

SB 1547 A -A9 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/24, 2/24

WHAT THE MEASURE DOES:

Requires transfer of court proceedings from Multnomah County Circuit Court's Gresham court if accused person is in custody of sheriff or Department of Corrections, is charged with a felony, or a warrant has been issued for the person unless good cause is shown for proceeding to remain in Gresham court. Allows process to return proceeding from Portland to Gresham upon motion of either party, if accused person is not in custody and all warrants have been vacated or executed. Clarifies that only misdemeanor proceedings, including traffic proceedings, can be conducted at Gresham court. . Corrects error in process to establish that a decedent's writing was intended to be a partial or complete revocation of the decedent's will. Allows notice to protected person of appointment of guardian to include forms of notice that are reasonably calculated to be received and understood by protected person, including verbal notice. Modifies date of expiration of sexual abuse restraining orders entered on behalf of a minor petitioner if the petitioner fails to request renewal of the order by the specified date following the petitioner's 18th birthday. Specifies procedures when service on respondent of sexual abuse restraining order is completed by alternative service. Declares emergency, effective on passage. Makes section pertaining to wills effective on passage. Makes provisions relating to restraining orders operative 91st day following adjournment sine die. Makes provisions relating to Gresham court and guardianship notice operative January 1, 2021.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A9 Modifies process for providing notice of appointment of guardian to protected person. Requires guardian to deliver written notice to protected person and to provide notice in a manner reasonably calculated to be understood by the protected person. Requires guardian to offer notice orally and to make reasonable accommodations for effective communication with protected person. Provides process for notice by first class mail, return receipt requested, if personal delivery is unduly burdensome. Requires statement to court explaining undue burden if personal delivery not given.

BACKGROUND:

Senate Bill 1547-A is an omnibus bill with court-related technical corrections. It has four components.

Section 1 of SB 1547-A modifies the criteria for determining if a defendant's case should remain in the Multnomah County Circuit Court's Gresham court or be transferred to the court located in Portland. Currently, all proceedings in which the defendant is in custody of the sheriff or Department of Corrections, or in which a warrant has been issued against the defendant must be transferred to the Portland court. SB 1547-A allows misdemeanor proceedings to remain in Gresham if good cause is shown or to be returned to Gresham upon the request of either party when a defendant is not in custody and all warrants have been vacated or extinguished.

Section 2 of SB 1547-A corrects an error from House Bill 3007 (2019). ORS 112.238 provides a process for courts to determine if a writing is intended to be a will or revocation of a will. Subsection (2) describes the process for determining that a writing is a will while subsection (3) provides the process to determine if a writing is a will, or a partial or complete revocation of a will. Because subsection (3) references determining if a writing is a will, it confuses the process outlined in subsection (2). SB 1547-A removes language referencing the determination that a

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writing is a will from subsection (3), thereby clarifying the process in both situations and makes this change effective on passage.

Section 3 of SB 1547-A allows for alternative forms of notice to a protected person when a guardianship has been ordered. In 2019, Senate Bill 376 required a guardian to give notice of an appointment of a guardian to the protected person. Concerns were raised that mailing a notice to a protected person may not provide actual notice of a guardianship to the person. SB 1547-A allows notice to be reasonably calculated to be received and understood by the protected person and may be verbal or in writing.

Section 4 of SB 1547-A modifies provisions of Senate Bill 995 (2019), which amended certain procedural requirements for the provision and service of a Sexual Assault Protection Order (SAPO) and unintentionally allowed disclosure of a petitioners' otherwise confidential birthday information. The measure also allowed courts to authorize alternative service of a SAPO if a petitioner demonstrated due diligence in attempting to effectuate personal service. SB 1547-A provides minor petitioners' an expiration date by which they must renew a SAPO after their 18th birthday that does not allow for disclosure of their confidential birthdate information. The bill also makes procedural changes to the alternative methods of service allowed in certain circumstances.