

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: HB 2327
CARRIER: Sen. Gelser

Fiscal: No Fiscal Impact
Revenue: No Revenue Impact

Action Date: 02/25/15
Action: Do Pass.
Meeting Dates: 02/25
Vote:
Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher
Prepared By: Laura Handzel, Administrator

WHAT THE MEASURE DOES:

Allows Oregon State Bar (OSB) to petition court *ex parte* (by or for one party) to take immediate jurisdiction over attorney's law practice in certain cases. Mandates that courts appoint OSB as custodian and that immediately upon appointment, OSB assume possession and control of all property falling within the court's assumed jurisdiction. Mandates that financial institutions holding funds in lawyer trust account release funds to OSB. Outlines process for distributing funds and managing papers and files. Revises process of notice and opportunity for hearing for affected attorney. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

Oregon law presently contains a mechanism allowing the Oregon State Bar (OSB) to appoint counsel when an attorney becomes incapable of performing.

House Bill 2327 clarifies and refines this process. It states it is to be used specifically for an attorney that has died, is disbarred or suspended from the active practice of law, is incarcerated, or has abandoned the practice and has either failed to make arrangements or appoint an individual that can adequately protect clients' interests. House Bill 2327 also authorizes OSB to petition the court *ex parte* (by or for one party) to take immediate control over an affected attorney's practice. OSB must then serve a copy of the order by regular mail to the last-known address of the attorney or his or her duly appointed fiduciary, who then has 10 days to request a hearing to challenge the order. House Bill 2327 requires any financial institutions holding funds in a lawyer trust account for the affected attorney to release the funds to OSB, who must determine ownership and distribute funds as directed by the client(s). It further outlines OSB's requirements for retention of client materials, and clarifies rules regarding representation, confidentiality, compensation and expenses.