

D R A F T

SUMMARY

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
3 ORS 125.325.

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

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

7 **SECTION 2. (1) Upon appointment, a guardian shall deliver or mail**
8 **to the persons described in ORS 125.060 (3) a notice of the order of**
9 **appointment.**

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

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

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

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

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

1 (e) A statement describing the authority awarded to the guardian
2 and any limitations placed on the guardian’s authority; and

3 (f) A statement advising the protected person or other interested
4 person of the right of the protected person to seek removal of the
5 guardian or termination of the guardianship.

6 (3) Proof of the giving of notice under this section must be filed in
7 the protective proceeding not later than 30 days following the date of
8 the guardian’s appointment.

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

10 125.325. (1) [*Within*] **Not later than** 30 days [*after*] **following** each anni-
11 versary of appointment, a guardian for an adult protected person shall file
12 with the court a written report. The report must include a declaration under
13 penalty of perjury in the form required by ORCP 1 E, or an unsworn decla-
14 ration under ORS 194.800 to 194.835, if the declarant is physically outside the
15 boundaries of the United States. Copies of the guardian’s report must be
16 given to those persons specified in ORS 125.060 (3). The report shall be in
17 substantially the following form:

18 _____
19 IN THE _____ COURT _____ COUNTY,
20 STATE OF OREGON
21 DEPARTMENT OF PROBATE

22 In the Matter of the) No. _____
23 Guardianship of)
24 _____,)
25 (Name of protected)
26 person))
27 A Protected)
28 Person.)

29 GUARDIAN’S REPORT

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

1 1. My name is _____.

2 2. My address and telephone number are:

3 _____

4 _____

5 Phone _____

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

8 _____

9 _____

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

12 _____

13 5. The person is currently engaged in the following programs and activ-
14 ities and receiving the following services (brief description):

15 _____

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

18 _____

19 _____

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

22 _____

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

25 _____

26 _____

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

28 _____

29 _____

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

31 _____

1 _____

2 11. Facts that support the conclusion that the person is incapacitated in-
3 clude the following:

4 _____

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

7 _____

8 13. I made the following major decisions on behalf of the person during
9 the past year (brief description):

10 _____

11 14. I believe the guardianship should or should not continue because:

12 _____

13 15. At the time of my last report, I held the following amount of money
14 on behalf of the person: \$_____. Since my last report, I received the fol-
15 lowing amount of money on behalf of the person: \$_____. I spent the fol-
16 lowing amount of money on behalf of the person: \$_____. I now hold the
17 following amount of money on behalf of the person: \$_____.

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

20 17. Since my last report:

21 (a) I have been convicted of the following crimes (not including traffic
22 violations):

23 _____

24 (b) I have filed for or received protection from creditors under the Federal
25 Bankruptcy Code (yes or no): _____.

26 (c) I have had a professional or occupational license revoked or suspended
27 (yes or no): _____.

28 (d) I have had my driver license revoked or suspended (yes or no):
29 _____.

30 18. Since my last report, I have delegated the following powers over the
31 protected person for the following periods of time (provide name of person

1 powers delegated to):

2 _____

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

6 Dated this ____ day of _____, 2____.

7 _____

8 Guardian

9 NOTICE: ANY PERSON INTERESTED IN THE AFFAIRS OR WEL-
10 FARE OF THE PROTECTED PERSON WHO IS THE SUBJECT OF THIS
11 REPORT WHO HAS CONCERNS ABOUT THIS REPORT OR THE
12 GUARDIAN’S PERFORMANCE MAY CONTACT THE COURT AS FOL-
13 LOWS:

14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

20 **(2) If the guardian indicates in the report under subsection (1) of**
21 **this section that the guardianship should not continue or fails to pro-**
22 **vide adequate information in the report supporting the continuing**
23 **need for the guardianship, the court shall order the guardian to sup-**
24 **plement the report or file a motion to terminate the protective pro-**
25 **ceeding under ORS 125.090.**

26 **(3) Failure of the guardian to comply with an order under sub-**
27 **section (2) of this section before the 30th day following the date of the**
28 **order is grounds for removal under ORS 125.225 (1).**

29 **(4) If the guardian fails to comply with an order issued under sub-**
30 **section (2) of this section, the court, on its own motion or on the pe-**
31 **tition of any other person, shall order the guardian to appear and show**

1 **cause why the guardian should not be removed.**

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

6
