on account of making the complaint or participating in the investigation  
43 of the complaint.

44 (6) All state agencies shall cooperate with and assist the Foster Child Ombudsman in the  
45 performance of the ombudsman's duties and functions.

1       **SECTION 5.** (1) The Foster Child Ombudsman may appoint designees to serve as repre-  
2       sentatives of the ombudsman in local communities. The ombudsman shall regularly monitor  
3       the functions of designees.

4       (2) The appointments of designees by the Foster Child Ombudsman may be made in con-  
5       sultation with a local screening committee that may consist of but need not be limited to  
6       persons representing:

- 7       (a) The Department of Human Services.
- 8       (b) Elected officials.
- 9       (c) The Oregon Health Authority.
- 10      (d) Foster youth or former foster children.
- 11      (e) Court appointed special advocates.
- 12      (f) Local citizen review boards.

13      (3) To be appointed as a designee, a person must complete an initial training and attend  
14      quarterly training sessions that are approved by the Office of the Foster Child Ombudsman.

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

17      (5) The qualifications of designees shall include experience working with foster children  
18      and the ability to communicate well, to understand laws, rules and regulations and to be  
19      assertive and objective.

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

22      **SECTION 6.** The Foster Child Ombudsman shall establish procedures to maintain the  
23      confidentiality of the records and files of foster children. The procedures must meet the  
24      following requirements:

25      (1) The Foster Child Ombudsman or designee may not disclose, except to law enforce-  
26      ment or state agencies, the identity of any foster child, or individual acting on behalf of a  
27      foster child, without written consent signed by the foster child, the legal representative of  
28      the foster child or an individual legally authorized to act on behalf of the foster child. The  
29      written consent must specify to whom the disclosure may be made.

30      (2) The identity of any foster child or individual providing information on behalf of the  
31      foster child shall be confidential. If the complaint becomes the subject of judicial pro-  
32      ceedings, the investigative information held by the Foster Child Ombudsman or designee  
33      shall be disclosed for the purpose of the proceedings if requested by the court.

34      (3) The Foster Child Ombudsman and the Foster Parent Ombudsman may not exchange  
35      information concerning a foster child or foster parent without the written consent described  
36      in subsection (1) of this section.

37      **SECTION 7.** (1) The Foster Child Ombudsman Advisory Committee is established con-  
38      sisting of five members appointed by the Governor and confirmed by the Senate under ORS  
39      171.562 and 171.565.

40      (2) The term of office for each member is four years. Before the expiration of the term  
41      of a member, the Governor shall appoint a successor whose term begins July 1 next follow-  
42      ing. A member is eligible for reappointment. If there is a vacancy for any cause, the Gover-  
43      nor shall make an appointment to become immediately effective for the unexpired term.

- 44      (3) The members of the committee must:
  - 45      (a) Be residents of this state;

1       **(b) Include individuals who are or who represent current or former foster children, in-**  
2 **cluding racial and ethnic minorities;**

3       **(c) Have knowledge and interest in the problems of foster children; and**

4       **(d) Be representative of all areas of this state and the demographics of groups served by**  
5 **the Foster Child Ombudsman.**

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

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

11       **(6) The committee shall meet at least once each month at a place, day and hour deter-**  
12 **mined by the committee. The committee also shall meet at other times and places specified**  
13 **by the call of the chairperson or of a majority of the members of the committee. The com-**  
14 **mittee shall confer each month with the Foster Child Ombudsman.**

15       **(7) Members of the committee are entitled to compensation and expenses as provided in**  
16 **ORS 292.495.**

17       **SECTION 8.** **The Foster Child Ombudsman Advisory Committee shall:**

18       **(1) Monitor the Office of the Foster Child Ombudsman.**

19       **(2) Advise the Governor and the Legislative Assembly on the Office of the Foster Child**  
20 **Ombudsman.**

21       **(3) Nominate, after interviews and according to prescribed criteria, three persons to fill**  
22 **the Foster Child Ombudsman position or to fill a vacancy in the position.**

23       **SECTION 9.** **ORS 418.201 is amended to read:**

24       418.201. It is the intent of the Legislative Assembly that each foster child have certain essential  
25 rights, including but not limited to the following:

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

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

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

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

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

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

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

41       **(d) The availability of a tuition and fee waiver for a current or former foster child under ORS**  
42 **350.300;**

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

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

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

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

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

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

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

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

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

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

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

22 (7) To *[have]* **be informed about the Office of the Foster Child Ombudsman and have ac-**  
23 **cess to the services described in section 4 of this 2019 Act, including** a hotline phone number  
24 that is available to the foster child at all times for the purposes of enabling the foster child to make  
25 complaints and assert grievances regarding the foster child's care, safety or well-being.

26 **SECTION 10.** ORS 418.992 is amended to read:

27 418.992. (1) In addition to any other liability or penalty provided by law, the Director of Human  
28 Services may impose a civil penalty on a child-caring agency that is subject to ORS 418.205 to  
29 418.327, 418.470, 418.475 or 418.950 to 418.970 for any of the following:

30 (a) Violation of any of the terms or conditions of a license, certificate or other authorization  
31 issued under ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

32 (b) Violation of any rule adopted by, or general order of, the Department of Human Services that  
33 pertains to a child-caring agency.

34 (c) Violation of any final order of the director that pertains specifically to the child-caring  
35 agency.

36 (d) Violation of the requirement to have a license, certificate or other authorization under ORS  
37 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970.

38 (2) The director shall impose a civil penalty not to exceed \$500, unless otherwise required by  
39 law, on any child-caring agency for falsifying records, reports, documents or financial statements or  
40 for causing another person to do so.

41 (3) The director shall impose a civil penalty of not less than \$250 nor more than \$500, unless  
42 otherwise required by law, on a child-caring facility that assumes care or custody of, or provides  
43 care or services to, a child knowing that the child's care needs exceed the license, certificate or  
44 authorization classification of the child-caring agency if the assumption of care or custody, or pro-  
45 vision of care or services, places that child's health, safety or welfare at risk.

1 (4) Unless the health, safety or welfare of a child is at risk, the director in every case shall  
2 prescribe a reasonable time for elimination of a violation:

3 (a) Not to exceed 45 days after first notice of a violation; or

4 (b) In cases where the violation requires more than 45 days to correct, such time as is specified  
5 in a plan of correction found acceptable by the director.

6 (5) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
7 conditions as the director considers proper and consistent with the public health and safety.

8 (6) The department shall adopt rules establishing objective criteria for the imposition and  
9 amount of civil penalties under ORS 418.992 to 418.998.

