

**PRELIMINARY STAFF MEASURE SUMMARY****CARRIER:**

Senate Committee on Judiciary

**REVENUE: May have revenue impact, statement not yet issued****FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 3/18

**WHAT THE MEASURE DOES:** Requires Oregon Law Commission to study and make recommendations for modernization of probate and trust estate statutes. Declares emergency; effective on passage.

**ISSUES DISCUSSED:**

**EFFECT OF COMMITTEE AMENDMENT:** Proposed (-3) amendments replace measure. Creates process for introducing writing as will, revocation of will, or addition to will when execution requirements are not met if writing establishes intention by clear and convincing evidence and certain procedural requirements are met. Allows digital statement or list disposing of household items, furniture, furnishings, and personal effects. Prohibits disposal of money, business property, or certificates of title through digital writing. Creates avenue for inheritance for child conceived posthumously when decedent's will or trust provides for posthumous conception, written permission for use of genetic material is given prior to death, and child is in utero within two years of decedent's death. Defines "generation" as a group of humans that constitute a single step in a line of descent from an ancestor. Replaces "degrees of kinship" language with "generation" descriptions. Allows express limitation or exclusion of individual or class within will. Specifies that termination of parental rights is included as forfeiture of share by parent. Requires diligent search and inquiry prior to property escheating to state. Clarifies statute on rights of child adopted after domestic partners marry. Requires signatures of witness to will to hear or observe testator direct another to sign will, and sign the will within a reasonable time before testator's death. Allows contemporaneously executed affidavits to be counted as signatures. Prohibits electronic documents as formal will. Clarifies statutes on enforcement of in terrorem clauses, partial revocation of will, and inheritance under slayer or abuser statutes.

**BACKGROUND:** The Oregon Law Commission was formed in 1997 to provide continuous law reform recommendations. The Probate Modernization Work Group was formed in 2012 and provided legislative recommendations in the 2013 session. The efforts of the Work Group continued through 2014. Senate Bill 379 with the (-3) amendments are the probate modernization recommendation of the Oregon Law Commission.

4/3/2015 3:21:00 PM \*

***This summary has not been adopted or officially endorsed by action of the committee.***

Committee Services Form – 2015 Regular Session