

SB 1507-1
(LC 87)
1/31/24 (LAS/ps)

Requested by SENATE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO
SENATE BILL 1507**

1 In line 3 of the printed bill, before the period insert: “; amending ORS
2 125.675, 125.680, 125.683, 125.687, 125.691 and 125.693; creating new provisions;
3 and prescribing an effective date”.

4 Delete lines 5 through 13 and insert:

5 **“SECTION 1.** ORS 125.675 is amended to read:

6 “125.675. For purposes of ORS 125.675 to 125.691:

7 **“(1) ‘Alternative decisional supports’ means services and supports**
8 **described in ORS 125.680 (2)(b).**

9 “[1] (2) ‘Client’ means a person who receives public guardian and
10 conservator services from the Oregon Public Guardian and Conservator.

11 **“(3) ‘Court-appointed fiduciary services’ means services and sup-**
12 **ports described in ORS 125.680 (2)(a).**

13 “[2] (4) ‘Deputy public guardian and conservator’ means a person who
14 is employed by or under contract with the Oregon Public Guardian and
15 Conservator, who is certified by the Oregon Public Guardian and
16 Conservator and who provides services as a fiduciary under ORS 125.675 to
17 125.691.

18 “[3] (5) ‘Public guardian and conservator services’ means services[, *in-*
19 *cluding but not limited to information, assistance and services as a court-*
20 *appointed fiduciary in guardianship or conservatorship proceedings]* **and**
21 **supports, including but not limited to alternative decisional supports**

1 **and court-appointed fiduciary services**, that are provided by deputy public
2 guardians and conservators, volunteers and staff under the supervision and
3 control of the Oregon Public Guardian and Conservator.

4 **“SECTION 2.** ORS 125.680 is amended to read:

5 “125.680. The Oregon Public Guardian and Conservator shall:

6 “(1) Educate the public about the role and function of the Oregon Public
7 Guardian and Conservator and about public guardian and conservator ser-
8 vices.

9 “(2) Provide [*public guardian and conservator*] services **and supports** for
10 persons who do not have relatives or friends willing or able to assume the
11 duties of [*guardianship or conservatorship*] **a guardian, a conservator or**
12 **other agent** and who lack the financial resources to obtain a private
13 [*guardian or conservator.*] **fiduciary. For purposes of this subsection**
14 **‘services and supports’:**

15 “(a) **Includes, but is not limited to, information, assistance and**
16 **services provided as a court-appointed fiduciary in a guardianship or**
17 **conservatorship proceeding; and**

18 “(b) **Includes, but is not limited to, services and supports provided**
19 **as one or more of the following:**

20 “(A) **A health care representative for the purpose of making health**
21 **care decisions, as those terms are defined in ORS 127.505;**

22 “(B) **A health care advocate, as defined in ORS 127.765, for the**
23 **purpose of making health care decisions, as defined in ORS 127.505;**

24 “(C) **An attorney-in-fact for the purpose of making decisions re-**
25 **garding mental health treatment, as those terms are defined in ORS**
26 **127.700;**

27 “(D) **As a supporter for the purposes of supported decision-making,**
28 **as defined by the Oregon Public Guardian and Conservator by rule;**

29 “(E) **A representative payee; and**

30 “(F) **An agent, as defined in ORS 127.002, under a power of attorney,**

1 **as described in ORS 127.005.**

2 “(3) Certify deputy public guardians and conservators.

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

6 “(5) Develop and implement training and educational materials for deputy
7 public guardians and conservators.

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

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

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

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

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

22 **“SECTION 3.** ORS 125.683 is amended to read:

23 “125.683. (1) In providing public guardian and conservator services, the
24 Oregon Public Guardian and Conservator shall conduct a needs assessment
25 for a person who claims or is claimed not to have relatives or friends willing
26 or able to assume the duties of guardianship or conservatorship and who
27 claims or is claimed to lack the financial resources to obtain a private
28 guardian or conservator. The purpose of the needs assessment is to determine
29 the person’s eligibility to receive public guardian and conservator services
30 and to determine the appropriateness of **the Oregon Public Guardian and**

1 **Conservator:**

2 **“(a) Providing the person with alternative decisional supports; or**

3 **“(b) Filing a petition for the appointment of a fiduciary or other pleading**
4 on behalf of the person in a court having probate jurisdiction.

