

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

MEASURE: SB 379 A
CARRIER: Sen. Prozanski

Fiscal: Has minimal fiscal impact
Revenue: Has minimal revenue impact

Action Date: 04/06/15

Action: Do Pass With Amendments. (Printed A-Eng.)

Meeting Dates: 03/18, 04/06

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

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WHAT THE MEASURE DOES:

Updates probate statutes relating to wills and intestate estates. Creates process for introducing writing as will when execution requirements are not met if writing establishes intention by clear and convincing evidence and certain procedural requirements are met. 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. Allows continuation of wills executed by domestic partners should such partners later marry. 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 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. 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. Clarifies statutes on enforcement of no-contest clauses, partial revocation of will, and inheritance under slayer or abuser statutes.

ISSUES DISCUSSED:

- Oregon Law Commission Probate Modernization Work Group
- Effect of marriage of domestic partners on prior created wills
- Inheritance of child conceived after death of testator
- Requirements for, and limitations on, inheritance by posthumously conceived child
- Allows creation of will when formalities are not met and errors are not substantive

EFFECT OF COMMITTEE AMENDMENT:

Replace measure.

BACKGROUND:

The Oregon Probate Code was adopted in 1969. In the 46 years of its existence, the Code has undergone some modifications but has not been subject to a lengthy review or update. The Probate Modernization Work Group of the Oregon Law Commission was formed in 2013 to review and recommend changes to the Oregon probate code.

Senate Bill 379 A is the 2015 probate modernization recommendation of the Oregon Law Commission. It covers Oregon Revised Statute 112, dealing with disposition of intestate property and wills.