

A-Engrossed House Bill 2671

Ordered by the House April 17
Including House Amendments dated April 17

Sponsored by Representatives DOHERTY, DEMBROW

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.

[Creates State Office of the Public Guardian and Conservator to provide public guardian and conservator services for persons without relatives or friends willing or able to serve as guardians or conservators. Directs Governor to appoint Public Guardian and Conservator as administrative head of office. Prescribes duties and responsibilities of Public Guardian and Conservator and office. Requires office to certify and train deputy public guardians and conservators. Requires office to develop volunteer program to assist office. Imposes certain limitations on court orders in proceedings brought by office.]

[Establishes Public Guardian and Conservator Advisory Committee.]

[Renames existing offices of public guardian and conservator as county offices of public guardian and conservator.]

[Creates State Office of the Public Guardian and Conservator Fund and continuously appropriates moneys in fund to State Office of the Public Guardian and Conservator.]

Directs Governor to appoint Oregon Public Guardian and Conservator in office of Long Term Care Ombudsman to provide public guardian and conservator services for persons without relatives or friends willing or able to serve as guardians or conservators. Authorizes Oregon Public Guardian and Conservator to hire one full-time deputy public guardian and conservator and one staff person. Prescribes duties and responsibilities of Oregon Public Guardian and Conservator. Imposes certain limitations on court orders in proceedings involving Oregon Public Guardian and Conservator.

Establishes Oregon Public Guardian and Conservator Advisory Committee.

Renames existing offices of public guardian and conservator as county offices of public guardian and conservator.

Directs office of Long Term Care Ombudsman to supervise, monitor, advise and support Oregon Public Guardian and Conservator. Authorizes use of funds in Long Term Care Ombudsman Account to carry out responsibilities of Oregon Public Guardian and Conservator.

A BILL FOR AN ACT

Relating to fiduciary services in probate courts for persons with inadequate resources; creating new provisions; and amending ORS 125.240, 125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725, 125.730, 441.109 and 441.153.

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

THE OREGON PUBLIC GUARDIAN AND CONSERVATOR

SECTION 1. Sections 2 to 9 of this 2013 Act are added to and made a part of ORS chapter 125.

SECTION 2. For purposes of sections 2 to 9 of this 2013 Act:

(1) "Client" means a person who receives public guardian and conservator services from the Oregon Public Guardian and Conservator.

(2) "Deputy public guardian and conservator" means the person who is employed by or

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 under contract with the Oregon Public Guardian and Conservator, who is certified by the
2 Oregon Public Guardian and Conservator and who provides services as a fiduciary appointed
3 by the court to clients under sections 2 to 9 of this 2013 Act.

4 (3) "Public guardian and conservator services" means services, including but not limited
5 to information, assistance and services as a court-appointed fiduciary in guardianship or
6 conservatorship proceedings that are provided by deputy public guardians and conservators,
7 volunteers and staff under the supervision and control of the Oregon Public Guardian and
8 Conservator.

9 **SECTION 3.** The Governor shall appoint the Oregon Public Guardian and Conservator,
10 subject to Senate confirmation under ORS 171.562 and 171.565, for a four-year term from a
11 list of two or three nominees nominated by the Long Term Care Ombudsman. The Oregon
12 Public Guardian and Conservator serves at the pleasure of the Governor and may be removed
13 by the Governor for good cause or upon the recommendation of the Oregon Public Guardian
14 and Conservator Advisory Committee established under section 8 of this 2013 Act. If there
15 is a vacancy for any cause, the Governor shall make an appointment within 60 days. The
16 Oregon Public Guardian and Conservator shall receive a salary as fixed by the Governor and
17 be reimbursed for all reasonable travel and other expenses incurred in the performance of
18 official duties.

19 (2) The Oregon Public Guardian and Conservator shall be responsible for carrying out the
20 duties and function of the Oregon Public Guardian and Conservator pursuant to sections 2
21 to 9 of this 2013 Act, within the office of the Long Term Care Ombudsman, and subject to
22 the direction, supervision and control of the Long Term Care Ombudsman.