5 **“(2) [The] A needs assessment [shall] under this section must, at a**
6 minimum:

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

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

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

10 **“(C) Attend to and provide for necessities such as food, shelter, clothing**
11 and medical care;

12 **“(b) Assess the person’s financial resources;**

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

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

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

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

27 **“[(2)(a)] (3)(a) If the person is a resident of a nursing home as defined in**
28 **ORS 678.710, a long term care facility as defined in ORS 441.402 or a**
29 **residential facility as defined in ORS [441.402] 443.380, the nursing home,**
30 **long term care facility or residential facility shall provide the Oregon**

1 Public Guardian and Conservator access to the person’s records as is neces-
2 sary to conduct the needs assessment required under this section.

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

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

25 “[~~(3)~~] (4) For each person determined to be eligible for public guardian
26 and conservator services under this section, the Oregon Public Guardian and
27 Conservator shall develop a written plan setting forth the type and duration
28 of services to be provided by the Oregon Public Guardian and Conservator.
29 [*The plan shall be included*] **The Oregon Public Guardian and**
30 **Conservator shall include the plan** in any nonemergency petition or

1 pleading filed with the court.

2 **“SECTION 4.** ORS 125.687 is amended to read:

3 “125.687. (1)(a) A court may not appoint the Oregon Public Guardian and
4 Conservator as a **court-appointed** fiduciary [*for a person*] unless the Oregon
5 Public Guardian and Conservator has petitioned for or consented to the ap-
6 pointment. If appointed as a fiduciary by the court, the Oregon Public
7 Guardian and Conservator, and any deputy public guardian and conservator
8 designated to act on behalf of the Oregon Public Guardian and Conservator,
9 shall serve as provided in this chapter and ORS 127.005 and 127.015, except
10 as expressly stated otherwise in ORS 125.675 to 125.691 or by order of the
11 court.

12 **“(b) A person or a court may not nominate or appoint the Oregon**
13 **Public Guardian and Conservator to provide alternative decisional**
14 **supports unless the Oregon Public Guardian and Conservator has**
15 **consented to the nomination or appointment.**

16 “(2) The Oregon Public Guardian and Conservator shall file an official
17 bond in an amount determined in consultation with the Oregon Department
18 of Administrative Services. The bond shall inure to the joint benefit of the
19 several [*public guardianship and conservatorship*] estates in which the
20 Oregon Public Guardian and Conservator is providing **public guardian and**
21 **conservator** services, but a bond is not required to be filed in individual
22 estates.

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

27 “(4)(a) [*The*] **A** court shall order [*the*] **a** client or [*the*] **a** client’s estate to
28 pay for reasonable expenses incurred, including compensation for services
29 rendered, in the provision of [*public guardian and conservator*] **court-**
30 **appointed fiduciary** services to the client, including but not limited to court

1 costs and attorney fees.

2 “(b) The Oregon Public Guardian and Conservator may request that
3 a client or a client’s estate pay for reasonable expenses incurred, in-
4 cluding compensation for services rendered, in the provision of alter-
5 native decisional supports. Any fees requested under this paragraph
6 must be consistent with an alternative decisional supports fee schedule
7 adopted by the Oregon Public Guardian and Conservator by rule.

8 “[b)] (c) If a client is indigent, the Oregon Public Guardian and
9 Conservator shall have a claim against the client or the client’s estate for
10 the portion of any payment ordered under paragraph (a) of this subsection
11 or requested under paragraph (b) of this subsection that remains unpaid.

12 “(5) [The] A court may not order the Oregon Public Guardian and
13 Conservator, a deputy public guardian and conservator or the office of the
14 Long Term Care Ombudsman to pay court costs or attorney fees in a pro-
15 ceeding brought on behalf of a client under ORS 125.675 to 125.691.

16 “**SECTION 5.** ORS 125.691 is amended to read:

17 “125.691. (1) The Oregon Public Guardian and Conservator Protected
18 Person Trust Account is established in the State Treasury separate and dis-
19 tinct from the General Fund and the Oregon Public Guardian and
20 Conservator Fund. Moneys in the Oregon Public Guardian and Conservator
21 Protected Person Trust Account consists of moneys received on behalf of
22 persons [for] to whom the Oregon Public Guardian and Conservator [has
23 been appointed as a guardian or conservator] **is providing public guardian
24 and conservator services.** All moneys in the account are continuously ap-
25 propriated to the Oregon Public Guardian and Conservator to be used for the
26 benefit of a person for whom the Oregon Public Guardian and Conservator
27 [has been appointed as a guardian or conservator] **is providing public
28 guardian and conservator services** and on whose behalf the Oregon Public
29 Guardian and Conservator has received moneys.

