



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

April 3, 2013
(SENT BY EMAIL)

The Honorable Paul Holvey, Chair
House Committee on Consumer Protection and General Government Efficiency
900 Court Street NE
Salem, OR 97301

Re: HB 2536 -2 and -3 Amendments

Dear Chair Holvey and Members of the Committee:

The Oregon Judicial Department has identified an issue with the -2 amendment to HB 2536 that we would like to bring to your attention. Section 5 of the amendment requires the transferee to file with the court a document containing a variety of information about the payee and the payee's family. Section 5(2) requires the court to maintain that information as confidential.

The requirement in Section 5(2) raises workload and process issues that cannot be easily or cheaply addressed by court staff. There is, however, a solution to this problem in the form of an existing court process that parties can use to protect personal information.

Over 500,000 cases are filed in circuit court each year. Millions of documents are filed annually in pending cases. Given the tremendous volume of documents that are filed in circuit court each day, it is neither possible nor desirable to have court staff review every document to identify those filings that may contain personal information that should be protected. That is the task that Section 5(2) places on court staff. Such a chore would require a significant increase in FTE and would require a legal analysis component that is not appropriate for court staff.

We strongly believe that it is important for parties to protect their personal information. For that reason, we have a long-standing procedure that a party in any case type can follow to protect personal information. That process is set out in Uniform Trial Court Rule (UTCRC) 2.100 and accompanying UTCRC Forms 2.100.4a and 2.100.4b.

We believe that the aim of Section 5(2) can be met by replacing the current wording with the following:

“(2) The transferee shall follow the procedures established by trial court rule to protect personal information contained in a filing under this section.”

Section 4(4) of the -3 amendment takes a different approach and gives the court discretion to seal all or part of a petition that may contain personal information. Typically, a court will

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consider whether to seal a document if a motion is brought by a party. It is hard to imagine how only part of a petition could be sealed and sealing an entire petition may raise issues under the open courts requirement in Article 1, section 10 of the Oregon Constitution. If the objective is to protect personal information, you may want to consider changing the current text to the wording identified above.

Thank you for taking the time to consider our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce C. Miller". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bruce C. Miller
Senior Staff Counsel
Oregon Judicial Department

BCM:ma/13eBCM007ma
ec: Bob Estabrook