

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Bill Taylor, Counsel
<b>Meeting Dates:</b>	4/2, 4/8

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**WHAT THE MEASURE DOES:** Allows a surviving spouse of a decedent domiciled in Oregon at the time of death to receive a share of the decedent's estate. States that the share a spouse can elect to receive is based on the years of marriage ranging from five percent for two years of marriage up to thirty-three percent for fifteen years or more of marriage. Includes assets outside the probated estate as well as assets within the estate for the purpose of determining the surviving spouse's elective share. Allows a spouse to waive his or her elective share rights. Allows a guardian or agent under the power of attorney to exercise the right to receive an elective share on behalf of the surviving spouse. Defines "decedent's probate estate" as the value of all estate property that is subject to probate and is available for distribution after payment of claims and expenses of administration. Defines what is and what is not a probate transfer to a surviving spouse. Applies to decedent's who die after the effective date of the Act. Repeals Oregon's current surviving spouse elective share provisions. Sets forth how the dollar amount of the elective share is determined. Sets forth how the surviving spouse may claim and his or her elective share.

**ISSUES DISCUSSED:**

- Does not change the right of couples to enter into prenuptial or postnuptial agreements

**EFFECT OF COMMITTEE AMENDMENT:** Sets forth how the dollar amount of the elective share is determined. Sets forth how the surviving spouse may claim and his or her elective share.

**BACKGROUND:** Currently, any part of a net estate of a decedent not disposed of by will passes through intestate succession, ORS 112.015. Also, the surviving spouse may elect to receive part of his or her departed spouse's estate pursuant to the elective share provisions of ORS 114.105-11.165. The primary purpose of the elective share provisions is to protect a surviving spouse from being completely disinherited.