10 (7) **Civil penalties recovered from any child-caring agency shall be paid into the State  
11 Treasury and credited to the General Fund and are available for general governmental ex-  
12 penses.**

13  
14 **FOSTER PARENT OMBUDSMAN**

15  
16 **SECTION 11. (1) As used in this section:**

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

19 (b) **“Service provider” means an individual, entity, agency or program that provides in-  
20 formation and services to foster parents, either directly or indirectly, including but not lim-  
21 ited to:**

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

24 (B) **Respite care;**

25 (C) **Training; and**

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

27 (2) **The Office of the Foster Parent Ombudsman is established. The Governor shall ap-  
28 point the Foster Parent Ombudsman in consultation with the Foster Parent Ombudsman  
29 Advisory Committee established under section 14 of this 2019 Act. The ombudsman shall be  
30 appointed for a four-year term. The Governor shall fill a vacancy in the position no later  
31 than 60 days after the vacancy occurs, in the same manner as the appointment is made. The  
32 ombudsman may be removed for just cause upon recommendation to the Governor by the  
33 Foster Parent Ombudsman Advisory Committee established in section 14 of this 2019 Act.**

34 (3) **The Foster Parent Ombudsman shall:**

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

37 (b) **Investigate any complaint made by or on behalf of a foster parent if the allegations  
38 contained in the complaint may adversely affect the health, safety, welfare or rights of the  
39 foster parent;**

40 (c) **Assist foster parents in identifying and accessing resources in the community and in  
41 connecting with local service providers;**

42 (d) **Encourage foster parents to participate in general studies, conferences, inquiries or  
43 meetings related to foster care in this state;**

44 (e) **Organize or collaborate with others in organizing general studies, conferences, in-  
45 quiries or meetings to develop recommendations for improving the foster care system in this**

1 state;

2 (f) Monitor the development and implementation of federal, state and local laws and pol-  
3 icies that impact the foster care system in this state;

4 (g) Collect and compile data necessary to prepare the report submitted to the Governor  
5 under ORS 182.500 and provide a copy of the report to the Governor's Child Foster Care  
6 Advisory Commission established in ORS 418.041; and

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

10 (4)(a) The Foster Parent Ombudsman shall:

11 (A) Maintain the hotline telephone number for foster parents required by ORS 418.648  
12 (12); and

13 (B) In consultation with the Foster Parent Ombudsman Advisory Committee, establish  
14 procedures for a foster parent to make a complaint about the foster parent's interaction  
15 with individuals or agencies involved in the foster care system.

16 (b)(A) The ombudsman and each designee appointed under section 12 of this 2019 Act  
17 shall have access to records of any public agency, to the extent permitted by state and fed-  
18 eral law, that are necessary to carry out the duties of the ombudsman. The provisions of  
19 ORS 192.553 to 192.581 are not intended to limit the access of the ombudsman to the records  
20 of a foster parent or foster child, including medical records of the foster child as authorized  
21 by the foster child or an individual legally authorized to act on behalf of the foster child, if  
22 needed to investigate a complaint.

23 (B) The ombudsman and the Department of Human Services shall enter into a  
24 confidentiality agreement permitting the ombudsman and each designee to have access to  
25 electronic records of the department that are necessary to carry out the duties of the om-  
26 budsman, if permitted by state and federal law. The agreement must ensure that records  
27 obtained by the ombudsman from the department that are confidential, privileged or other-  
28 wise protected from disclosure are not further disclosed, except as permitted by state and  
29 federal law.

30 (c) The ombudsman or a designee shall report to a foster parent the findings of the om-  
31 budsman or designee in the investigation of the complaint and may make recommendations.  
32 If appropriate, the ombudsman or designee shall attempt to resolve the complaint using in-  
33 formal mediation or conflict resolution techniques.

34 (5) A foster parent who makes a complaint to the Foster Parent Ombudsman in good  
35 faith under this section, or who participates in an investigation of a complaint:

36 (a) May not be subjected to a penalty, sanction or restriction, or be denied any right,  
37 privilege or benefit, on account of making the complaint or participating in the investigation  
38 of the complaint; and

39 (b) Shall have immunity from any civil or criminal liability that might otherwise be in-  
40 curred or imposed on account of making the complaint or participating in the investigation  
41 of the complaint.

42 (6) All state agencies shall cooperate with and assist the Foster Parent Ombudsman in  
43 the performance of the ombudsman's duties and functions.

44 **SECTION 12.** (1) The Foster Parent Ombudsman may appoint designees to serve as rep-  
45 resentatives of the ombudsman in local communities. The ombudsman shall regularly moni-

1 tor the functions of designees.

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

5 (a) The Department of Human Services.

6 (b) Elected officials.

7 (c) The Oregon Health Authority.

8 (d) Foster care providers.

9 (e) Court appointed special advocates.

10 (f) Local citizen review boards.

11 (3) To be appointed as a designee, a person must complete an initial training and attend  
12 quarterly training sessions that are approved by the Office of the Foster Parent Ombudsman.

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

15 (5) The qualifications of designees shall include experience working with foster care pro-  
16 viders and the ability to communicate well, to understand laws, rules and regulations and to  
17 be assertive and objective.

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

20 **SECTION 13.** The Foster Parent Ombudsman shall establish procedures to maintain the  
21 confidentiality of the records and files of foster parents. The procedures must meet the fol-  
22 lowing requirements:

23 (1) The Foster Parent Ombudsman or designee may not disclose, except to law enforce-  
24 ment and state agencies, the identity of any foster parent, or individual acting on behalf of  
25 a foster parent, without written consent signed by the foster parent, the legal representative  
26 of the foster parent or an individual legally authorized to act on behalf of the foster parent.  
27 The written consent must specify to whom the disclosure may be made.

28 (2) The identity of any foster parent or individual providing information on behalf of the  
29 foster parent shall be confidential. If the complaint becomes the subject of judicial pro-  
30 ceedings, the investigative information held by the Foster Parent Ombudsman or designee  
31 shall be disclosed for the purpose of the proceedings if requested by the court.

32 (3) The Foster Parent Ombudsman and the Foster Child Ombudsman may not exchange  
33 information concerning a foster parent or foster child without the written consent described  
34 in subsection (1) of this section.

35 **SECTION 14.** (1) The Foster Parent Ombudsman Advisory Committee is established con-  
36 sisting of five members appointed by the Governor and confirmed by the Senate under ORS  
37 171.562 and 171.565.

38 (2) The term of office for each member is four years. Before the expiration of the term  
39 of a member, the Governor shall appoint a successor whose term begins July 1 next follow-  
40 ing. A member is eligible for reappointment. If there is a vacancy for any cause, the Gover-  
41 nor shall make an appointment to become immediately effective for the unexpired term.

42 (3) The members of the committee must:

43 (a) Be residents of this state;

44 (b) Include individuals who are or who represent current or former foster parents, in-  
45 cluding racial and ethnic minorities;

1 (c) Have knowledge and interest in the problems of foster parents; and

2 (d) Be representative of all areas of this state and the demographics of groups served by  
3 the Foster Parent Ombudsman.

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

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

9 (6) The committee shall meet at least once each month at a place, day and hour deter-  
10 mined by the committee. The committee also shall meet at other times and places specified  
11 by the call of the chairperson or of a majority of the members of the committee. The com-  
12 mittee shall confer each month with the Foster Parent Ombudsman.

13 (7) Members of the committee are entitled to compensation and expenses as provided in  
14 ORS 292.495.

15 **SECTION 15. The Foster Parent Ombudsman Advisory Committee shall:**

16 (1) Monitor the Office of the Foster Parent Ombudsman.

17 (2) Advise the Governor and the Legislative Assembly on the Office of the Foster Parent  
18 Ombudsman.

19 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill  
20 the Foster Parent Ombudsman position or to fill a vacancy in the position.

21 **SECTION 16.** ORS 418.648 is amended to read:

22 418.648. A foster parent has the right to:

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

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

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

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

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

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

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

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

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

45 (10) Not be discriminated against on the basis of race, color, religion, sex, sexual orientation,

1 national origin, age or disability.

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

4 (12) **Have a hotline telephone number that is available to the foster parent at all times**  
5 **for the purpose of enabling the foster parent to make complaints and assert grievances re-**  
6 **garding the foster parent’s duties.**

7 (13) **Be provided with written contact information, updated as necessary and kept cur-**  
8 **rent, for specific individuals whom the foster parent may contact regarding complaints,**  
9 **concerns or violations of rights.**

10 (14) **Be informed about the Office of the Foster Parent Ombudsman and have access to**  
11 **the services described in section 11 of this 2019 Act.**

12  
13 **MANDATORY REPORTING**  
14

15 **SECTION 17.** ORS 419B.005 is amended to read:

16 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

17 (1)(a) “Abuse” means:

18 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
19 which has been caused by other than accidental means, including any injury which appears to be  
20 at variance with the explanation given of the injury.

