

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	0
Prepared By:	Lisa Nuss, Counsel
Meeting Dates:	4/30, 5/14

WHAT THE MEASURE DOES: Creates statutory guidelines for deciding which state's law applies in torts involving more than one state.

ISSUES DISCUSSED:

- Statutes are intended to increase predictability
- Crafted to serve as a guide to judges, but to allow flexibility
- The 2001 codification of the contracts conflicts of laws is working well

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: There are currently no statutes that govern conflict of laws in torts cases. "Conflict of laws" refers to cases that involve contacts with more than one state – such as if two Oregonians were involved in a car accident in Washington. Traditionally, the common law rule was to apply the law of the state where the tort occurred. However, in the 1960s, state courts began abandoning that rule to allow, such as in the case above, for Oregon law to apply if both parties are domiciled in Oregon. Since then, courts have cobbled together a variety of more nuanced balancing tests, which over the decades have added up to what practitioners describe as case law that is "puzzling" when trying to determine any bright line rules.

The Oregon Law Commission brought together a work group of diverse interests, including plaintiffs and defense lawyers, law professors and judges, to codify Oregon case law, filling in gaps where needed from other states and prevailing jurisprudence. The goal was to provide a methodology for courts to use in torts conflict of law cases that also allows flexibility.

The proposed statute structure includes general rules, special rules, and some escape provisions where parties can demonstrate need for a special application.

If this law passes, Oregon will be only the second state to codify its conflict laws relating to torts. In 2001, the Oregon Law Commission led a similar work group to codify Oregon's conflict of laws relating to contracts (ORS 81.100 ff).