

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass the A-Engrossed Measure
Vote:	3 - 0 - 2
Yeas:	Dingfelder, Kruse, Prozanski
Nays:	0
Exc.:	Bonamici, Whitsett
Prepared By:	Aaron Knott, Counsel
Meeting Dates:	4/26, 5/11

WHAT THE MEASURE DOES: Disqualifies an individual from serving as a fiduciary, health care representative, attorney-in-fact or surrogate if a prior court order terminated the parental rights of that individual or determined it unsafe for a protected individual, while ward of the court, to return to the home of that individual. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Exploitation of incapacitated individuals by fiduciaries via the appropriation of benefits
- Court involvement in voluntary reengagement of a previously incapacitated person with a disqualified fiduciary

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Currently, an individual is barred from acting as a fiduciary under ORS 125.205 only if the person is incapacitated, financially incapable, a minor, or is acting as a health care provider for the protected person. This allows individuals who have lost their parental rights or right to custodianship of a protected person to continue to act as a fiduciary, health care representative, attorney-in-fact or surrogate for the protected person despite the prior adjudication. House Bill 2652 A modifies ORS 125.205 to forbid a parent or guardian against whom a protective custody order has been issued from serving in any of the aforementioned categories. A previously incapacitated individual may petition the court under this section to remove the above prohibition after the cessation of the person's term of incapacity.