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

24 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
25 tration and incest, as those acts are described in ORS chapter 163.

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

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

28 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
29 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
30 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
31 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
32 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
33 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
34 which is designed to serve educational or other legitimate purposes; and

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

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

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

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

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

1 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
2 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
3 stantial risk of harm to the child's health or safety.

4 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
5 conditions described in paragraph (a) of this subsection.

6 (2) "Child" means an unmarried person who:

7 (a) Is under 18 years of age; or

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

10 (3) "Higher education institution" means:

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

12 (b) A public university listed in ORS 352.002;

13 (c) The Oregon Health and Science University; and

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

15 (4) "Law enforcement agency" means:

16 (a) A city or municipal police department.

17 (b) A county sheriff's office.

18 (c) The Oregon State Police.

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

20 (e) A county juvenile department.

21 (5) "Public or private official" means:

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

24 (b) Dentist.

25 (c) School employee, including an employee of a higher education institution.

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

28 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning  
29 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local  
30 health department, a community mental health program, a community developmental disabilities  
31 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205  
32 or an alcohol and drug treatment program.

33 (f) Peace officer.

34 (g) Psychologist.

35 (h) Member of the clergy.

36 (i) Regulated social worker.

37 (j) Optometrist.

38 (k) Chiropractor.

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

40 (m) Attorney.

41 (n) Licensed professional counselor.

42 (o) Licensed marriage and family therapist.

43 (p) Firefighter or emergency medical services provider.

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

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

- 1 (s) Member of the Legislative Assembly.
- 2 (t) Physical, speech or occupational therapist.
- 3 (u) Audiologist.
- 4 (v) Speech-language pathologist.
- 5 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
6 gations or discipline by the commission.
- 7 (x) Pharmacist.
- 8 (y) An operator of a preschool recorded program under ORS 329A.255.
- 9 (z) An operator of a school-age recorded program under ORS 329A.257.
- 10 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
11 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
12 109.056.
- 13 (bb) Employee of a public or private organization providing child-related services or activities:
  - 14 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day  
15 camps, survival camps or groups, centers or camps that are operated under the guidance, super-  
16 vision or auspices of religious, public or private educational systems or community service organ-  
17 izations; and
  - 18 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
19 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
20 ficking.
- 21 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
22 if compensated and if the athlete is a child.
- 23 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
- 24 (ee) Home care worker, as defined in ORS 410.600.
- 25 (ff) **The Foster Child Ombudsman or a designee appointed under section 5 of this 2019**  
26 **Act.**
- 27 (gg) **The Foster Parent Ombudsman or a designee appointed under section 12 of this 2019**  
28 **Act.**
- 29 **SECTION 18.** ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is  
30 amended to read:
  - 31 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
    - 32 (1)(a) "Abuse" means:
      - 33 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
34 which has been caused by other than accidental means, including any injury which appears to be  
35 at variance with the explanation given of the injury.
      - 36 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
37 of the child's mental or psychological ability to function caused by cruelty to the child, with due  
38 regard to the culture of the child.
      - 39 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
40 tration and incest, as those acts are described in ORS chapter 163.
      - 41 (D) Sexual abuse, as described in ORS chapter 163.
      - 42 (E) Sexual exploitation, including but not limited to:
        - 43 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
44 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
45 in the performing for people to observe or the photographing, filming, tape recording or other ex-

1 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
2 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
3 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
4 which is designed to serve educational or other legitimate purposes; and

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

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

11 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm  
12 to the child's health or welfare.

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

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

16 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
17 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
18 stantial risk of harm to the child's health or safety.

19 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
20 conditions described in paragraph (a) of this subsection.

21 (2) "Child" means an unmarried person who:

22 (a) Is under 18 years of age; or

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

25 (3) "Higher education institution" means:

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

27 (b) A public university listed in ORS 352.002;

28 (c) The Oregon Health and Science University; and

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

30 (4) "Law enforcement agency" means:

31 (a) A city or municipal police department.

32 (b) A county sheriff's office.

33 (c) The Oregon State Police.

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

35 (e) A county juvenile department.

36 (5) "Public or private official" means:

37 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,  
38 including any intern or resident.

39 (b) Dentist.

40 (c) School employee, including an employee of a higher education institution.

41 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide  
42 or employee of an in-home health service.

43 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning  
44 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local  
45 health department, a community mental health program, a community developmental disabilities

1 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205  
2 or an alcohol and drug treatment program.

3 (f) Peace officer.

4 (g) Psychologist.

5 (h) Member of the clergy.

6 (i) Regulated social worker.

7 (j) Optometrist.

8 (k) Chiropractor.

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

10 (m) Attorney.

11 (n) Licensed professional counselor.

12 (o) Licensed marriage and family therapist.

13 (p) Firefighter or emergency medical services provider.

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

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

16 (s) Member of the Legislative Assembly.

17 (t) Physical, speech or occupational therapist.

18 (u) Audiologist.

19 (v) Speech-language pathologist.

20 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
21 gations or discipline by the commission.

22 (x) Pharmacist.

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

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

25 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
26 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
27 109.056.

28 (bb) Employee of a public or private organization providing child-related services or activities:

29 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day  
30 camps, survival camps or groups, centers or camps that are operated under the guidance, super-  
31 vision or auspices of religious, public or private educational systems or community service organ-  
32 izations; and

33 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
34 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
35 ficking.

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

38 (dd) Personal support worker, as defined in ORS 410.600.

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

40 **(ff) The Foster Child Ombudsman or a designee appointed under section 5 of this 2019**  
41 **Act.**

42 **(gg) The Foster Parent Ombudsman or a designee appointed under section 12 of this 2019**  
43 **Act.**

44

45

1        **SECTION 19.** ORS 441.402 is amended to read:

2        441.402. As used in ORS 441.402 to 441.419:

3        (1) “Administrative action” means any action, inaction or decision made by an owner, employee  
4 or agent of a long term care facility or by a public agency that affects the services to residents of  
5 long term care facilities.

6        (2) “Designee” means an individual appointed by the Long Term Care Ombudsman under ORS  
7 441.413 to serve as a representative in a local community in order to carry out the purpose of ORS  
8 441.402 to 441.419.

9        (3) “Long term care facility” means:

10        (a) Any licensed skilled nursing facility or intermediate care facility, as defined in rules adopted  
11 under ORS 442.015;

12        (b) Adult foster homes, as defined in ORS 443.705, with residents over 60 years of age;

13        (c) Residential care facilities, as defined in ORS 443.400; *[and]*

14        (d) Continuing care retirement communities, as defined in ORS 101.020; **and**

15        (e) **Conversion facilities licensed under ORS 443.431.**

16        (4) “Long Term Care Ombudsman Program” means the services provided by the Long Term Care  
17 Ombudsman.

