

Senate Bill 794

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Long Term Care Ombudsman)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act modifies OPGC duties and powers to provide help to certain persons. (Flesch Readability Score: 63.4).

Modifies provisions regarding Oregon Public Guardian and Conservator duties and powers to provide services and supports to certain persons.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the Oregon Public Guardian and Conservator; creating new provisions; amending ORS
3 125.675, 125.680, 125.683, 125.687, 125.691 and 125.693; and prescribing an effective date.

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

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 described in ORS**
8 **125.680 (2)(b).**

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

11 (3) **“Court-appointed fiduciary services” means services and supports described in ORS**
12 **125.680 (2)(a).**

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

16 [(3)] (5) **“Public guardian and conservator services” means services**, *including but not limited to*
17 *information, assistance and services as a court-appointed fiduciary in guardianship or conservatorship*
18 *proceedings* **and supports, including but not limited to alternative decisional supports and**
19 **court-appointed fiduciary services**, that are provided by deputy public guardians and
20 conservators, volunteers and staff under the supervision and control of the Oregon Public Guardian
21 and Conservator.

22 **SECTION 2.** ORS 125.680 is amended to read:

23 125.680. The Oregon Public Guardian and Conservator shall:

24 (1) Educate the public about the role and function of the Oregon Public Guardian and
25 Conservator and about public guardian and conservator services.

26 (2) Provide [*public guardian and conservator*] services **and supports** for persons who do not have
27 relatives or friends willing or able to assume the duties of [*guardianship or conservatorship*] **a**
28 **guardian, conservator or other agent** and who lack the financial resources to obtain a private

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 guardian, [or] conservator or other agent. For purposes of this subsection, “services and sup-
 2 ports”:

3 (a) Includes, but is not limited to, information, assistance and services provided as a
 4 court-appointed fiduciary in a guardianship or conservatorship proceeding; and

5 (b) Includes, but is not limited to, services and supports provided as one or more of the
 6 following:

7 (A) A health care representative for the purpose of making health care decisions, as
 8 those terms are defined in ORS 127.505;

9 (B) A health care advocate, as defined in ORS 127.765, for the purpose of making health
 10 care decisions, as defined in ORS 127.505;

11 (C) An attorney-in-fact for the purpose of making decisions regarding mental health
 12 treatment, as those terms are defined in ORS 127.700;

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

15 (E) A representative payee; and

16 (F) An agent, as defined in ORS 127.002, under a power of attorney, as described in ORS
 17 127.005.

18 (3) Certify deputy public guardians and conservators.

19 (4) Develop model standards of eligibility and professional conduct for deputy public guardians
 20 and conservators and of practice and procedure in public guardianship and conservatorship pro-
 21 ceedings.

22 (5) Develop and implement training and educational materials for deputy public guardians and
 23 conservators.

24 (6) Establish and operate a program to recruit, train and supervise volunteers to provide as-
 25 sistance to the Oregon Public Guardian and Conservator, deputy public guardians and conservators
 26 and clients.

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

30 (8) Cooperate with offices of county public guardian and conservator operating under ORS
 31 125.700.

32 (9) Work with existing local and county programs and with other organizations and entities to
 33 develop and expand public guardian and conservator services in this state.

34 (10) Make recommendations to the Legislative Assembly for policy and legislation regarding
 35 implementation, improvement and expansion of public guardian and conservator services in this
 36 state.

