

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 05/28/15

Action: Do Pass With Amendments And Requesting Subsequent Referral To Ways
And Means Be Rescinded. (Printed A-Eng.)

Meeting Dates: 05/21, 05/28

Vote:

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

Prepared By: Laura Handzel, Administrator

WHAT THE MEASURE DOES:

Clarifies statutory language regarding statute of limitations when person entitled to bring action is child or has disabling mental condition that bars person from comprehending rights person is otherwise bound to know. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- House Bill 2333-A as a fix to House Bill 2366
- Unintended consequences of current statutory language
- *Simonson v. Ford Motor Company* (2004)
- Concerns with word “insane”
- Additional amendment to update language

EFFECT OF COMMITTEE AMENDMENT:

Replaces “is insane” with “has a disabling mental condition that bars the person from comprehending rights that the person is otherwise bound to know.”

BACKGROUND:

In 2007, the Oregon Legislature passed House Bill 2366, which amended Oregon’s Minority Tolling Statute. The goal of House Bill 2366 was to extend the statute of limitations for actions brought by parents in an effort to reach consistency with the statute of limitations applicable to children’s claims arising from the same incidents. When the bill was drafted, changes were made to the language that were not caught at the time, but have since had unintended consequences. Specifically, rewording “an action mentioned in” to “an action that is subject to” the relevant ORS sections rendered the statute inapplicable to claims brought under the Oregon Tort Claims Act.

House Bill 2333-A aims to correct this unintended consequence by clarifying language to state applicability to actions “mentioned” in the relevant ORS sections, including ORS 12.010 -12.050, 12.070 -12.250 and 12.276. Additionally, House Bill 2333-A asserts that if it causes the revival of a claim formerly barred under ORS 12.160 immediately before its effective date, then that cause of action must be commenced within the time prescribed as amended. ORS 12.160 addresses suspension of the statute of limitations for minors and persons with a disabling mental condition that bars them from comprehending rights they are otherwise bound to know.