

## SENATE AMENDMENTS TO SENATE BILL 59

By COMMITTEE ON HUMAN SERVICES

March 24

- 1 On page 1 of the printed bill, delete lines 4 through 27 and delete page 2.  
2 On page 3, delete lines 1 and 2 and insert:  
3 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 125.**  
4 **“SECTION 2. (1) As used in this section:**  
5 **“(a) ‘Adult foster home’ has the meaning given that term in ORS 443.705.**  
6 **“(b) ‘Long term care facility’ has the meaning given that term in ORS 442.015.**  
7 **“(c) ‘Long Term Care Ombudsman’ means the office of the Long Term Care Ombudsman**  
8 **established in ORS 441.403.**  
9 **“(d) ‘Party’ means, with respect to a petition for a protective order made under this**  
10 **section:**  
11 **“(A) The resident who is the subject of the petition.**  
12 **“(B) A person who has petitioned for appointment, or who has been appointed, as a**  
13 **fiduciary for the resident who is the subject of the petition.**  
14 **“(C) A person, not otherwise a party under this paragraph, who has filed objections as**  
15 **allowed under this chapter in a protective proceeding involving the resident who is the sub-**  
16 **ject of the petition.**  
17 **“(D) A visitor appointed by the court in a protective proceeding involving the resident**  
18 **who is the subject of the petition.**  
19 **“(e) ‘Protected information’ means ‘protected health information’ as defined in ORS**  
20 **192.556, information maintained as confidential under ORS 441.407 and legal information re-**  
21 **garding the resident who is the subject of the petition.**  
22 **“(f) ‘Residential facility’ has the meaning given that term in ORS 441.402.**  
23 **“(2)(a) As regards a resident in a long term care facility, a residential facility or an adult**  
24 **foster home, the Long Term Care Ombudsman may petition for a protective order under this**  
25 **chapter to:**  
26 **“(A) Terminate a protective proceeding;**  
27 **“(B) Remove a fiduciary;**  
28 **“(C) Modify the powers or authority of a fiduciary;**  
29 **“(D) Approve or disapprove a fiduciary’s actions;**  
30 **“(E) Appoint an attorney for the resident; or**  
31 **“(F) Exercise any of the court’s authority pursuant to ORS 125.025 that will protect the**  
32 **resident or estate of a resident in a long term care facility, a residential facility or an adult**  
33 **foster home, or of a respondent or protected person who is a resident in a long term care**  
34 **facility, a residential facility or an adult foster home.**  
35 **“(b) The ombudsman may file a petition under this subsection when the ombudsman be-**

1 believes the resident who is the subject of the petition is in need of a protective order described  
2 in paragraph (a) of this subsection.

3 “(3)(a) The Long Term Care Ombudsman shall give notice of the filing of a petition for  
4 a protective order under subsection (2) of this section to:

5 “(A) All parties;

6 “(B) Any attorney, if known, who represented the resident who is the subject of the pe-  
7 tition at any time during any other protective proceeding involving the resident; and

8 “(C) Any other person that the court requires.

9 “(b) The notice required under this subsection must be given in the manner set forth in  
10 ORS 125.065 and contain the information specified in ORS 125.070.

11 “(4)(a) When the Long Term Care Ombudsman petitions for a protective order under  
12 subsection (2) of this section, the ombudsman shall disclose to the court only the minimum  
13 amount of protected information about the resident who is the subject of the petition that  
14 is reasonably necessary to prevent or lessen a serious and imminent threat to the health or  
15 safety of the resident who is the subject of the petition.

16 “(b) The ombudsman may disclose protected information under this subsection without  
17 authorization from the resident who is the subject of the petition or the resident’s fiduciary,  
18 if any, provided the disclosure is made in good faith and with the belief that the disclosure  
19 is the minimum amount of protected information about the resident or fiduciary that is  
20 reasonably necessary to prevent or lessen a serious and imminent threat to the health or  
21 safety of the resident who is the subject of the petition.

22 “(c) Any protected information disclosed by the ombudsman under this subsection shall  
23 remain confidential and must be identified and marked by the ombudsman as confidential and  
24 protected information that is subject to the requirements of this subsection.

25 “(d) Protected information disclosed under this subsection is subject to inspection only  
26 by the parties to the proceeding and their attorneys as provided in paragraph (e) of this  
27 subsection. Protected information disclosed under this subsection is not subject to in-  
28 spection by members of the public except pursuant to a court order entered after a showing  
29 of good cause.

30 “(e) The court may enter an order allowing inspection of protected information subject  
31 to disclosure under this subsection upon the filing of a written request for inspection and the  
32 payment of any fees or costs charged to copy the protected information.

33 “(5) Notwithstanding ORS 125.155 (4), to the extent that the report of a visitor appointed  
34 by the court under ORS 125.150 contains protected information that is subject to the re-  
35 quirements of subsection (4) of this section, the report in its entirety shall be considered  
36 subject to the requirements of subsection (4) of this section and may be disclosed only as  
37 provided in subsection (4)(d) and (e) of this section.

38 “(6) Nothing in this section is intended to limit the application of ORS 125.050 to the use  
39 of protected information disclosed under this section in proceedings under this chapter.”.