37 **SECTION 3.** ORS 125.683 is amended to read:

38 125.683. (1) In providing public guardian and conservator services, the Oregon Public Guardian
 39 and Conservator shall conduct a needs assessment for a person who claims or is claimed not to have
 40 relatives or friends willing or able to assume the duties of guardianship or conservatorship and who
 41 claims or is claimed to lack the financial resources to obtain a private guardian or conservator. The
 42 purpose of the needs assessment is to determine the person’s eligibility to receive public guardian
 43 and conservator services and to determine the appropriateness of **the Oregon Public Guardian and**
 44 **Conservator:**

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

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

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

4 (a) Assess the person's capacity to:

5 (A) Care for the person's own safety;

6 (B) Manage the person's own financial affairs; and

7 (C) Attend to and provide for necessities such as food, shelter, clothing and medical care;

8 (b) Assess the person's financial resources;

9 (c) Determine whether information that is available about the person is sufficient to support a
10 finding that the person is incapacitated or financially incapable and the entry of a court order for
11 the appointment of a fiduciary under ORS 125.010;

12 (d) Determine whether any other person may be willing and able to serve as the person's
13 guardian or conservator and, if appropriate, locate and contact that other person;

14 (e) Determine the type of fiduciary, if any, to request in a petition filed under ORS 125.055,
15 giving preference to the least intrusive form of fiduciary relationship consistent with the best in-
16 terests of the person; and

17 (f) Determine how best to provide public guardian and conservator services to the person that
18 are least restrictive to the person's liberty, that are least intrusive to the person and that provide
19 for the greatest degree of independence that the person is capable of exercising.

20 ~~[(2)(a)]~~ **(3)(a)** If the person is a resident of a nursing home as defined in ORS 678.710, **a long**
21 **term care facility as defined in ORS 441.402** or a residential facility as defined in ORS ~~[441.402]~~
22 **443.380**, the nursing home, **long term care facility** or residential facility shall provide the Oregon
23 Public Guardian and Conservator access to the person's records as is necessary to conduct the
24 needs assessment required under this section.

25 (b) Any other public agency that has provided or is providing care or services to the person
26 shall disclose to the Oregon Public Guardian and Conservator, upon request, a minimum amount of
27 information about the person for whom the needs assessment is being conducted, including protected
28 health information as defined in ORS 192.556 and financial information, as is reasonably necessary
29 to prevent or lessen a serious and imminent threat to the health or safety of the person who is the
30 subject of the needs assessment. For purposes of this paragraph, a request from the Oregon Public
31 Guardian and Conservator for the purpose of conducting a needs assessment is presumed to be a
32 situation that will prevent or lessen a serious and imminent threat to the health or safety of the
33 person.

34 (c) Any health care provider not identified in either paragraph (a) or (b) of this subsection may
35 disclose protected health information to the Oregon Public Guardian and Conservator in accordance
36 with 45 C.F.R. 164.512 (j) to prevent or lessen a serious or imminent threat to the health or safety
37 of a person if the health care provider, in good faith, believes the disclosure is necessary to prevent
38 or lessen the threat. For purposes of this paragraph, a request from the Oregon Public Guardian and
39 Conservator for disclosure under this paragraph for the purposes of conducting a needs assessment,
40 or the good faith belief and disclosure of the health care provider under this paragraph, are pre-
41 sumed to be situations that will prevent or lessen a serious and imminent threat to the health or
42 safety of the person.

43 ~~[(3)]~~ **(4)** For each person determined to be eligible for public guardian and conservator services
44 under this section, the Oregon Public Guardian and Conservator shall develop a written plan setting
45 forth the type and duration of services to be provided by the Oregon Public Guardian and

1 Conservator. *[The plan shall be included]* **The Oregon Public Guardian and Conservator shall**
 2 **include the plan** in any nonemergency petition or pleading filed with the court.

3 **SECTION 4.** ORS 125.687 is amended to read:

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

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

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

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

22 (4)(a) *[The]* **A** court shall order *[the]* a client or *[the]* a client's estate to pay for reasonable ex-
 23 penses incurred, including compensation for services rendered, in the provision of *[public guardian*
 24 *and conservator]* **court-appointed fiduciary** services to the client, including but not limited to court
 25 costs and attorney fees.

