

# Senate Bill 376

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## 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 **as introduced**.

Directs guardian to deliver notice of order of appointment to certain persons.

Directs court to order guardian to file motion to terminate protective proceeding or supplement guardian's report if guardian indicates guardianship should not continue or fails to support continuing need for guardianship. Directs court to order show cause hearing if guardian fails to comply with order. Directs court to serve copies of orders upon certain persons.

## A BILL FOR AN ACT

1  
2 Relating to guardianship proceedings; creating new provisions; and amending ORS 125.325.

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

4 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 125.**

5 **SECTION 2. (1) Upon appointment, a guardian shall deliver or mail to the persons de-**  
6 **scribed in ORS 125.060 (3) a notice of the order of appointment.**

7 **(2) A notice under this section must include:**

8 **(a) The title of the court in which the protective proceeding is pending and the clerk's**  
9 **file number;**

10 **(b) The name and address of the protected person and the attorney for the protected**  
11 **person, if any;**

12 **(c) The name and address of the guardian and the attorney for the guardian, if any;**

13 **(d) The date of the appointment of the guardian;**

14 **(e) A statement describing the authority awarded to the guardian and any limitations**  
15 **placed on the guardian's authority; and**

16 **(f) A statement advising the protected person or other interested person of the right of**  
17 **the protected person to seek removal of the guardian or termination of the guardianship.**

18 **(3) Proof of the giving of notice under this section must be filed in the protective pro-**  
19 **ceeding not later than 30 days following the date of the guardian's appointment.**

20 **SECTION 3. ORS 125.325 is amended to read:**

21 **125.325. (1) [*Within*] **Not later than** 30 days [*after*] **following** each anniversary of appointment,**  
22 **a guardian for an adult protected person shall file with the court a written report. The report must**  
23 **include a declaration under penalty of perjury in the form required by ORCP 1 E, or an unsworn**  
24 **declaration under ORS 194.800 to 194.835, if the declarant is physically outside the boundaries of the**  
25 **United States. Copies of the guardian's report must be given to those persons specified in ORS**  
26 **125.060 (3). The report shall be in substantially the following form:**

27  
28  
**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.

IN THE \_\_\_\_\_ COURT \_\_\_\_\_ COUNTY,  
STATE OF OREGON  
DEPARTMENT OF PROBATE

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In the Matter of the ) No. \_\_\_\_\_  
Guardianship of )  
\_\_\_\_\_, )  
(Name of protected )  
person) )  
A Protected )  
Person. )

GUARDIAN'S REPORT

I am the guardian for the person named above, and I make the following report to the court as required by law:

1. My name is \_\_\_\_\_.

2. My address and telephone number are:

\_\_\_\_\_  
\_\_\_\_\_

Phone \_\_\_\_\_

3. The name, if applicable, and address of the place where the person now resides are:

\_\_\_\_\_  
\_\_\_\_\_

4. The person is currently residing at the following type of facility or residence:

\_\_\_\_\_

5. The person is currently engaged in the following programs and activities and receiving the following services (brief description):

\_\_\_\_\_

6. I was paid for providing the following items of lodging, food or other services to the person:

\_\_\_\_\_  
\_\_\_\_\_

7. The name of the person primarily responsible for the care of the person at the person's place of residence is:

\_\_\_\_\_

8. The name and address of any hospital or other institution where the person is now admitted on a temporary or permanent basis are:

\_\_\_\_\_  
\_\_\_\_\_

9. The person's physical condition is as follows (brief description):

\_\_\_\_\_  
\_\_\_\_\_

10. The person's mental condition is as follows (brief description):

\_\_\_\_\_  
\_\_\_\_\_

11. Facts that support the conclusion that the person is incapacitated include the following:

\_\_\_\_\_

12. I made the following contacts with the person during the past year (brief description):

1 \_\_\_\_\_  
2 13. I made the following major decisions on behalf of the person during the past year (brief de-  
3 scription):

4 \_\_\_\_\_  
5 14. I believe the guardianship should or should not continue because:  
6 \_\_\_\_\_

7 15. At the time of my last report, I held the following amount of money on behalf of the person:  
8 \$\_\_\_\_\_. Since my last report, I received the following amount of money on behalf of the person:  
9 \$\_\_\_\_\_. I spent the following amount of money on behalf of the person: \$\_\_\_\_\_. I now hold  
10 the following amount of money on behalf of the person: \$\_\_\_\_\_.

11 16. A true copy of this report will be given to the person, any conservator for the person and  
12 any other person who has requested notice.

13 17. Since my last report:

14 (a) I have been convicted of the following crimes (not including traffic violations):  
15 \_\_\_\_\_

16 (b) I have filed for or received protection from creditors under the Federal Bankruptcy Code  
17 (yes or no): \_\_\_\_\_.

18 (c) I have had a professional or occupational license revoked or suspended (yes or no):  
19 \_\_\_\_\_.

20 (d) I have had my driver license revoked or suspended (yes or no): \_\_\_\_\_.

21 18. Since my last report, I have delegated the following powers over the protected person for  
22 the following periods of time (provide name of person powers delegated to):  
23 \_\_\_\_\_

24 I hereby declare that the above statement is true to the best of my knowledge and belief, and  
25 that I understand it is made for use as evidence in court and is subject to penalty for perjury.

26 Dated this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

27 \_\_\_\_\_  
28 Guardian

29 NOTICE: ANY PERSON INTERESTED IN THE AFFAIRS OR WELFARE OF THE PRO-  
30 TECTED PERSON WHO IS THE SUBJECT OF THIS REPORT WHO HAS CONCERNS ABOUT  
31 THIS REPORT OR THE GUARDIAN'S PERFORMANCE MAY CONTACT THE COURT AS FOL-  
32 LLOWS:

33 \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_  
36 \_\_\_\_\_  
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41 \_\_\_\_\_  
42 \_\_\_\_\_  
43 \_\_\_\_\_

44  
45 **(2) If the guardian indicates in the report under subsection (1) of this section that the**

1 guardianship should not continue or fails to provide adequate information in the report sup-  
2 porting the continuing need for the guardianship, the court shall order the guardian to sup-  
3 plement the report or file a motion to terminate the protective proceeding under ORS  
4 125.090.

5 (3) Failure of the guardian to comply with an order under subsection (2) of this section  
6 before the 30th day following the date of the order is grounds for removal under ORS 125.225  
7 (1).

8 (4) If the guardian fails to comply with an order issued under subsection (2) of this sec-  
9 tion, the court, on its own motion or on the petition of any other person, shall order the  
10 guardian to appear and show cause why the guardian should not be removed.

11 (5) The court shall serve a copy of any order issued under subsection (2) or (4) of this  
12 section and a copy of the report filed under subsection (1) of this section and supplemental  
13 materials, if any, upon those persons entitled to notice under ORS 125.060 (3).

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