30 “(2) The Oregon Public Guardian and Conservator shall **deposit into the**

1 **Oregon Public Guardian and Conservator Protected Person Trust Ac-**
2 **count moneys received on behalf of persons to whom the Oregon**
3 **Public Guardian and Conservator is providing public guardian and**
4 **conservatorship services and shall** administer the trust account:

5 “(a) For the benefit of persons [*for*] **to** whom the Oregon Public Guardian
6 and Conservator [*has been appointed a guardian or conservator*] **is providing**
7 **public guardian and conservator services** and on whose behalf the Oregon
8 Public Guardian and Conservator has received moneys; and

9 “(b) In accordance with the provisions of this chapter, **ORS 127.005 to**
10 **127.045** or as ordered by the court.

11 “(3) The Oregon Public Guardian and Conservator may establish subac-
12 counts within the Oregon Public Guardian and Conservator Protected Person
13 Trust Account when the Oregon Public Guardian and Conservator deter-
14 mines that subaccounts are necessary or desirable. Interest earned by the
15 account or subaccounts, if any, shall accrue to the benefit of the account or
16 subaccounts.

17 **“SECTION 6.** ORS 125.693 is amended to read:

18 “125.693. (1) As used in this section and ORS 125.694, ‘highly vulnerable
19 adult’ means a person with a disability who is:

20 “(a) At least 18 years of age;

21 “(b) At imminent risk of serious harm; and

22 “(c) Unable to independently protect the person from the harm due to the
23 effects of the person’s disability.

24 “(2) The Oregon Public Guardian and Conservator appointed under ORS
25 125.678 may establish county or regional high-risk teams that may consist
26 of, but **need** not be limited to, the following:

27 “(a) The Oregon Public Guardian and Conservator.

28 “(b) The Department of Human Services or a designee of the Department
29 of Human Services.

30 “(c) The Oregon Health Authority or a designee of the Oregon Health

1 Authority.

2 “(d) Representatives of:

3 “(A) Local hospitals.

4 “(B) Local crisis response teams.

5 “(C) Homeless services programs.

6 “(D) Veterans’ services programs.

7 “(E) Organizations designated by the Department of Human Services as
8 area agencies on aging.

9 “(F) Any other agency or nonprofit organization that provides services to
10 highly vulnerable adults.

11 “(3) The Oregon Public Guardian and Conservator may establish a state-
12 wide high-risk team that may consist of, but **need** not be limited to, repre-
13 sentatives of the following:

14 “(a) The Department of Human Services, including developmental disa-
15 bilities programs and adult abuse prevention programs within the depart-
16 ment.

17 “(b) The Oregon Health Authority.

18 “(c) The Oregon State Hospital.

19 “(d) The Department of Veterans’ Affairs.

20 “(e) Any other statewide agency or program that has direct contact with
21 highly vulnerable adults or that provides services addressing serious safety
22 concerns of highly vulnerable adults.

23 “(4) The Oregon Public Guardian and Conservator may delegate the re-
24 sponsibility to develop a high-risk team under this section to a designee or
25 administrator who is or will be a member of the high-risk team pursuant to
26 a written agreement.

27 “(5) A high-risk team shall discuss situations where highly vulnerable
28 adults are at risk of harm, or are currently experiencing harm, and identify
29 the available options for addressing the safety risk, focusing on the least
30 restrictive alternatives.

1 “(6) Each high-risk team shall develop a written protocol establishing the
2 purpose of the team, potential membership within each community and
3 confidentiality procedures consistent with ORS 125.694.

4 **“SECTION 7. In addition to and not in lieu of any other appropri-
5 ation, there is appropriated to the Oregon Public Guardian and
6 Conservator, for the biennium ending June 30, 2025, the amount of
7 \$904,102 for deposit in the Oregon Public Guardian and Conservator
8 Fund established under ORS 125.689, to carry out the purposes of ORS
9 125.675 to 125.691.**

10 **“SECTION 8. (1) Section 7 of this 2024 Act and the amendments to
11 ORS 125.675, 125.680, 125.683, 125.687, 125.691 and 125.693 by sections 1
12 to 6 of this 2024 Act become operative on July 1, 2024.**

13 **“(2) The Oregon Public Guardian and Conservator may take any
14 action before the operative date specified in subsection (1) of this sec-
15 tion that is necessary to enable the Oregon Public Guardian and
16 Conservator to implement the provisions of section 7 of this 2024 Act
17 and the amendments to ORS 125.675, 125.680, 125.683, 125.687, 125.691 and
18 125.693 by sections 1 to 6 of this 2024 Act on or after the operative date
19 specified in subsection (1) of this section.**

20 **“SECTION 9. This 2024 Act takes effect on the 91st day after the
21 date on which the 2024 regular session of the Eighty-second Legislative
22 Assembly adjourns sine die.”.**

23