26 **(b) The Oregon Public Guardian and Conservator may request that a client or a client's**
 27 **estate pay for reasonable expenses incurred, including compensation for services rendered,**
 28 **in the provision of alternative decisional supports. Any fees requested under this paragraph**
 29 **must be consistent with an alternative decisional supports fee schedule adopted by the**
 30 **Oregon Public Guardian and Conservator by rule.**

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

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

37 **SECTION 5.** ORS 125.691 is amended to read:

38 125.691. (1) The Oregon Public Guardian and Conservator Protected Person Trust Account is
 39 established in the State Treasury separate and distinct from the General Fund and the Oregon
 40 Public Guardian and Conservator Fund. Moneys in the Oregon Public Guardian and Conservator
 41 Protected Person Trust Account consists of moneys received on behalf of persons *[for]* **to** whom the
 42 Oregon Public Guardian and Conservator *[has been appointed as a guardian or conservator]* **is pro-**
 43 **viding public guardian and conservator services.** All moneys in the account are continuously
 44 appropriated to the Oregon Public Guardian and Conservator to be used for the benefit of a person
 45 for whom the Oregon Public Guardian and Conservator *[has been appointed as a guardian or*

1 *conservator*] **is providing public guardian and conservator services** and on whose behalf the
 2 Oregon Public Guardian and Conservator has received moneys.

3 (2) The Oregon Public Guardian and Conservator shall **deposit into the Oregon Public**
 4 **Guardian and Conservator Protected Person Trust Account moneys received on behalf of**
 5 **persons to whom the Oregon Public Guardian and Conservator is providing public guardian**
 6 **and conservator services and shall** administer the trust account:

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

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

12 (3) The Oregon Public Guardian and Conservator may establish subaccounts within the Oregon
 13 Public Guardian and Conservator Protected Person Trust Account when the Oregon Public Guard-
 14 ian and Conservator determines 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 subaccounts.

16 **SECTION 6.** ORS 125.693 is amended to read:

17 125.693. (1) As used in this section and ORS 125.694, “highly vulnerable adult” means a person
 18 with a disability who is:

19 (a) At least 18 years of age;

20 (b) At imminent risk of serious harm; and

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

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

25 (a) The Oregon Public Guardian and Conservator.

26 (b) The Department of Human Services or a designee of the Department of Human Services.

27 (c) The Oregon Health Authority or a designee of the Oregon Health Authority.

28 (d) Representatives of:

29 (A) Local hospitals.

30 (B) Local crisis response teams.

31 (C) Homeless services programs.

32 (D) Veterans’ services programs.

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

34 (F) Any other agency or nonprofit organization that provides services to highly vulnerable
 35 adults.

36 (3) The Oregon Public Guardian and Conservator may establish a statewide high-risk team that
 37 may consist of, but **need** not be limited to, representatives of the following:

38 (a) The Department of Human Services, including developmental disabilities programs and adult
 39 abuse prevention programs within the department.

40 (b) The Oregon Health Authority.

41 (c) The Oregon State Hospital.

42 (d) The Department of Veterans’ Affairs.

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

45 (4) The Oregon Public Guardian and Conservator may delegate the responsibility to develop a

1 high-risk team under this section to a designee or administrator who is or will be a member of the
2 high-risk team pursuant to a written agreement.

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

6 (6) Each high-risk team shall develop a written protocol establishing the purpose of the team,
7 potential membership within each community and confidentiality procedures consistent with ORS
8 125.694.

9 **SECTION 7. (1) The amendments to ORS 125.675, 125.680, 125.683, 125.687, 125.691 and**
10 **125.693 by sections 1 to 6 of this 2025 Act become operative on January 1, 2026.**

11 **(2) The Oregon Public Guardian and Conservator may take any action before the opera-**
12 **tive date specified in subsection (1) of this section that is necessary to enable the Oregon**
13 **Public Guardian and Conservator to implement the amendments to ORS 125.675, 125.680,**
14 **125.683, 125.687, 125.691 and 125.693 by sections 1 to 6 of this 2025 Act on or after the opera-**
15 **tive date specified in subsection (1) of this section.**

16 **SECTION 8. This 2025 Act takes effect on the 91st day after the date on which the 2025**
17 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

18