

Senate Bill 1188

Sponsored by Senator PATTERSON, Representatives PHAM H, ANDERSEN; Representative NELSON

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act tells the OPGC to make grants to help people who are leaving a hospital obtain guardianship services. (Flesch Readability Score: 65.7).

Directs the Oregon Public Guardian and Conservator to establish a grant program to increase the availability of community-based guardianship programs and county public guardian and conservators for people with complex health care needs who are experiencing hospital discharge difficulties. Appropriates moneys from the General Fund to the office of the Long Term Care Ombudsman for deposit into the Community Guardianship Grant Fund to administer the grant program.

Directs the Oregon Public Guardian and Conservator to establish a grant program to provide financial assistance to persons experiencing hospital discharge delays and who have friends or family who are willing to act as a guardian but who lack the financial resources available to initiate protective proceedings. Appropriates moneys from the General Fund to the office of the Long Term Care Ombudsman for deposit into the Friends and Family Guardianship Grant Fund to administer the grant program.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to decision-making supports for individuals with complex health care needs; creating new
3 provisions; amending ORS 125.680 and 125.683; and declaring an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS 125.675**
6 **to 125.691.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Community-based guardianship program” means guardianship, conservatorship and**
9 **decision-making support services provided by a nonprofit organization.**

10 (b) **“County public guardian program” means an office of county public guardian and**
11 **conservator operating under ORS 125.700.**

12 (2) **The Oregon Public Guardian and Conservator shall establish a grant program for the**
13 **purpose of increasing the capacity of community-based guardianship programs and county**
14 **public guardian programs to provide guardianship, conservatorship and supported decision-**
15 **making services to individuals with complex health care needs who are being discharged from**
16 **hospitals.**

17 (3) **Community-based guardianship programs and county public guardian programs may**
18 **receive a grant under this section if:**

19 (a) **All staff of the program who will be providing decision-making supports or making**
20 **decisions for program clients are certified by the Center for Guardianship Certification or its**
21 **successor organization as National Certified Guardians or National Master Guardians;**

22 (b) **The program agrees to follow the standards of practice and ethical principals estab-**
23 **lished by the Oregon Public Guardian and Conservator under subsection (4) of this section;**

24 (c) **The program agrees to allocate the program's increased guardianship capacity at-**

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 tributable to the grant proceeds to cases involving hospital discharge delays of people with
2 complex health care needs; and

3 (d) The program agrees to provide the quarterly reports described in subsection (4) of
4 this section.

5 (4) The Oregon Public Guardian and Conservator shall:

6 (a) Establish standards of practice and ethical principals for grant program recipients,
7 consistent with ORS chapter 125 and taking into consideration the standards of practice and
8 ethical principals developed by the National Guardianship Association and consistent with
9 ORS chapter 125; and

10 (b) Require grant recipients to provide quarterly reports to the Oregon Public Guardian
11 and Conservator describing the program's activities supported by the grant, including disag-
12 gregated data regarding the program's services.

13 **SECTION 3.** (1) The Oregon Public Guardian and Conservator shall establish a grant
14 program to provide assistance with legal expenses associated with initiating protective pro-
15 ceedings for people who are being discharged from a hospital and who have friends or rela-
16 tives who are willing to serve as guardian but who lack the financial resources to initiate
17 protective proceedings.

18 (2) The Oregon Public Guardian and Conservator may contract with local attorneys or
19 the Department of Justice to provide legal assistance with initiating a protective proceeding
20 described in subsection (1) of this section.

21 (3) The Oregon Public Guardian and Conservator may seek reimbursement from a
22 person's estate for the amount of any grant awarded under this section for court-approved
23 court costs and fees and legal expenses.

24 (4) To be eligible to receive financial assistance under this section, the person nominated
25 to be appointed as guardian shall:

26 (a) Complete a lay guardian class identified and paid for by the Oregon Public Guardian
27 and Conservator; and

28 (b) Agree to follow the standards of practice and ethical principals established by the
29 Oregon Public Guardian and Conservator under subsection (5) of this section.

30 (5) The Oregon Public Guardian and Conservator shall establish standards of practice and
31 ethical principals for grant program recipients, consistent with ORS chapter 125 and taking
32 into consideration the standards of practice and ethical principals developed by the National
33 Guardianship Association and consistent with ORS chapter 125.

