

B-Engrossed
Senate Bill 59

Ordered by the Senate April 24
Including Senate Amendments dated March 24 and April 24

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 Kate Brown for Oregon 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.

[Authorizes Long Term Care Ombudsman to petition for protective order regarding resident in long term care facility, residential facility or adult foster home when ombudsman believes resident who is subject of petition is in need of protective order.]

Authorizes court to remove fiduciary, or modify powers or authority of fiduciary, on motion of Long Term Care Ombudsman. Limits disclosure of protected information to amount of information reasonably necessary to prevent or lessen serious and imminent threat to health or safety of resident who is subject of *[petition]* **motion.**

Requires protected information disclosed by ombudsman in motion to remain confidential and subject to inspection only by parties and parties' attorneys. Authorizes court to allow inspection of protected information upon written request and payment of fees or costs.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Long Term Care Ombudsman; amending ORS 125.085; and declaring an emergency.

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

4 **SECTION 1.** ORS 125.085 is amended to read:

5 125.085. (1) The court may remove a fiduciary on the motion of any person who is entitled to file
6 an objection to a petition under the provisions of ORS 125.075, **on a motion of the Long Term**
7 **Care Ombudsman** or upon the court's own motion.

8 (2) On motion of the fiduciary, the court may accept the resignation of the fiduciary and make
9 any other order that may be appropriate, including appointment of a successor fiduciary.

10 (3) Upon motion by any person who is entitled to file an objection to a petition under the pro-
11 visions of ORS 125.075, **on a motion of the Long Term Care Ombudsman** or upon the court's own
12 motion, the court may order a modification of the powers or authority of the fiduciary or termi-
13 nation of the protective proceedings.

14 **(4)(a) When the Long Term Care Ombudsman files a motion under this section, the om-**
15 **budsman shall disclose to the court only:**

16 **(A) Such information as is allowed under ORS 441.407; and**

17 **(B) The minimum amount of protected information about the resident who is the subject**
18 **of the motion that the ombudsman believes in good faith is reasonably necessary to prevent**
19 **or lessen a serious and imminent threat to the health or safety of a resident of a long term**
20 **care facility, residential facility or adult foster home.**

21 **(b) Any protected information disclosed by the ombudsman under this subsection shall**
22 **remain confidential and must be identified and marked by the ombudsman as confidential and**

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 **protected information that is subject to the requirements of this subsection.**

2 **(c) Protected information disclosed under this subsection is subject to inspection only by**
3 **the parties to the proceeding and their attorneys as provided in paragraph (d) of this sub-**
4 **section. Protected information disclosed under this subsection is not subject to inspection**
5 **by members of the public except pursuant to a court order entered after a showing of good**
6 **cause.**

7 **(d) The court may enter an order allowing inspection of protected information subject to**
8 **disclosure under this subsection upon the filing of a written request for inspection and the**
9 **payment of any fees or costs charged to copy the protected information.**

10 **(e) Notwithstanding ORS 125.155 (4), to the extent that the report of a visitor appointed**
11 **by the court under ORS 125.150 contains protected information that is subject to the re-**
12 **quirements of this subsection, the report in its entirety shall be considered subject to the**
13 **requirements of this subsection and may be disclosed only as provided in paragraphs (c) and**
14 **(d) of this subsection.**

15 **SECTION 2. This 2017 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
17 **on its passage.**

18