23 (3) The Oregon Public Guardian and Conservator may hire or contract with one full-time
24 deputy public guardian and conservator and one staff person to carry out the powers, duties
25 and functions of the Oregon Public Guardian and Conservator. The Oregon Public Guardian
26 and Conservator may prescribe the duties and assignments and fix the compensation of
27 persons hired by or under contract with the Oregon Public Guardian and Conservator, sub-
28 ject to the State Personnel Relations Law. Subject to any other applicable laws regulating
29 expenses, the persons hired by or under contract with the Oregon Public Guardian and
30 Conservator shall be allowed reasonable travel and other expenses incurred in the perform-
31 ance of official duties.

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

40 (5) The Oregon Public Guardian and Conservator may solicit and accept gifts, grants and
41 donations from public and private sources for the purpose of carrying out the provisions of
42 sections 2 to 9 of this 2013 Act, which moneys shall be deposited in the Long Term Care
43 Ombudsman Account established under ORS 441.153.

44 (6) In accordance with applicable provisions of ORS chapter 183, the Oregon Public
45 Guardian and Conservator, in consultation with the Long Term Care Ombudsman and the

1 Oregon Public Guardian and Conservator Advisory Committee, may adopt rules to carry out
2 the provisions of sections 2 to 9 of this 2013 Act.

3 **SECTION 4.** The Oregon Public Guardian and Conservator shall:

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

6 (2) Provide public guardian and conservator services for persons who do not have rela-
7 tives or friends willing or able to assume the duties of guardianship or conservatorship and
8 for persons who lack the financial resources to obtain a private guardian or conservator.

9 (3) Certify the deputy public guardian and conservator.

10 (4) Develop model standards of eligibility and professional conduct for the deputy public
11 guardian and conservator and of practice and procedure in public guardianship and conser-
12 vatorship proceedings.

13 (5) Develop and implement training and educational materials for the deputy public
14 guardian and conservator.

15 (6) Establish and operate a program to recruit, train and supervise volunteers to provide
16 assistance to the Oregon Public Guardian and Conservator, the deputy public guardian and
17 conservator and clients.

18 (7) Establish a process, including criteria and standards, to determine the eligibility of
19 persons to receive public guardian and conservator services and for the needs assessment
20 required under section 5 of this 2013 Act.

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

23 (9) Work with existing local and county programs and with other organizations and en-
24 tities to develop and expand public guardian and conservator services in this state.

25 (10) Make recommendations to the Legislative Assembly for policy and legislation re-
26 garding implementation, improvement and expansion of public guardian and conservator
27 services in this state.

28 **SECTION 5.** (1) In providing public guardian and conservator services, the Oregon Public
29 Guardian and Conservator shall conduct a needs assessment for a person who is claimed to
30 not have relatives or friends willing or able to assume the duties of guardianship or conser-
31 vatorship or who lacks the financial resources to obtain a private guardian or conservator.
32 The purpose of the needs assessment is to determine the person's eligibility to receive public
33 guardian and conservator services and to determine the appropriateness of filing a petition
34 for the appointment of a fiduciary or other pleading on behalf of the person in a court having
35 probate jurisdiction. The assessment shall, at a minimum:

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

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

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

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

40 (b) Assess the person's financial resources, based on information available or supplied to
41 the Oregon Public Guardian and Conservator at the time of the assessment;

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

45 (d) Inquire whether any other person may be willing and able to serve as the person's

1 guardian or conservator and, if appropriate, locate and contact that other person;

2 (e) Determine the type of fiduciary, if any, to request in a petition filed under ORS
3 125.055, giving preference to the least intrusive form of fiduciary relationship consistent with
4 the best interests of the person; and

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

8 (2) For each person determined to be eligible for public guardian and conservator services
9 under this section, the Oregon Public Guardian and Conservator shall develop a written plan
10 setting forth the type and duration of services to be provided by the Oregon Public Guardian
11 and Conservator. The plan shall be included in any nonemergency petition or pleading filed
12 with the court.

13 **SECTION 6.** (1) The deputy public guardian and conservator providing public guardian
14 and conservator services under sections 2 to 9 of this 2013 Act:

15 (a) Must be certified as the deputy public guardian and conservator by the Oregon Public
16 Guardian and Conservator; and

17 (b) If appointed by the court as public guardian and conservator for a client, shall serve
18 as provided in this chapter and ORS 127.005 and 127.015, except as expressly stated otherwise
19 in sections 2 to 9 of this 2013 Act.