18        **SECTION 20.** ORS 441.403 is amended to read:

19        441.403. (1) The Office of the Long Term Care Ombudsman is established. *[The Long Term Care*  
20 *Ombudsman shall function separately and independently from any other state agency.]* The Governor  
21 shall appoint the Long Term Care Ombudsman for a four-year term from a list of three nominees  
22 nominated by the *[Residential Ombudsman and Public Guardianship Advisory Board]* **Long Term**  
23 **Care Ombudsman Advisory Committee** established under ORS 441.416. The appointment of the  
24 Long Term Care Ombudsman is subject to Senate confirmation under ORS 171.562 and 171.565. A  
25 vacancy **in the position** shall be filled *[within]* **no later than 60 days after the vacancy occurs,**  
26 in the same manner as an appointment is made.

27        (2) The Long Term Care Ombudsman may be removed for just cause, upon recommendation to  
28 the Governor by the *[Residential Ombudsman and Public Guardianship Advisory Board]* **Long Term**  
29 **Care Ombudsman Advisory Committee.**

30        (3) The Long Term Care Ombudsman shall have background and experience in the following  
31 areas:

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

33        (b) Physical or behavioral health care;

34        (c) Working with community programs;

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

36        (e) Working with health care providers;

37        (f) Working with and involvement in volunteer programs; and

38        (g) Administrative and managerial experience.

39        **SECTION 21.** ORS 441.406, as amended by section 17, chapter 61, Oregon Laws 2018, is  
40 amended to read:

41        441.406. (1) The Long Term Care Ombudsman shall carry out the following duties:

42        (a) Investigate and resolve complaints made by or for residents of long term care facilities about  
43 administrative actions that may adversely affect their health, safety, welfare or rights, including  
44 subpoenaing any person to appear, to give sworn testimony or to produce documentary or other  
45 evidence that is reasonably material to any matter under investigation.

1 (b) Undertake, participate in or cooperate with persons and agencies in such conferences, in-  
2 quiries, meetings or studies as may lead to improvements in the functioning of long term care fa-  
3 cilities.

4 (c) Monitor the development and implementation of federal, state and local laws, regulations and  
5 policies that relate to long term care facilities in this state.

6 (d) Provide information to public agencies about the problems of residents of long term care  
7 facilities.

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

10 (f) Widely publicize the Long Term Care Ombudsman's services, purpose and mode of operation.

11 (g) Collaborate with the Oregon Health Authority, the Department of Human Services, the Long  
12 Term Care Administrators Board and any other appropriate agencies and organizations to establish  
13 a statewide system to collect and analyze information on complaints and conditions in long term  
14 care facilities for the purpose of publicizing improvements and resolving significant problems.

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

19 (i) Appoint designees to serve as local representatives of the Office of the Long Term Care  
20 Ombudsman in various districts of the state and regularly monitor their functions.

21 (j) Specify qualifications and duties of designees.

22 (k) Adopt rules necessary for carrying out ORS 441.402 to [~~441.414~~] **441.419**, after consultation  
23 with the [*Residential Ombudsman and Public Guardianship Advisory Board*] **Long Term Care**  
24 **Ombudsman Advisory Committee**.

25 **(L) Collect and compile data necessary to prepare the report submitted to the Governor**  
26 **under ORS 182.500.**

27 [(L)] (m) Provide periodically, or at least annually, a report to the [*Governor, authority,*] de-  
28 partment and **the** Legislative Assembly.

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

30 [(n) *Advise and support the Oregon Public Guardian and Conservator appointed under ORS*  
31 *125.678.*]

32 [(o) *Supervise, monitor, advise and support the Residential Facilities Ombudsman appointed under*  
33 *ORS 443.382.*]

34 (2) At least quarterly, the Department of Human Services shall provide the Long Term Care  
35 Ombudsman with a list of the number of licensed or certified beds in each long term care facility  
36 for which the ombudsman has responsibilities under this section.

37 **SECTION 22.** ORS 441.411 is amended to read:

38 441.411. (1) The Long Term Care Ombudsman shall prepare and distribute to each long term  
39 care facility in this state a written notice describing the procedures to follow in making a complaint,  
40 including the address and telephone number of the ombudsman and local designee, if any, and a  
41 poster describing the Long Term Care Ombudsman Program and providing contact information.

42 (2) The administrator of each long term care facility shall post the written notice and poster  
43 required by this section in conspicuous places in the facility in accordance with procedures provided  
44 by the **Long Term Care** Ombudsman and shall give the written notice to each resident and legally  
45 appointed guardian, if any.

1        **SECTION 23.** ORS 441.413 is amended to read:

2        441.413. (1) The Long Term Care Ombudsman shall appoint designees in consultation with local  
3 screening committees that may consist of but not be limited to persons representing:

- 4        (a) The area agency, as defined in ORS 410.040.
- 5        (b) The local office of the Department of Human Services.
- 6        (c) The local health department.
- 7        (d) Senior citizens groups in the area.
- 8        (e) Local elected officials.

9        (2) To be appointed as a designee, a person must complete an initial training, as prescribed by  
10 the Long Term Care Ombudsman by rule, and attend quarterly training sessions that are approved  
11 by the ombudsman and that shall be coordinated and funded by the Department of Human Services  
12 [*and the Oregon Health Authority*], subject to the availability of funds. Local screening committees  
13 shall be appointed by and serve at the pleasure of the ombudsman.

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

19        (4) The qualifications of designees shall include experience with long term care facilities or  
20 residents or potential residents of long term care facilities, and the ability to communicate well, to  
21 understand laws, rules and regulations, and to be assertive, yet objective.

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

25        (6) The contract shall include statements that the purpose of the Long Term Care Ombudsman  
26 Program is to:

- 27        (a) Promote rapport and trust between the residents and staff of the long term care facilities  
28 and Long Term Care Ombudsman;
- 29        (b) Assist residents with participating more actively in determining the delivery of services at  
30 the facilities;
- 31        (c) Serve as an educational resource;
- 32        (d) Receive, resolve or relay concerns to the Long Term Care Ombudsman or the appropriate  
33 agency; and
- 34        (e) Ensure equitable resolution of problems.

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

- 36        (a) Visit each assigned long term care facility on a regular basis:
  - 37        (A) Upon arrival and departure, inform a specified staff member.
  - 38        (B) Review, with a specified staff member, any problems or concerns that need to be considered.
  - 39        (C) Visit individual residents and resident councils.
- 40        (b) Maintain liaison with appropriate agencies and the Long Term Care Ombudsman.
- 41        (c) Report, in writing, monthly to the Long Term Care Ombudsman.
- 42        (d) Keep residents and staff informed of the Long Term Care Ombudsman Program.

43        (e) Periodically review the rights prescribed in ORS 441.605, 441.610 and 441.612, and any other  
44 applicable rights to services, with residents, families, guardians, administrators and staff of long  
45 term care facilities.

1 (f) Perform other related duties as specified.

2 **SECTION 24.** ORS 441.416 is amended to read:

3 441.416. (1) There is established a [*Residential Ombudsman and Public Guardianship Advisory*  
4 *Board of 11 members to be appointed in the following manner:*]

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

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

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

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

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

12 [(f) *Four persons appointed by the Governor, two of whom must have expertise in the provision of*  
13 *guardianship, conservatorship and other fiduciary services for persons with inadequate resources.]*

14 **Long Term Care Ombudsman Advisory Committee consisting of five members appointed by**  
15 **the Governor, two of whom must be selected by the Governor from a list of four names**  
16 **submitted by organizations for seniors.**

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

19 (3) The term of office of each member is four years. Before the expiration of the term of a  
20 member, the [*appointing authority*] **Governor** shall appoint a successor whose term begins on July  
21 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the  
22 [*appointing authority*] **Governor** shall make an appointment to become immediately effective for the  
23 unexpired term.

