

Senate Bill 891

Sponsored by Senator DEMBROW, Representative HAYDEN; Senator GELSER

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**.

Requires that court hold hearing on petition to appoint fiduciary filed by Oregon Public Guardian and Conservator or county public guardian and conservator. Requires court to appoint legal counsel for respondent in proceeding. Requires payment for appointed counsel from guardianship or conservatorship estate of respondent or at state expense.

A BILL FOR AN ACT

1
2 Relating to proceedings for appointment of a fiduciary brought by a public guardian and
3 conservator; amending ORS 125.080.

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

5 **SECTION 1.** ORS 125.080 is amended to read:

6 125.080. (1)(a) The court may require that a hearing be held on any petition or motion in a
7 protective proceeding.

8 **(b) The court shall require that a hearing be held on any petition for appointment of a**
9 **fiduciary filed under ORS 125.055 by the Oregon Public Guardian and Conservator appointed**
10 **under ORS 125.678 or a county public guardian and conservator appointed under ORS 125.700.**

11 (2) A hearing must be held on a petition or motion if an objection is **made or** filed to the peti-
12 tion or motion and the objection is not withdrawn before the time scheduled for the hearing.

13 (3) The respondent or protected person may appear at a hearing in person or by counsel.

14 (4) If the court requires that a hearing be held on a petition **or motion**, or a hearing is [*other-*
15 *wise*] required under **subsection (2) of** this section, the court may appoint counsel for the respond-
16 ent **or protected person** unless the respondent **or protected person** is already represented by
17 counsel.

18 **(5) When a hearing is required under subsection (1)(b) of this section, the court shall**
19 **appoint counsel for the respondent. The court is not required to appoint counsel under this**
20 **subsection if the respondent is already represented by counsel or otherwise objects to ap-**
21 **pointment of counsel. The court shall order payment of attorney fees and costs from the**
22 **guardianship or conservatorship estate of the respondent if sufficient funds exist to pay all**
23 **or a portion of the attorney fees and costs due. The court may determine that a respondent**
24 **is financially eligible for appointed counsel at state expense, and the compensation for legal**
25 **counsel and costs and expenses necessary for representation of the respondent must be de-**
26 **termined and paid by the public defense services executive director as provided in ORS**
27 **135.055.**

28

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.