20 (2) A volunteer who, in the course of providing authorized public guardian and
21 conservator services, has personal contact with a client must provide, in writing, the
22 volunteer's criminal history and must submit or consent to a criminal records check, in-
23 cluding fingerprint identification.

24 (3) Volunteers of the Oregon Public Guardian and Conservator:

25 (a) May not conduct the needs assessments required under section 5 of this 2013 Act;

26 (b) May not engage in conduct that constitutes the unlicensed practice of law;

27 (c) Shall be under the supervision and control of the Oregon Public Guardian and
28 Conservator or of the deputy public guardian and conservator;

29 (d) Shall be instructed in confidentiality and shall maintain the confidentiality of clients
30 and of written information and materials relating to clients;

31 (e) May not receive compensation or any other benefit but may be reimbursed for rea-
32 sonable travel and other expenses incurred in the performance of their duties on behalf of
33 the Oregon Public Guardian and Conservator; and

34 (f) Are immune from civil liability for any acts or omissions occurring, or errors in
35 judgment made in good faith, in the course of providing authorized public guardian and
36 conservator services.

37 **SECTION 7.** (1) A court may not appoint the Oregon Public Guardian and Conservator
38 or deputy public guardian and conservator as a fiduciary for a person unless the Oregon
39 Public Guardian and Conservator or deputy public guardian and conservator has petitioned
40 for or consented to the appointment.

41 (2) The Oregon Public Guardian and Conservator shall file an official bond in such
42 amount as may be fixed from time to time by the Long Term Care Ombudsman, in consul-
43 tation with the Oregon Public Guardian and Conservator Advisory Committee, or the court
44 having probate jurisdiction. The bond shall inure to the joint benefit of the several public
45 guardianship and conservatorship estates in which the Oregon Public Guardian and

1 Conservator is providing services but a bond is not required to be filed in individual estates.

2 (3) The court may not charge a fee for the filing of a petition or any other pleading under
3 this chapter by the Oregon Public Guardian and Conservator or deputy public guardian and
4 conservator when the filing is made in connection with the provision of public guardian and
5 conservator services under sections 2 to 9 of this 2013 Act.

6 (4)(a) The court shall order the client or the client's estate to pay for reasonable ex-
7 penses incurred, including compensation for services rendered, in the provision of public
8 guardian and conservator services to the client, including but not limited to court costs and
9 attorney fees.

10 (b) If a client is indigent, the Oregon Public Guardian and Conservator and the office of
11 the Long Term Care Ombudsman shall have a claim against the client or the client's estate
12 for the portion of any payment ordered under paragraph (a) of this subsection that remains
13 unpaid.

14 (5) The court may not order the Oregon Public Guardian and Conservator, the deputy
15 public guardian and conservator or the office of the Long Term Care Ombudsman to pay
16 court costs or attorney fees in a proceeding brought on behalf of a client under sections 2
17 to 9 of this 2013 Act.

18 **SECTION 8.** (1) There is established the Oregon Public Guardian and Conservator Advi-
19 sory Committee consisting of the Long Term Care Ombudsman, or the Long Term Care
20 Ombudsman's designee and six members to be appointed in the following manner:

21 (a) One person appointed by the Speaker of the House of Representatives;

22 (b) One person appointed by the President of the Senate;

23 (c) One person appointed by the House Minority Leader;

24 (d) One person appointed by the Senate Minority Leader;

25 (e) Two persons, to be appointed by the Governor, from a list of four names submitted
26 by individuals and organizations that provide guardianship and conservatorship services in
27 this state.

28 (2) Members described in subsection (1)(e) of this section are subject to confirmation by
29 the Senate under ORS 171.562 and 171.565.

30 (3) The term of office of each member is four years. Before the expiration of the term
31 of a member, the appointing authority shall appoint a successor whose term begins on July
32 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause,
33 the appointing authority shall make an appointment to become immediately effective for the
34 unexpired term.

35 (4) The members of the committee must be residents of this state who are broadly rep-
36 resentative, to the extent possible, of persons who provide guardianship and conservatorship
37 and other fiduciary services to persons in this state, who have knowledge and interest in the
38 problems of persons who have inadequate resources to obtain their own fiduciary services
39 and who are representative of all areas of this state.