24 (4) The members of the [*board*] **committee** must be residents of this state who are broadly  
25 representative, to the extent possible, of persons [*residing in residential facilities as defined in ORS*  
26 *443.380 or long term care facilities*] **over 60 years of age**, including members of racial and ethnic  
27 minorities, who have knowledge and interest in the problems of [*persons residing in residential fa-*  
28 *ilities*] **seniors**, and who are representative of all areas of this state [*and the demographics of*  
29 *groups served by the Long Term Care Ombudsman*].

30 (5) A member of the [*board*] **committee** may not have a financial or fiduciary interest in [*resi-*  
31 *dential facilities as defined in ORS 443.380,*] long term care facilities or service providers, or in-  
32 volvement in the licensing or certification of [*residential facilities,*] long term care facilities or  
33 service providers.

34 (6) The [*board*] **committee** shall select one of its members as chairperson and another as vice  
35 chairperson, for such terms and with duties and powers necessary for the performance of the func-  
36 tions of such offices as the [*board*] **committee** determines.

37 (7) A majority of the members of the [*board*] **committee** constitutes a quorum for the trans-  
38 action of business. Decisions may be made by a majority of the quorum.

39 (8) The [*board*] **committee** shall meet at least once each month at a place, day and hour de-  
40 termined by the [*board*] **committee**. The [*board*] **committee** also shall meet at other times and  
41 places specified by the call of the chairperson or of a majority of the members of the [*board*] **com-**  
42 **mittee**. The [*board*] **committee** shall confer each month with the Long Term Care Ombudsman. All  
43 meetings are subject to ORS 192.610 to 192.690.

44 (9) A member of the [*board*] **committee** is entitled to compensation and expenses as provided  
45 in ORS 292.495.



1 **Ombudsman for a four-year term from a list of three nominees nominated by the Residential**  
2 **Facilities Ombudsman Advisory Committee established under section 29 of this 2019 Act. A**  
3 **vacancy in the position shall be filled no later than 60 days after the vacancy occurs, in the**  
4 **same manner as an appointment is made.**

5 **(2) The Residential Facilities Ombudsman may be removed for just cause, upon recom-**  
6 **mendation to the Governor by the Residential Facilities Ombudsman Advisory Committee.**

7 **(3) The Residential Facilities Ombudsman shall have background and experience in the**  
8 **following areas:**

9 **(a) The fields of mental health or intellectual or developmental disabilities;**

10 **(b) Working with community programs;**

11 **(c) Residential facility regulatory and policy issues;**

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

13 **(e) Administration and management.**

14 [(2)] **(4) The Residential Facilities Ombudsman may, subject to the approval of the Long Term**  
15 **Care Ombudsman, hire or contract with volunteers, staff, deputy ombudsmen and other qualified**  
16 **individuals as necessary to perform the duties of the ombudsman.**

17 [(3)] **(5) The Residential Facilities Ombudsman shall:**

18 **(a) Identify, investigate and resolve complaints made by or on behalf of residents about admin-**  
19 **istrative actions.**

20 **(b) Provide residents, families of residents, guardians, community members and administrators**  
21 **and staff of residential facilities with information regarding the rights of residents as set forth in**  
22 **ORS 427.107 and 430.210 and any other applicable rights of residents.**

23 **(c) Widely publicize the Residential Facilities Ombudsman's services, purpose and mode of op-**  
24 **eration.**

25 **(d) Undertake, participate in or cooperate with persons and agencies in conferences, inquiries,**  
26 **meetings or studies that may lead to improvements in the functioning of residential facilities.**

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

29 **(f) Provide services to residents to assist them in protecting their health, safety, welfare and**  
30 **rights.**

31 **(g) Ensure that residents have regular, timely, private and unimpeded access to the Residential**  
32 **Facilities Ombudsman's services and that a resident or an individual acting on behalf of a resident**  
33 **who files a complaint receives a timely response to the complaint from the ombudsman or a**  
34 **designee.**

35 **(h) Represent the interests of residents before government agencies and seek administrative, le-**  
36 **gal or other appropriate remedies to protect the health, safety, welfare and rights of residents.**

37 **(i) Analyze, comment on and monitor the development and implementation of federal, state and**  
38 **local laws and other governmental policies pertaining to the health, safety, welfare and rights of**  
39 **residents.**

40 **(j) Recommend any changes to state or local laws to improve the health, safety, welfare and**  
41 **rights of residents.**

42 **(k) Facilitate public comment on laws and policies that affect the health, safety, welfare and**  
43 **rights of residents.**

44 **(L) Train designees.**

45 **(m) Promote the development of organizations to advocate on behalf of residents of residential**

1 facilities.

2 (n) To the extent practicable, assist residents who move from a residential facility to a home  
3 care setting.

4 (o) Assist residents and individuals acting on their behalf in locating and accessing resources  
5 in the community and in connecting with local service providers.

6 (p) Engage the participation of residents in general studies, conferences, inquiries or meetings  
7 related to residential care in this state.

8 (q) Make recommendations for improvements in the functioning of the residential facility system  
9 in this state.

10 (r) Collaborate with the Oregon Health Authority, the Department of Human Services, and any  
11 other appropriate agencies and organizations to establish a statewide system to collect and analyze  
12 information on complaints about and conditions in residential facilities for the purpose of publicizing  
13 improvements and resolving significant problems for residents.

14 (s) Provide information to public agencies about the problems of residents.

15 (t) Collect and compile data necessary to prepare the report submitted to the Governor under  
16 ORS 182.500.

17 (u) Adopt rules necessary for carrying out ORS 443.380 to 443.394, in accordance with ORS  
18 chapter 183, in consultation with the [*Long Term Care Ombudsman and the Residential Ombudsman*  
19 *and Public Guardianship Advisory Board*] **Residential Facilities Ombudsman Advisory Commit-**  
20 **tee established in section 29 of this 2019 Act.**

21 **(6) The Residential Facilities Ombudsman shall contract with the state protection and**  
22 **advocacy system described in ORS 192.517 (1) to provide services and assistance to persons**  
23 **who are prospective or current residents of a residential facility for individuals with devel-**  
24 **opmental disabilities when the system has received a notice regarding the person pursuant**  
25 **to ORS 125.060 (7)(c) or (8)(c).**

26 **SECTION 29. (1) The Residential Facilities Ombudsman Advisory Committee is estab-**  
27 **lished consisting of five members appointed by the Governor, one of whom must be a repre-**  
28 **sentative of persons with mental illness and one of whom must be a representative of**  
29 **persons with intellectual or developmental disabilities. Members are subject to confirmation**  
30 **by the Senate under ORS 171.562 and 171.565.**

31 **(2) The term of office for each member is four years. Before the expiration of the term**  
32 **of a member, the Governor shall appoint a successor whose term begins July 1 next follow-**  
33 **ing. A member is eligible for reappointment. If there is a vacancy for any cause, the Gover-**  
34 **nor shall make an appointment to become immediately effective for the unexpired term.**

35 **(3) The members of the committee must be residents of this state who are broadly rep-**  
36 **resentative of persons residing in residential facilities, including members of racial and eth-**  
37 **nic minorities, who have knowledge and interest in the problems of individuals residing in**  
38 **residential facilities and who are representative of all areas of this state and the demo-**  
39 **graphics of groups served by the Residential Facilities Ombudsman.**

40 **(4) A member of the committee may not have a financial or fiduciary interest in resi-**  
41 **dential facilities or service providers, or involvement in the licensing or certification of resi-**  
42 **dential facilities or service providers.**

43 **(5) The committee shall select one of its members as chairperson and another as vice**  
44 **chairperson, for such terms and with duties and powers necessary for the performance of**  
45 **the functions of such offices as the committee determines.**

