



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEASURE: HB 2226
EXHIBIT: 7
HOUSE JUDICIARY
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SUBMITTED BY: Aaron Knott

MEMORANDUM

DATE: February 3, 2015

TO: Honorable Jeff Barker, Chair
House Committee on Judiciary

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 2226 – Changes process to adopt mediation confidentiality rules

This testimony is presented in support of HB 2226.

BACKGROUND

In *State v. Patton I*, 237 Or App 46 (2010), the Oregon Court of Appeals found that a victim's "estate" is not a person for purposes of restitution. In the *Patton* case, a defendant stole \$18,800 from her aging grandmother. She pled to one count of theft in the first degree. As part of her plea agreement, she agreed to pay her grandfather restitution. Before the restitution hearing, her grandfather died. At the restitution hearing, defendant argued that she did not need to pay restitution because a deceased person is not considered a "victim" under the statutory definition at ORS 137.103. The Court of Appeals agreed. This creates two problems – first, in those instances where a victim dies before the imposition of restitution, and secondly, where a person's estate is the actual victim (e.g., an administrator of an estate steals funds from the estate itself).

CONCEPT

Other non-person entities, such as corporations and non-profit organizations, may receive restitution under Oregon law. A defendant convicted of theft from a grocery store may owe restitution even though the grocery store itself is not a person. HB2226 follows this reasoning. HB 2226 allows estates to receive restitution. This narrow fix amends the definition of "victim" for the purposes of the restitution statute alone. It also protects the interests of decedents by adding trusts and estates to this definition and making explicit that these non-person entities shall be considered eligible to receive restitution awards.

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