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

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

45 (7) The committee shall meet at least once each month at a place, day and hour deter-

1 **mined by the committee. The committee also shall meet at other times and places specified**
2 **by the call of the chairperson or of a majority of the members of the committee. The com-**
3 **mittee shall confer each month with the Public Guardian and Conservator.**

4 **(8) A member of the committee is entitled to compensation and expenses as provided in**
5 **ORS 292.495.**

6 **(9) The office of the Long Term Care Ombudsman shall provide staff support to the**
7 **committee.**

8 **SECTION 9. The Oregon Public Guardian and Conservator Advisory Committee shall:**

9 **(1) Monitor the Oregon Public Guardian and Conservator.**

10 **(2) Advise the Governor and the Legislative Assembly on the Oregon Public Guardian and**
11 **Conservator.**

12 **(3) Advise the Long Term Care Ombudsman regarding persons to be nominated to be-**
13 **come the Oregon Public Guardian and Conservator, according to prescribed criteria.**

14 **(4) Make recommendations to the Governor for removal of the Oregon Public Guardian**
15 **and Conservator when appropriate.**

16 **(5) Consult with the Oregon Public Guardian and Conservator in the adoption of rules to**
17 **implement the provisions of sections 2 to 9 of this 2013 Act.**

18
19 **COUNTY OFFICES OF PUBLIC GUARDIAN AND CONSERVATOR**

20
21 **SECTION 10. ORS 125.700 is amended to read:**

22 **125.700. The county court or board of county commissioners of any county:**

23 **(1) After making a determination that there exists a need within the county for a guardian or**
24 **conservator for persons who do not have relatives or friends willing to serve as a guardian or**
25 **conservator and capable of assuming the duties of guardianship or conservatorship, may create**
26 **[within the county] the **county** office of public guardian and conservator and such subordinate posi-**
27 **tions as may be necessary to operate effectively the **county** office of public guardian and**
28 **conservator [within the county].**

29 **(2) May expend county funds for the purpose of operating the **county** office of public guardian**
30 **and conservator.**

31 **(3) After establishment of the **county** office of public guardian and conservator [within a**
32 **county], upon the finding that the county does not need the service of a public guardian and**
33 **conservator, may terminate the office.**

34 **SECTION 11. ORS 125.705 is amended to read:**

35 **125.705. (1) The person appointed to the office of **county** public guardian and conservator shall**
36 **serve in the office at the pleasure of the appointing authority. If the person holding the office of**
37 ****county** public guardian and conservator [in a county] is removed from office, dies, becomes inca-**
38 **pacitated or resigns, the removal, death, incapacity or resignation shall operate to remove [such]**
39 **the **county** public guardian and conservator as guardian and conservator of all estates then under**
40 **the guardianship and conservatorship of the person.**

41 **(2) As used in ORS 125.700 to 125.730, “county public guardian and conservator” means**
42 **the person appointed to the county office of public guardian and conservator created under**
43 **ORS 125.700.**

44 **SECTION 12. ORS 125.710 is amended to read:**

45 **125.710. (1) The **county** public guardian and conservator may serve as the guardian or**

1 conservator, or both, of any person of whom the court having probate jurisdiction in the county may
2 have jurisdiction. The **county** public guardian and conservator may serve as guardian or
3 conservator upon the petition of any person or upon the [own] petition of the **county** public guard-
4 ian and conservator.

5 (2) When appointed as guardian or conservator by the court having probate jurisdiction, the
6 **county** public guardian and conservator shall serve as provided in ORS chapter 125, ORS 127.005
7 and 127.015, except as specifically stated to the contrary in ORS 125.700 to 125.730.

8 (3) The **county** public guardian and conservator in the discretion of the **county** public guardian
9 and conservator may employ private attorneys if the fees for the attorneys can be defrayed out of
10 funds of the guardianship or conservatorship estate.

11 **SECTION 13.** ORS 125.715 is amended to read:

12 125.715. (1) Before entering into office as **county** public guardian and conservator, the person
13 appointed to the office shall file an official bond in such amount as may be fixed from time to time
14 by the board of county commissioners or the court having probate jurisdiction, which bond shall
15 inure to the joint benefit of the several guardianship [or] **and** conservatorship estates in which the
16 person is acting as guardian or conservator and the county. The **county** public guardian and
17 conservator shall not be required to file bonds in individual estates.