1       **(6) A majority of the members of the committee constitutes a quorum for the transaction**  
2 **of business. Decisions may be made by a majority of the quorum.**

3       **(7) The committee shall meet at least once each month at a place, day and hour deter-**  
4 **mined by the committee. The committee also shall meet at other times and places specified**  
5 **by the call of the chairperson or of a majority of the members of the committee. The com-**  
6 **mittee shall confer each month with the Residential Facilities Ombudsman.**

7       **(8) Members of the committee are entitled to compensation and expenses as provided in**  
8 **ORS 292.495.**

9       **SECTION 30.** **The Residential Facilities Ombudsman Advisory Committee shall:**

10       **(1) Monitor the Office of the Residential Facilities Ombudsman.**

11       **(2) Advise the Governor and the Legislative Assembly on the Office of the Residential**  
12 **Facilities Ombudsman.**

13       **(3) Nominate, after interviews and according to prescribed criteria, three persons to fill**  
14 **the Residential Facilities Ombudsman position or to fill a vacancy in the position.**

15       **SECTION 31.** ORS 443.386 is amended to read:

16       443.386. (1) The Residential Facilities Ombudsman [*shall*] **may**[, *in consultation with the Long*  
17 *Term Care Ombudsman,*] appoint designees to serve as representatives of the ombudsman in local  
18 communities. The ombudsman shall regularly monitor the functions of designees.

19       (2) The Residential Facilities Ombudsman shall prescribe the qualifications of designees by rule.

20       (3) To be appointed as a designee, a person must complete an initial training prescribed by the  
21 Residential Facilities Ombudsman by rule and attend required continuing educational training ses-  
22 sions that are approved by the ombudsman.

23       (4) Designees must sign a contract with the Residential Facilities Ombudsman that outlines the  
24 scope of their duties. Violation of the contract is cause for terminating the appointment of a  
25 designee.

26       **SECTION 32.** ORS 443.390 is amended to read:

27       443.390. (1) If a complaint is made on behalf of a resident who has limited or no decision-making  
28 capacity and is unable to communicate consent for the Residential Facilities Ombudsman to inves-  
29 tigate the complaint, and:

30       (a) The resident has no known legal representative:

31       (A) The ombudsman shall seek to discern the outcome that the resident desires and shall work  
32 to accomplish that outcome; or

33       (B) If the ombudsman is unable to discern the resident's desired outcome, it shall be assumed  
34 that the resident desires to have the resident's health, safety, welfare and rights protected; or

35       (b) The resident has a legal representative who refuses to provide consent to the investigation,  
36 the ombudsman may proceed without consent if the ombudsman has reasonable cause to believe that  
37 it is in the resident's best interests.

38       (2) A resident shall have the right to refuse to communicate with the ombudsman or the  
39 designee. The refusal shall be made directly to the ombudsman or the designee and not through an  
40 intermediary.

41       (3) Following an investigation of a complaint, the Residential Facilities Ombudsman or a  
42 designee shall report the ombudsman's findings and conclusions to the resident who made the com-  
43 plaint and to a complainant acting on behalf of a resident. If the ombudsman or designee finds  
44 conditions threatening the health, safety or welfare of a resident that cannot be resolved informally,  
45 the ombudsman or designee shall refer the findings to the Department of Human Services, the

1 Oregon Health Authority or law enforcement officials.

2 (4) A resident shall have the right to participate in planning any course of action to be taken  
3 on behalf of the resident by the ombudsman or the designee.

4 (5) A resident or an individual who makes a complaint to the Residential Facilities Ombudsman  
5 under this section, or who participates in an investigation of a complaint, may not be subjected to  
6 a penalty, sanction or restriction or be denied any right, privilege or benefit on account of making  
7 the complaint or participating in the investigation of the complaint.

8 (6) The Department of Human Services shall prohibit retaliation or reprisals by a residential  
9 facility or other entity with respect to any resident, employee or other person who files a complaint,  
10 provides information or otherwise cooperates with the Residential Facilities Ombudsman or a  
11 designee and shall provide by rule for appropriate sanctions with respect to the retaliation and re-  
12 prisals.

13 (7) In order to encourage residents and individuals acting on behalf of residents to communicate  
14 with the Residential Facilities Ombudsman or designee, any resident or individual acting on behalf  
15 of a resident who makes a complaint to the Residential Facilities Ombudsman in good faith under  
16 this section or who participates in an investigation of a complaint shall have immunity from any  
17 civil or criminal liability that might otherwise be incurred or imposed with respect to the commu-  
18 nication.

19 **(8) An employee or agent of a residential facility who makes a complaint under this sec-**  
20 **tion may not be subjected to retaliation by an official or other employee of the residential**  
21 **facility solely for making a report, including but not limited to restriction of otherwise lawful**  
22 **access to the facility or to a resident of the facility, or, if an employee, to dismissal or**  
23 **harassment.**

24 **SECTION 33.** ORS 443.396 is amended to read:

25 443.396. The Residential Facilities Ombudsman appointed under ORS 443.382 may solicit and  
26 accept gifts, grants and donations from public and private sources for the purpose of carrying out  
27 ORS 443.380 to 443.394, and the moneys shall be deposited in the [*Long Term Care Ombudsman*  
28 *Account established under ORS 441.419*] **Office of the Residential Facilities Ombudsman subac-**  
29 **count in the Office of Oregon Ombudsmen and Advocates Account established in section 2**  
30 **of this 2019 Act.**

31 **SECTION 34.** ORS 443.455 is amended to read:

32 443.455. (1) Except as provided in subsection (5) of this section, for purposes of imposing civil  
33 penalties, residential facilities approved under ORS 443.400 to 443.455 are subject to ORS 441.705  
34 to 441.745.

35 (2)(a) The Director of Human Services shall impose penalties on residential care facilities pur-  
36 suant to ORS 441.731.

37 (b) The director shall by rule prescribe a schedule of penalties for residential training facilities  
38 and residential training homes that are not in compliance with ORS 443.400 to 443.455.

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

42 (4) If the department or authority investigates and makes a finding of abuse arising from delib-  
43 erate or other than accidental action or inaction that is likely to cause a negative outcome by a  
44 person with a duty of care toward a resident of a residential facility, other than a residential care  
45 facility, and if the abuse resulted in the death, serious injury, rape or sexual abuse of a resident, the

1 department or authority shall impose a civil penalty of not less than \$2,500 for each occurrence of  
2 substantiated abuse, not to exceed \$15,000 in any 90-day period. As used in this subsection:

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

4 (b) “Rape” means rape in the first degree as defined in ORS 163.375, rape in the second degree  
5 as defined in ORS 163.365 and rape in the third degree as defined in ORS 163.355.

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

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

13 (5) Civil penalties recovered from a residential training facility, residential training home, resi-  
14 dential treatment facility or residential treatment home shall be deposited in the [*Long Term Care*  
15 *Ombudsman*] **Office of the Residential Facilities Ombudsman subaccount in the Office of**  
16 **Oregon Ombudsmen and Advocates** Account established in [*ORS 441.419*] **section 2 of this 2019**  
17 **Act.**

18 **SECTION 35.** ORS 443.447 is amended to read:

19 443.447. (1) The Quality Measurement Council is established in the Department of Human Ser-  
20 vices to prescribe how the department shall implement the Residential Care Quality Measurement  
21 Program established under ORS 443.446.

