

House Bill 2192

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

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**.

Establishes priority of Department of Human Services in claims against estate of decedent for amounts owed by reason of care and maintenance of decedent in state institution.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to claims against estates; creating new provisions; amending ORS 115.125; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 115.125 is amended to read:

6 115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims
7 in full, the personal representative shall make payment in the following order:

8 (a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.

9 (b) Expenses of administration.

10 (c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.

11 (d) Debts and taxes with preference under federal law.

12 (e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent,
13 including compensation of persons attending the decedent.

14 (f) Taxes with preference under the laws of this state that are due and payable while possession
15 of the estate of the decedent is retained by the personal representative.

16 (g) Debts owed employees of the decedent for labor performed within 90 days immediately pre-
17 ceding the date of death of the decedent.

18 (h) Child support arrearages.

19 (i) The claim of the Department of Human Services for the net amount of assistance paid to or
20 for the decedent, in the following order:

21 (A) The amount of the state's monthly contribution to the federal government to defray the costs
22 of outpatient prescription drug coverage provided to a person who is eligible for Medicare Part D
23 prescription drug coverage and who receives benefits under the state medical assistance program
24 or Title XIX of the Social Security Act;

25 (B) Public assistance, as defined in ORS 411.010, funded entirely by moneys from the General
26 Fund; *and*

27 (C) Public assistance, as defined in ORS 411.010, funded by a combination of state and federal
28 funds; **and**

29 **(D) Care and maintenance of the decedent at a state institution, as provided in ORS**
30 **179.610 to 179.770.**

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 (j) The claim of the Department of Corrections for care and maintenance of any decedent who
2 was at a state institution to the extent provided in ORS 179.610 to 179.770.

3 (k) All other claims against the estate.

4 (2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of
5 any one class specified in subsection (1) of this section, each expense or claim of that class shall
6 be paid only in proportion to the amount thereof.

7 **SECTION 2. The amendments to ORS 115.125 by section 1 of this 2007 Act apply only to**
8 **a probate proceeding in which a petition for appointment of personal representative is filed**
9 **on or after the effective date of this 2007 Act.**

10 **SECTION 3. This 2007 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
12 **on its passage.**

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