18 (2) Upon removal of the **county** public guardian and conservator in accordance with the pro-
19 visions of ORS 125.705, the surety on the **county** public guardian and conservator bond shall be
20 exonerated upon order to that effect of the court having probate jurisdiction in the county.

21 **SECTION 14.** ORS 125.720 is amended to read:

22 125.720. All funds coming into the custody of the **county** public guardian and conservator shall
23 be deposited in the county treasury and disbursed by proper warrant, or shall be deposited in one
24 or more banks or invested in one or more insured savings and loan associations authorized to do
25 business within the county, or as provided by ORS 125.445 (5).

26 **SECTION 15.** ORS 125.725 is amended to read:

27 125.725. The **county** public guardian and conservator shall have a claim against the ward's or
28 protected person's estate for reasonable expenses incurred in the execution of the guardianship or
29 conservatorship and such compensation for services and those of the attorney of the **county** public
30 guardian and conservator as the court having probate jurisdiction in the county deems just and
31 reasonable. If the **county** public guardian and conservator is compensated by the county for ser-
32 vices, any reimbursement of expenses or compensation shall be paid to the county.

33 **SECTION 16.** ORS 125.730 is amended to read:

34 125.730. No fee shall be charged or received by any court having probate jurisdiction for the
35 filing of any petition asking for the appointment of the **county** public guardian and conservator **as**
36 **the guardian or conservator** or for any official service performed by that court in the course of
37 the guardianship or conservatorship proceedings.

38
39 **CONFORMING AMENDMENTS**
40

41 **SECTION 17.** ORS 441.109 is amended to read:

42 441.109. The office of the Long Term Care Ombudsman shall carry out the following duties:

43 (1) Investigate and resolve complaints made by or for residents of long term care facilities about
44 administrative actions that may adversely affect their health, safety, welfare or rights, including
45 subpoenaing any person to appear, give sworn testimony or to produce documentary or other evi-

1 dence that is reasonably material to any matter under investigation.

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

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

7 (4) Provide information to public agencies about the problems of residents of long term care fa-
8 cilities.

9 (5) Work closely with cooperative associations and citizen groups in this state.

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

11 (7) Collaborate with the Department of Human Services and the Nursing Home Administrators
12 Board to establish a statewide system to collect and analyze information on complaints and condi-
13 tions in long term care facilities for the purpose of publicizing improvements and resolving signif-
14 icant problems.

15 (8) Appoint designees to serve as local representatives of the office in various districts of the
16 state and regularly monitor their functions.

17 (9) Specify qualifications and duties of designees.

18 (10) Adopt rules necessary for carrying out ORS 441.100 to 441.133, after consultation with the
19 committee.

20 (11) Provide periodically, or at least twice annually, a report to the Governor, department and
21 the Legislative Assembly.

22 (12) Prepare necessary reports with the assistance of the department.

23 **(13) Supervise, monitor, advise and support the Oregon Public Guardian and Conservator**
24 **appointed under section 3 of this 2013 Act.**

25 **SECTION 18.** ORS 441.153 is amended to read:

26 441.153. The Long Term Care Ombudsman Account is established separate and distinct from the
27 General Fund. All miscellaneous receipts, gifts and federal and other grants received by the Long
28 Term Care Ombudsman shall be deposited into the Long Term Care Ombudsman Account and are
29 continuously appropriated to the Long Term Care Ombudsman for carrying out the responsibilities
30 of the Long Term Care Ombudsman **and the Oregon Public Guardian and Conservator.**

31 **SECTION 19.** ORS 125.240 is amended to read:

32 125.240. (1) If a petition seeks the appointment of a professional fiduciary as described in sub-
33 section (5) of this section, the petition must contain the following information in addition to that
34 information required under ORS 125.055:

35 (a) A description of the events that led to the involvement of the professional fiduciary in the
36 case.

37 (b) The professional fiduciary's educational background and professional experience.

38 (c) The fees charged by the professional fiduciary and whether the fees are on an hourly basis
39 or are based on charges for individual services rendered.