22 (2) The council consists of eight members, appointed by the Governor, as follows:

23 (a) One individual representing the Oregon Patient Safety Commission;

24 (b) One individual representing residential care facilities;

25 (c) One consumer representative from an Alzheimer’s advocacy organization;

26 (d) One licensed health care practitioner with experience in geriatrics;

27 (e) Two individuals associated with an academic institution who have expertise in research us-  
28 ing data and analytics and in community-based care and quality reporting;

29 (f) The [*Long Term Care*] **Residential Facilities** Ombudsman or a designee of the [*Long Term*  
30 *Care*] **Residential Facilities** Ombudsman; and

31 (g) One individual representing the department.

32 (3)(a) On and after January 1, 2022, the council may update by rule the quality metrics to be  
33 reported by residential care facilities under ORS 443.446.

34 (b) In developing quality metrics the council shall consider whether the data that must be re-  
35 ported reflect and promote quality care and whether reporting the data is unnecessarily burdensome  
36 on residential care facilities.

37 **SECTION 36.** ORS 443.825 is amended to read:

38 443.825. All penalties recovered under ORS 443.790 to 443.815 shall be deposited:

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

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

43 **(2) In the Residential Facilities Ombudsman subaccount in the Office of Oregon**  
44 **Ombudsmen and Advocates Account established in section 2 of this 2019 Act if paid by an**  
45 **adult foster home licensed to provide care to persons with mental illness or intellectual or**

1 developmental disabilities.

2  
3 OFFICE OF THE OREGON PUBLIC GUARDIAN  
4 AND CONSERVATOR  
5

6 **SECTION 37.** Sections 38 to 41 of this 2019 Act are added to and made a part of ORS  
7 125.675 to 125.691.

8 **SECTION 38.** The Office of the Oregon Public Guardian and Conservator is established  
9 to:

10 (1) Provide guardianship and conservator services described in ORS 125.675 to 125.691 to  
11 persons in need of public guardian and conservator services who are located in areas of this  
12 state where public guardian and conservator programs, services and other assistance are  
13 inadequate or nonexistent; and

14 (2) Identify and coordinate programs, services and other assistance that are available  
15 statewide for such persons.

16 **SECTION 39.** (1) There is established an Oregon Public Guardian and Conservator Advi-  
17 sory Committee consisting of five members appointed by the Governor, two of whom must  
18 have expertise in the provision of guardianship, conservatorship and other fiduciary services  
19 for persons with inadequate resources.

20 (2) Members of the committee are subject to confirmation by the Senate under ORS  
21 171.562 and 171.565.

22 (3) The term of office of each member is four years. Before the expiration of the term  
23 of a member, the Governor shall appoint a successor whose term begins on July 1 next fol-  
24 lowing. A member is eligible for reappointment. If there is a vacancy for any cause, the  
25 Governor shall make an appointment to become immediately effective for the unexpired  
26 term.

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

30 (5) A majority of the members of the committee constitutes a quorum for the transaction  
31 of business. Decisions may be made by a majority of the quorum.

32 (6) The committee shall meet at least once each month at a place, day and hour deter-  
33 mined by the committee. The committee also shall meet at other times and places specified  
34 by the call of the chairperson or of a majority of the members of the committee. The com-  
35 mittee shall confer each month with the Oregon Public Guardian and Conservator. All  
36 meetings are subject to ORS 192.610 to 192.690.

37 (7) Members of the committee are entitled to compensation and expenses as provided in  
38 ORS 292.495.

39 **SECTION 40.** The Oregon Public Guardian and Conservator Advisory Committee shall:

40 (1) Monitor the Office of the Oregon Public Guardian and Conservator.

41 (2) Advise the Governor and the Legislative Assembly on the Office of the Oregon Public  
42 Guardian and Conservator.

43 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill  
44 the Oregon Public Guardian and Conservator position or to fill a vacancy in the position.

45 **SECTION 41.** The Oregon Public Guardian and Conservator shall establish procedures to

1 **maintain the confidentiality of the records and files related to guardianship or conservator**  
 2 **services.**

3 **SECTION 42.** ORS 125.678 is amended to read:

4 125.678. (1) The [*Long Term Care Ombudsman appointed under ORS 441.403, in consultation with*  
 5 *the Residential Ombudsman and Public Guardianship Advisory Board,*] **Governor** shall appoint the  
 6 Oregon Public Guardian and Conservator [*in the office of the Long Term Care Ombudsman*] for a  
 7 four-year term. The Oregon Public Guardian and Conservator serves at the pleasure of the [*Long*  
 8 *Term Care Ombudsman*] **Governor** and may be removed by the [*Long Term Care Ombudsman*]  
 9 **Governor** for good cause. If there is a vacancy **in the position** for any cause, the [*Long Term Care*  
 10 *Ombudsman*] **Governor** shall make an appointment [*within*] **no later than 60 days after the va-**  
 11 **cancy occurs.** The Oregon Public Guardian and Conservator shall receive a salary as fixed by the  
 12 [*Long Term Care Ombudsman*] **Governor** and be reimbursed for all reasonable travel and other ex-  
 13 penses incurred in the performance of official duties.

14 (2) The Oregon Public Guardian and Conservator shall be responsible for carrying out the  
 15 powers, duties and functions of the Oregon Public Guardian and Conservator pursuant to ORS  
 16 125.675 to 125.691[, *within the office of the Long Term Care Ombudsman*].

17 (3) The Oregon Public Guardian and Conservator may:

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

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

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

26 (d) Adopt rules to carry out the provisions of ORS 125.675 to 125.691.

27 (4) The [*Long Term Care Ombudsman*] **Oregon Public Guardian and Conservator** may hire or  
 28 contract with staff to serve in the Office of the [*Long Term Care Ombudsman*] **Oregon Public**  
 29 **Guardian and Conservator** as necessary to advise and support the **Office of the** Oregon Public  
 30 Guardian and Conservator.

31 (5)(a) The Oregon Public Guardian and Conservator may delegate the exercise or discharge of  
 32 any power, duty or function that is vested in or imposed by law upon the Oregon Public Guardian  
 33 and Conservator to a deputy public guardian and conservator, staff person or volunteer hired by or  
 34 under contract with the Oregon Public Guardian and Conservator as appropriate for the purpose  
 35 of conducting an official act in the name of the Oregon Public Guardian and Conservator. The offi-  
 36 cial act of any person acting in the name of the Oregon Public Guardian and Conservator by the  
 37 authority of the Oregon Public Guardian and Conservator is an official act of the Oregon Public  
 38 Guardian and Conservator.

39 (b) Notwithstanding paragraph (a) of this subsection, a court may not appoint a deputy public  
 40 guardian and conservator as a fiduciary in a proceeding under ORS 125.675 to 125.691 but shall  
 41 appoint the Oregon Public Guardian and Conservator as the fiduciary in the proceeding.

42 (6) The Oregon Public Guardian and Conservator may solicit and accept gifts, grants and do-  
 43 nations from public and private sources for the purpose of carrying out the provisions of ORS  
 44 125.675 to 125.691, which moneys shall be deposited in the Oregon Public Guardian and Conservator  
 45 Fund established under ORS 125.689.



