

SB 794 -1 STAFF MEASURE SUMMARY

Senate Committee On Human Services

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Meeting Dates: 2/11, 2/27

WHAT THE MEASURE DOES:

The measure expands the services and supports provided by the Oregon Public Guardian and Conservator (OPG) to include alternative decisional supports.

Detailed Summary:

- Defines "court-appointed fiduciary services" as information, assistance, and services provided in a guardianship or conservatorship proceeding as currently provided by OPG.
- Defines "alternative decisional supports" as the following:
 - health care representative for the purpose of making health care decisions on behalf of individuals who become incapacitated;
 - health care advocate for the purpose of making health care decisions on behalf of individuals with intellectual or developmental disabilities;
 - attorney-in-fact for the purpose of making decisions regarding mental health treatment;
 - supporter for the purpose of supported decision-making;
 - representative payee; and
 - agent under a power of attorney.
- Expands the services and supports provided by OPG to include alternative decisional supports.
- Requires OPG to adopt rules regarding services and supports related to supported decision-making and a fee schedule for providing alternative decisional supports.
- Prohibits a person or a court from nominating or appointing OPG to provide alternative decisional supports without OPG's consent.
- Requires long term care facilities, in addition to nursing homes and residential facilities, to provide OPG access to records necessary to conduct needs assessments.
- Authorizes OPG to claim reimbursement from a client or client's estate for reasonable expenses related to providing alternative decisional supports.
- Requires OPG to deposit moneys received on clients' behalf into the Protected Person Trust Account.
- Becomes operative on January 1, 2026.
- Authorizes OPG to take necessary action ahead of operative date.
- Takes effect on the 91st day following adjournment sine die.

REVENUE: No revenue impact

FISCAL: Fiscal impact issued

ISSUES DISCUSSED:

- Current authority of OPG to assist individuals who do not qualify for guardianship or conservatorship services
- Flexibility of agency's authority to act under current law
- Alternative decision making tools available to individuals
- Ability of individuals to select OPG as guardian or conservator when other options are possible
- Recommendations from the Joint Task Force on Hospital Discharge Challenges

EFFECT OF AMENDMENT:

-1 The amendment removes supported decision-making from the alternative services and supports to be provided by OPG.

BACKGROUND:

When a person has a significant cognitive impairment or health condition that prevents that person from meeting their basic needs, a guardian or conservator may be appointed by a court to assume decision-making authority over that person in order to manage that person's health, finances, and welfare on their behalf. In order for a guardian or conservator to be appointed, a court must find a person to be "incapacitated" or "financially incapable" based on a set of criteria as outlined in [ORS 125.005](#). Typically, a friend, relative, or professional is appointed to serve in these roles, often for an indefinite length of time. If no appropriate person or entity can be found to serve in those roles on a person's behalf, a court may appoint a public guardian. The [Oregon Public Guardian and Conservator \(OPG\)](#) was established as a statewide office in 2014 to serve as the guardian and conservator of last resort on behalf of individuals for whom no other guardian or conservator can be found. Previously, counties provided these services through local public guardian and conservator offices. According to a [recent presentation to an interim legislative committee](#), OPG's caseload typically involves individuals with complex needs, such as those unable to be discharged from a hospital, repeatedly entering the Oregon State Hospital under aid and assist orders, experiencing homelessness, unable to protect themselves from abuse or exploitation, or who cannot consent to treatment for a life-threatening medical condition. In November 2024, the [final report of the Joint Task Force on Hospital Discharge Challenges](#) recommended that the public guardian workforce be increased and that needs assessments performed by public guardians be streamlined in order to alleviate the burden of individuals with complex needs who are unable to be safely discharged from hospitals into lower levels of care.