40 (d) The names of providers of direct services to protected persons that are repeatedly used by
41 the professional fiduciary under contract.

42 (e) The disclosures required under ORS 125.221 if the person nominated to act as fiduciary will
43 employ a person in which the nominated person has a pecuniary or financial interest.

44 (f) The number of protected persons for whom the person performs fiduciary services at the time
45 of the petition.

1 (g) Whether the professional fiduciary has ever had a claim against the bond of the fiduciary
2 and a description of the circumstances causing the claim.

3 (h) Whether the professional fiduciary or any staff with responsibility for making decisions for
4 clients or for management of client assets has ever filed for bankruptcy and the date of filing.

5 (i) Whether the professional fiduciary or any staff with responsibility for making decisions for
6 clients or for management of client assets has ever been denied a professional license that is directly
7 related to responsibilities of the professional fiduciary, or has ever held a professional license that
8 is directly related to responsibilities of the professional fiduciary that was revoked or canceled. If
9 such a license has been denied, revoked or canceled, the petition must reflect the date of the denial,
10 revocation or cancellation and the name of the regulatory body that denied, revoked or canceled the
11 license.

12 (j) A statement that the criminal records check required under subsection (2) of this section does
13 not disqualify the person from acting as a fiduciary.

14 (k) Whether the professional fiduciary and any staff responsible for making decisions for clients
15 or for management of client assets is or has been certified by a national or state association of
16 professional fiduciaries, the name of any such association and whether the professional fiduciary or
17 other staff person has ever been disciplined by any such association and the result of the discipli-
18 nary action.

19 (L) The name, address and telephone number of the individual who is to act as primary decision
20 maker for the protected person and the name of the person with whom the protected person will
21 have personal contact if that person is not the person who will act as primary decision maker for
22 the protected person.

23 (2)(a) If a petition seeks the appointment of a professional fiduciary as described in subsection
24 (5) of this section, the professional fiduciary and all staff with responsibility for making decisions for
25 clients or for management of client assets must undergo a criminal records check before the court
26 may appoint the professional fiduciary. The results of the criminal records check shall be provided
27 by the petitioner to the court. Results of criminal records checks submitted to the court are confi-
28 dential, shall be subject to inspection only by the parties to the proceedings and their attorneys, and
29 shall not be subject to inspection by members of the public except pursuant to a court order entered
30 after a showing of good cause. A professional fiduciary must disclose to the court any criminal
31 conviction of the professional fiduciary that occurs after the criminal records check was performed.
32 The criminal records check under this subsection shall consist of a check for a criminal record in
33 the State of Oregon and a national criminal records check if:

34 (A) The person has resided in another state within five years before the date that the criminal
35 records check is performed;

36 (B) The person has disclosed the existence of a criminal conviction; or

37 (C) A criminal records check in Oregon discloses the existence of a criminal record in another
38 jurisdiction.

39 (b) The requirements of this subsection do not apply to any person who serves as a **county**
40 public guardian [*or*] **and** conservator, or any staff of a **county** public guardian [*or*] **and** conservator,
41 [*who is*] operating under ORS 125.700 to 125.730 or 406.050 [*and who is otherwise required to acquire*
42 *a criminal records check for other purposes*], **or to the Oregon Public Guardian and Conservator,**
43 **the deputy public guardian and conservator or the staff or volunteers of the Oregon Public**
44 **Guardian and Conservator, operating under sections 2 to 9 of this 2013 Act, unless the person**
45 **is otherwise required to submit to a criminal records check under ORS 125.700 to 125.730 or**

1 **sections 2 to 9 of this 2013 Act.**

2 (3)(a) If a petition seeks the appointment of a **county** public guardian and conservator operating
3 under the provisions of ORS 125.700 to 125.730, **the appointment of the Oregon Public Guardian**
4 **and Conservator or the deputy public guardian and conservator, operating under the pro-**
5 **visions of sections 2 to 9 of this 2013 Act,** or the appointment of a conservator under ORS 406.050
6 (8), the petition need not contain the information described in subsection (1)(d) or (L) of this section.