34 **SECTION 4.** (1) The Community Guardianship Grant Fund is established in the State
35 Treasury, separate and distinct from the General Fund. Interest earned by the Community
36 Guardianship Grant Fund shall be credited to the fund. The Community Guardianship Grant
37 Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the
38 Legislative Assembly or otherwise and interest earned on moneys in the fund.

39 (2) Moneys in the fund are continuously appropriated to the office of the Long Term Care
40 Ombudsman for use by the Oregon Public Guardian and Conservator to administer the grant
41 program described in section 2 of this 2025 Act.

42 **SECTION 5.** (1) The Friends and Family Guardianship Grant Fund is established in the
43 State Treasury, separate and distinct from the General Fund. Interest earned by the Friends
44 and Family Guardianship Grant Fund shall be credited to the fund. The Friends and Family
45 Guardianship Grant Fund consists of moneys recovered by the Oregon Public Guardian and

1 **Conservator from the estates of protected persons under section 3 (3) of this 2025 Act and**
 2 **moneys appropriated, allocated, deposited or transferred to the fund by the Legislative As-**
 3 **sembly or otherwise and interest earned on moneys in the fund.**

4 **(2) Moneys in the fund are continuously appropriated to the office of the Long Term Care**
 5 **Ombudsman for use by the Oregon Public Guardian and Conservator to administer the pro-**
 6 **gram described in section 3 of this 2025 Act.**

7 **SECTION 6.** ORS 125.680 is amended to read:

8 125.680. The Oregon Public Guardian and Conservator shall:

9 (1) Educate the public about the role and function of the Oregon Public Guardian and
 10 Conservator and about public guardian and conservator services.

11 (2) Provide public guardian and conservator services for persons who do not have relatives or
 12 friends willing or able to assume the duties of guardianship or conservatorship and who lack the
 13 financial resources to obtain a private guardian or conservator.

14 (3) Certify deputy public guardians and conservators.

15 (4) Develop model standards of eligibility and professional conduct for deputy public guardians
 16 and conservators and of practice and procedure in public guardianship and conservatorship pro-
 17 ceedings.

18 (5) Develop and implement training and educational materials for deputy public guardians and
 19 conservators.

20 (6) Establish and operate a program to recruit, train and supervise volunteers to provide as-
 21 sistance to the Oregon Public Guardian and Conservator, deputy public guardians and conservators
 22 and clients.

23 (7) Establish a process, including criteria and standards, to determine the eligibility of persons
 24 to receive public guardian and conservator services and for the needs assessment required under
 25 ORS 125.683.

26 (8) Cooperate with offices of county public guardian and conservator operating under ORS
 27 125.700.

28 (9) Work with existing local and county programs and with other organizations and entities to
 29 develop and expand public guardian and conservator services in this state.

30 (10) Make recommendations to the Legislative Assembly for policy and legislation regarding
 31 implementation, improvement and expansion of public guardian and conservator services in this
 32 state.

33 **(11) Administer grant programs to increase the availability of guardianship and conser-**
 34 **vatorship services by nonprofit organizations and county public guardian and conservators,**
 35 **as defined in ORS 125.705, for individuals who are not otherwise eligible to receive public**
 36 **guardian and conservator services.**

37 **(12) Provide grants for initiating protective proceedings for persons who have friends or**
 38 **relatives who are willing to serve as guardian but who lack the financial resources to initiate**
 39 **a protective proceeding.**

40 **SECTION 7.** ORS 125.683 is amended to read:

41 125.683. (1) In providing public guardian and conservator services, the Oregon Public Guardian
 42 and Conservator shall conduct a needs assessment for a person who claims or is claimed not to have
 43 relatives or friends willing or able to assume the duties of guardianship or conservatorship and who
 44 claims or is claimed to lack the financial resources to obtain a private guardian or conservator, **or**
 45 **who claims or is claimed to have relatives or friends willing or able to assume the duties of**

1 **guardianship but who claims or is claimed to lack the financial resources to initiate a pro-**
 2 **protective proceeding.** The purpose of the needs assessment is to determine the person's eligibility to
 3 receive public guardian and conservator services and to determine the appropriateness of filing a
 4 petition for the appointment of a fiduciary or other pleading on behalf of the person in a court
 5 having probate jurisdiction.