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

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

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

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

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

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

17 (L) If the respondent is a foreign national, the consulate for the 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, for removal of a  
20 fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's  
21 actions or for protective orders in addition to those sought in the petition must be given by the  
22 person making the motion to the following persons:

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

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

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

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

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

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

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

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

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

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

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

5 (b) If the respondent is a resident of a nursing home or residential facility, or if the person  
6 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-  
7 cility, the Office of the Long Term Care Ombudsman **or the Office of the Residential Facilities**  
8 **Ombudsman.**

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

12 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding  
13 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this  
14 section, and the address, telephone number and other contact information of the protected person,  
15 must be given by the person making the motion to the following persons:

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

18 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion  
19 seeks authority to place the protected person in a nursing home or residential facility, the Office  
20 of the Long Term Care Ombudsman **or the Office of the Residential Facilities Ombudsman.**

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

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

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

28 **SECTION 45.** ORS 125.075 is amended to read:

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

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

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

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

35 (2) Objections to a petition may be either written or oral. Objections to a motion must be in  
36 writing, except that a protected person may object orally in person or by other means that are in-  
37 tended to convey the protected person's objections to the court. Objections to a petition or to a  
38 motion must be made or filed with the court within 15 days after notice of the petition or motion  
39 is served or mailed in the manner prescribed by ORS 125.065. The court shall designate the manner  
40 in which oral objections may be made that ensures that a protected person will have the protected  
41 person's objection presented to the court. The clerk of the court shall provide a means of reducing  
42 the oral objections to a signed writing for the purpose of filing the objection.

43 (3) If objections are presented by any of the persons listed in subsection (1) of this section, the  
44 court shall schedule a hearing on the objections. The petitioner or person making the motion shall  
45 give notice to all persons entitled to notice under ORS 125.060 (3) of the date, time and place of the

1 scheduled hearing at least 15 days before the date set for hearing. Notice shall be given in the  
2 manner prescribed by ORS 125.065.

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

6 (a) The respondent or the protected person;

7 (b) The Office of the Long Term Care Ombudsman **or the Office of the Residential Facilities**  
8 **Ombudsman**; or

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

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

12 **SECTION 46.** ORS 125.687 is amended to read:

13 125.687. (1) A court may not appoint the Oregon Public Guardian and Conservator as a fiduciary  
14 for a person unless the Oregon Public Guardian and Conservator has petitioned for or consented to  
15 the appointment. If appointed as a fiduciary by the court, the Oregon Public Guardian and  
16 Conservator, and any deputy public guardian and conservator designated to act on behalf of the  
17 Oregon Public Guardian and Conservator, shall serve as provided in this chapter and ORS 127.005  
18 and 127.015, except as expressly stated otherwise in ORS 125.675 to 125.691 or by order of the court.

19 (2) The Oregon Public Guardian and Conservator shall file an official bond in an amount deter-  
20 mined in consultation with the Oregon Department of Administrative Services. The bond shall inure  
21 to the joint benefit of the several public guardianship and conservatorship estates in which the  
22 Oregon Public Guardian and Conservator is providing services, but a bond is not required to be filed  
23 in individual estates.

24 (3) The court may not charge the Oregon Public Guardian and Conservator a fee for the filing  
25 of a petition or any other pleading under this chapter when the filing is made in connection with  
26 the provision of public guardian and conservator services under ORS 125.675 to 125.691.

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

30 (b) If a client is indigent, the Oregon Public Guardian and Conservator shall have a claim  
31 against the client or the client's estate for the portion of any payment ordered under paragraph (a)  
32 of this subsection that remains unpaid.

33 (5) The court may not order the Oregon Public Guardian and Conservator, a deputy public  
34 guardian and conservator or the Office of [*the Long Term Care Ombudsman*] **Oregon Ombudsmen**  
35 **and Advocates** to pay court costs or attorney fees in a proceeding brought on behalf of a client  
36 under ORS 125.675 to 125.691.

37 **SECTION 47.** ORS 443.380 is amended to read:

38 443.380. As used in ORS 443.380 to 443.394:

39 (1) "Administrative action" means an action, inaction or decision by an owner, employee or  
40 agent of a residential facility or by a state, local, social service or health agency that could affect  
41 the health, safety, welfare or rights of residents of the facility.

42 (2) "Designee" means an individual appointed by the Residential Facilities Ombudsman in ac-  
43 cordance with ORS 443.386.

44 (3) "Legal representative" means a person to whom a resident or a court has granted legal au-  
45 thority to permit access to the resident's personal information and medical records.

1        [(4) “Long Term Care Ombudsman” means the individual appointed by the Governor under ORS  
2 441.403.]

3        [(5)] (4) “Resident” means an individual who resides in a residential facility.

4        [(6)(a)] (5)(a) “Residential facility” means one of the following:

5        (A) A residential training facility, as defined in ORS 443.400.

6        (B) A residential training home, as defined in ORS 443.400.

7        (C) A licensed adult foster home as defined in ORS 443.705 that serves persons with mental ill-  
8 ness or developmental disabilities.

9        (D) A developmental disability child foster home, as defined in ORS 443.830.

10       (E) A residential treatment facility, as defined in ORS 443.400.

11       (F) A residential treatment home, as defined in ORS 443.400.

12       [(G) A conversion facility licensed under ORS 443.431.]

13       (b) “Residential facility” does not include a:

14       (A) Secured facility housing persons committed under ORS 161.327; or

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

16       [(7)] (6) “Residential Facilities Ombudsman Program” means the services provided by the Resi-  
17 dential Facilities Ombudsman.

18       **SECTION 48.** ORS 443.767 is amended to read:

19       443.767. (1) When the licensing agency receives a complaint that alleges that a resident of a li-  
20 censed adult foster home has been injured, abused or neglected, and that the resident’s health or  
21 safety is in imminent danger, or that the resident has died or been hospitalized, the investigation  
22 shall begin immediately after the complaint is received. If the investigator determines that the  
23 complaint is substantiated, the licensing agency shall take appropriate corrective action imme-  
24 diately.

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

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

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

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

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

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

44       (C) The facility; and

45       (D) The Office of the Long Term Care **Ombudsman or the Residential Facilities Ombudsman.**

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

3 (6)(a) The complaint and the investigation report shall be available to the public at the local  
4 office of the licensing agency or the type B area agency, if appropriate. When the licensing agency  
5 or type B area agency concludes the investigation of a complaint, the licensing agency or type B  
6 area agency shall clearly designate the outcome of the complaint investigation and make the desig-  
7 nation available to the public together with the complaint and the investigation report.

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

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

11  
12 **REPEAL AND OPERATIVE DATES**

13  
14 **SECTION 49. Sections 4 to 8, 11 to 15, 27, 29 and 37 to 41 of this 2019 Act and the**  
15 **amendments to statutes by sections 9, 10, 16 to 26, 28, 31 to 36 and 42 to 48 of this 2019 Act**  
16 **become operative on January 1, 2020.**

17 **SECTION 50. The administrator of the Office of Oregon Ombudsmen and Advocates shall**  
18 **be appointed without delay and may take any actions before the operative date specified in**  
19 **section 49 of this 2019 Act that are necessary to carry out sections 4 to 8, 11 to 15, 27, 29 and**  
20 **37 to 41 of this 2019 Act and the amendments to statutes by sections 9, 10, 16 to 26, 28, 31**  
21 **to 36 and 42 to 48 of this 2019 Act on and after the operative date specified in section 49 of**  
22 **this 2019 Act.**

23 **SECTION 51. ORS 441.419 is repealed.**

24  
25 **CAPTIONS**

26  
27 **SECTION 52. The unit captions used in this 2019 Act are provided only for the conven-**  
28 **ience of the reader and do not become part of the statutory law of this state or express any**  
29 **legislative intent in the enactment of this 2019 Act.**

30  
31 **EMERGENCY CLAUSE**

32  
33 **SECTION 53. This 2019 Act being necessary for the immediate preservation of the public**  
34 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
35 **on its passage.**