7 (b) If a **county** public guardian and conservator operating under the provisions of ORS 125.700
8 to 125.730, **or the Oregon Public Guardian and Conservator or the deputy public guardian and**
9 **conservator, operating under the provisions of sections 2 to 9 of this 2013 Act,** is appointed
10 to act as a fiduciary, or a conservator operating under the authority of ORS 406.050 (8) is appointed,
11 the **county** public guardian [*or*] **and conservator, the Oregon Public Guardian and Conservator**
12 **or the deputy public guardian and conservator** must file with the court within three days after
13 receipt of written notice of the appointment a statement containing the name, address and telephone
14 number of the individual who will act as primary decision maker for the protected person and the
15 name of the person with whom the protected person will have personal contact if the person named
16 as primary decision maker will not have personal contact with the protected person.

17 (4) If the court appoints a professional fiduciary as described in subsection (5) of this section,
18 the professional fiduciary must update all information required to be disclosed by subsection (1) of
19 this section and provide a copy of the updated statement upon the request of the protected person
20 or upon the request of any person entitled to notice under ORS 125.060 (3). The professional
21 fiduciary must provide an updated statement without demand to the court, the protected person and
22 persons entitled to notice under ORS 125.060 (3) at any time that there is a change in the informa-
23 tion provided under subsection (1)(L) or (3)(b) of this section.

24 (5) The provisions of this section apply to any person nominated as a fiduciary or serving as a
25 fiduciary who is acting at the same time as a fiduciary for three or more protected persons who are
26 not related to the fiduciary.

27 **SECTION 20.** ORS 125.410 is amended to read:

28 125.410. (1) Except as provided in subsection (2) of this section, the court shall require a
29 conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservator
30 according to law, with sureties as specified by the court. Unless otherwise directed, the bond must
31 be in the amount of the aggregate capital value of the property of the estate in the control of the
32 conservator plus one year's estimated income minus the value of securities and money deposited
33 under arrangements requiring an order of the court for their removal and the value of any real
34 property that the conservator, by express limitation of power, lacks power to sell or convey without
35 court authorization.

36 (2)(a) The court may waive a bond for good cause shown.

37 (b) Subsection (1) of this section does not affect the provisions of ORS 709.240, relating to a trust
38 company acting as fiduciary, ORS 125.715, relating to a **county** public guardian **and conservator**
39 acting as fiduciary, **section 7 of this 2013 Act, relating to the Oregon Public Guardian and**
40 **Conservator or the deputy public guardian and conservator acting as fiduciary under sections**
41 **2 to 9 of this 2013 Act,** or ORS 406.050 (8), relating to the Department of Veterans' Affairs acting
42 as fiduciary.

43 (3) Sureties for a bond required under this section are jointly and severally liable with the
44 conservator and with each other.

45 (4) Letters of conservatorship may not be issued until the bond required by this section is ap-

1 proved by the court.

2 (5) The bond of the conservator continues in effect until the sureties on the bond are released
3 by order of the court.

4 (6) The court may at any time increase or reduce the amount of the bond required of a
5 conservator for the protection of the protected person and the estate of the protected person.

6 (7) If a surety on a bond required by this section gives notice of intent to cancel the bond, the
7 conservator shall execute and file in the protective proceeding a new bond before the cancellation
8 date specified by the surety. The new bond shall be in the amount and subject to those conditions
9 that may be required by the court. If the conservator fails to file a new bond, the authority of the
10 conservator ends on the date specified by the surety for cancellation of the bond. The letters of
11 conservatorship issued to the conservator are void from that date, and the conservator must make
12 and file the final accounting of the conservator.

13
14 **UNIT CAPTIONS**

15
16 **SECTION 21. The unit captions used in this 2013 Act are provided only for the conven-**
17 **ience of the reader and do not become part of the statutory law of this state or express any**
18 **legislative intent in the enactment of this 2013 Act.**

19
20 **APPLICABILITY**

21
22 **SECTION 22. Sections 2 to 9 of this 2013 Act and the amendments to ORS 125.240, 125.410,**
23 **125.700, 125.705, 125.710, 125.715, 125.720, 125.725, 125.730, 441.109 and 441.153 by sections 10 to**
24 **20 of this 2013 Act apply to protective proceedings commenced on or after the effective date**
25 **of this 2013 Act.**

26 _____