6 (2) The needs assessment **under subsection (1) of this section** shall, at a minimum:

7 (a) Assess the person's capacity to:

8 (A) Care for the person's own safety;

9 (B) Manage the person's own financial affairs; and

10 (C) Attend to and provide for necessities such as food, shelter, clothing and medical care;

11 (b) Assess the person's financial resources;

12 (c) Determine whether information that is available about the person is sufficient to support a
 13 finding that the person is incapacitated or financially incapable and the entry of a court order for
 14 the appointment of a fiduciary under ORS 125.010;

15 (d) Determine whether any other person may be willing and able to serve as the person's
 16 guardian or conservator and, if appropriate, locate and contact that other person;

17 (e) Determine the type of fiduciary, if any, to request in a petition filed under ORS 125.055,
 18 giving preference to the least intrusive form of fiduciary relationship consistent with the best in-
 19 terests of the person; and

20 (f) Determine how best to provide public guardian and conservator services to the person that
 21 are least restrictive to the person's liberty, that are least intrusive to the person and that provide
 22 for the greatest degree of independence that the person is capable of exercising.

23 [(2)(a)] (3)(a) If the person is a resident of a nursing home as defined in ORS 678.710 or a resi-
 24 dential facility as defined in ORS 441.402, the nursing home or residential facility shall provide the
 25 Oregon Public Guardian and Conservator access to the person's records as is necessary to conduct
 26 the needs assessment required under this section.

27 (b) Any other public agency that has provided or is providing care or services to the person
 28 shall disclose to the Oregon Public Guardian and Conservator, upon request, a minimum amount of
 29 information about the person for whom the needs assessment is being conducted, including protected
 30 health information as defined in ORS 192.556 and financial information, as is reasonably necessary
 31 to prevent or lessen a serious and imminent threat to the health or safety of the person who is the
 32 subject of the needs assessment. For purposes of this paragraph, a request from the Oregon Public
 33 Guardian and Conservator for the purpose of conducting a needs assessment is presumed to be a
 34 situation that will prevent or lessen a serious and imminent threat to the health or safety of the
 35 person.

36 (c) Any health care provider not identified in either paragraph (a) or (b) of this subsection may
 37 disclose protected health information to the Oregon Public Guardian and Conservator in accordance
 38 with 45 C.F.R. 164.512 (j) to prevent or lessen a serious or imminent threat to the health or safety
 39 of a person if the health care provider, in good faith, believes the disclosure is necessary to prevent
 40 or lessen the threat. For purposes of this paragraph, a request from the Oregon Public Guardian and
 41 Conservator for disclosure under this paragraph for the purposes of conducting a needs assessment,
 42 or the good faith belief and disclosure of the health care provider under this paragraph, are pre-
 43 sumed to be situations that will prevent or lessen a serious and imminent threat to the health or
 44 safety of the person.

45 [(3)] (4) For each person determined to be eligible for public guardian and conservator services

1 under this section, the Oregon Public Guardian and Conservator shall develop a written plan setting
2 forth the type and duration of services to be provided by the Oregon Public Guardian and
3 Conservator. The plan shall be included in any nonemergency petition or pleading filed with the
4 court.

5 **SECTION 8.** There is appropriated to the office of the Long Term Care Ombudsman, for
6 the biennium beginning July 1, 2025, out of the General Fund, the amount of \$_____ for
7 Oregon Public Guardian and Conservator administrative expenses associated with carrying
8 out the provisions of sections 2 and 3 of this 2025 Act.

9 **SECTION 9.** There is appropriated to the office of the Long Term Care Ombudsman, for
10 the biennium beginning July 1, 2025, out of the General Fund, the amount of \$500,000 for
11 deposit into the Community Guardianship Grant Fund established under section 4 of this 2025
12 Act.

13 **SECTION 10.** There is appropriated to the office of the Long Term Care Ombudsman, for
14 the biennium beginning July 1, 2025, out of the General Fund, the amount of \$100,000 for
15 deposit into the Friends and Family Guardianship Grant Fund established under section 5
16 of this 2025 Act.

17 **SECTION 11.** This 2025 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect
19 on its passage.
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