

**A-Engrossed**  
**Senate Bill 578**

Ordered by the Senate April 8  
Including Senate Amendments dated April 8

Sponsored by Senator DEMBROW, Representatives WILDE, PRUSAK; Senator MANNING JR (Presession filed.)

**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.

Requires court, under certain circumstances, to appoint legal counsel for respondent or protected person in protective proceeding. Requires payment for appointed counsel from guardianship or conservatorship estate of respondent or protected person or at state expense. Provides for phase-in among counties over three-year period beginning in 2022. *[Directs certain county circuit courts to make annual reports regarding protective proceeding statistics to Judicial Department.]* Directs Judicial Department to *[present results of reports in report]* **submit annual report regarding protective proceeding statistics** to interim committees of Legislative Assembly related to judiciary. *[Sunsets reporting requirement on January 2, 2025.]*

**A BILL FOR AN ACT**

1  
2 Relating to appointment of legal counsel for certain persons in protective proceedings; creating new  
3 provisions; and amending ORS 125.080.

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

5 **SECTION 1.** ORS 125.080 is amended to read:

6 125.080. (1) The court may require that a hearing be held on any petition or motion in a pro-  
7 tective proceeding.

8 (2) A hearing must be held on a petition or motion if *[an]* **the respondent or protected person**  
9 **makes or files an** objection *[is filed]* to the petition or motion and the objection is not withdrawn  
10 before the time scheduled for the hearing.

11 (3) A hearing must be held on a motion to modify a guardian's powers under ORS 125.323.

12 (4) The respondent or protected person may appear at a hearing in person or by counsel.

13 (5)(a) If the court requires that a hearing be held *[on a petition,]* or a hearing is otherwise re-  
14 quired under this section, the court *[may]* **shall** appoint counsel for the respondent *[unless the re-*  
15 *spondent is already represented by counsel.]* **or protected person when:**

16 **(A) The respondent or protected person requests that counsel be appointed;**

17 **(B) An objection is made or filed to the petition or motion by any person;**

18 **(C) The court has appointed a visitor under ORS 125.150, 125.160 or 125.605, and the visi-**  
19 **tor recommends appointment of counsel for the respondent or protected person; or**

20 **(D) The court determines that the respondent or protected person is in need of legal**  
21 **counsel.**

22 **(b) The court is not required to appoint counsel under this subsection if the respondent**  
23 **or protected person is already represented by counsel or otherwise objects to appointment**  
24 **of counsel.**

25 **(6) If the court appoints counsel under subsection (5) of this section:**

**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 (a) The court shall order payment of attorney fees and costs from the guardianship or  
2 conservatorship estate of the respondent or protected person if sufficient funds exist to pay  
3 all or a portion of the attorney fees and costs due; or

4 (b) The court may determine that a respondent or protected person is financially eligible  
5 for appointed counsel at state expense and, if so, the compensation for legal counsel and  
6 costs and expenses necessary for representation of the respondent or protected person shall  
7 be determined and paid by the public defense services executive director as provided under  
8 ORS 135.055.

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

10 (a) “Case subtype” means guardianship, conservatorship or guardianship and conserva-  
11 torship.

12 (b) “Case type” means adult protective proceeding or minor protective proceeding.

13 (2) No later than September 15 of each year, the Judicial Department shall submit, to the  
14 interim committees of the Legislative Assembly related to the judiciary, a report on  
15 county-level data concerning protective proceedings in Multnomah, Lane and Columbia  
16 Counties during the two calendar years immediately preceding the year of the report, in-  
17 cluding:

18 (a) The number of protective proceedings initiated, broken out by case type and case  
19 subtype;

20 (b) The number of protective proceedings where the respondent was 65 years of age or  
21 older at the time the petition was filed;

22 (c) The number of protective proceedings granted, broken out by case type and case  
23 subtype; and

24 (d) The number of respondents or protected persons for whom the court appointed  
25 counsel under ORS 125.080, broken out by case subtype.

26 (3) The department, in consultation with the office of public defense services, shall also  
27 include in the report described in subsection (2) of this section, to the extent the data is  
28 available:

29 (a) The number of cases with court appointed counsel where payment for court appointed  
30 counsel was from the assets of the respondent or protected person, broken out by case sub-  
31 type; and

32 (b) The aggregate number of hours court appointed counsel spent representing respond-  
33 ents or protected persons and the average number of hours court appointed counsel spent  
34 per case.

35 **SECTION 3.** The Judicial Department shall submit the first report required under section  
36 2 of this 2021 Act no later than September 15, 2024, and annually thereafter.

37 **SECTION 4.** The amendments to ORS 125.080 by section 1 of this 2021 Act apply only to:

38 (1) Hearings taking place in Multnomah County and Lane County on or after January 2,  
39 2022;

40 (2) Hearings taking place in Columbia County on or after January 2, 2023; and

41 (3) Hearings taking place in any other county on or after January 2, 2024.

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