

**SB 131 -2, -3 STAFF MEASURE SUMMARY**

**Senate Committee On Judiciary**

---

**Prepared By:** Josh Nasbe, Counsel

**Meeting Dates:** 3/13, 3/30

---

**WHAT THE MEASURE DOES:**

Modifies circumstances under which court may allow telephonic testimony in civil and juvenile dependency proceedings. Requires court to allow telephonic testimony for good cause, unless testimony would result in substantial prejudice to party. Identifies nonexclusive list of factors for court to consider in making determination.

Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-2 Authorizes court to allow remote testimony in civil and juvenile dependency proceedings for good cause, unless court finds prejudice to other party outweighs the good cause. Identifies nonexclusive list of factors for court to consider in making good cause and prejudice determinations. Requires court to find video transmission is unavailable before allowing telephonic or other non-visual transmission. Declares emergency, effective on passage.

-3 Prohibits telephonic testimony if court finds that credibility and demeanor of witness is critical or that the issues the witness will testify about may be outcome determinative.

**BACKGROUND:**

Currently, ORS 45.400 contains a number of bright line rules applicable to telephonic testimony. For example, a trial court is prohibited from allowing telephonic testimony when the issues underlying the testimony "are so determinative of the outcome that face-to-face cross-examination is necessary." See *A.E.P. v. K.A.H.*, 278 Or. App. 284 (2016); ORS 45.400 (3)(b). Senate Bill 131 allows the court to consider a multitude of factors, including whether the testimony is outcome determinative, in deciding whether good cause exists and, if it does, whether the telephonic testimony would result in substantial prejudice to a party. In jury trials, Senate Bill 131 retains the additional obligation to demonstrate a compelling need before telephonic testimony is allowed.