

Senate Bill 522

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes person specified in family law judgment as court-ordered beneficiary to recover against third-party beneficiary named by obligor in separate civil action. Provides that entry of family law judgment serves as constructive notice of court-ordered beneficiary's entitlement to life insurance proceeds.

A BILL FOR AN ACT

1
2 Relating to recovery against life insurance proceeds required in certain family law judgments.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 107.**

5 **SECTION 2. (1) If an obligor is subject to a judgment that requires the obligor to main-**
6 **tain an existing, or obtain a new, insurance policy on the obligor's life under ORS 107.820 and**
7 **owns an insurance policy at the time of the obligor's death but has named a third party who**
8 **is not the court-ordered beneficiary designated in the judgment, the court may grant equi-**
9 **table relief in a proceeding brought by the court-ordered beneficiary against the third-party**
10 **beneficiary as follows:**

11 (a) **The court-ordered beneficiary may file a separate civil action against the third-party**
12 **beneficiary to recover the proceeds of the insurance policy to the extent specified in the**
13 **judgment, or as otherwise determined by the court under paragraph (c) of this subsection,**
14 **regardless of whether the third party had actual knowledge of the judgment provision that**
15 **required the obligor to obtain life insurance in favor of the court-ordered beneficiary. For**
16 **purposes of this section, the entry of a judgment requiring an obligor to obtain a life insur-**
17 **ance policy naming the court-ordered beneficiary as the beneficiary under ORS 107.820 is**
18 **prima facie evidence of the court-ordered beneficiary's entitlement to the life insurance**
19 **proceeds in the amount specified in the judgment. Entry of the judgment in accordance with**
20 **ORS chapter 18 constitutes constructive notice to all persons of the judgment provision re-**
21 **garding life insurance under ORS 107.820.**

22 (b) **The court-ordered beneficiary may recover from the third-party beneficiary no more**
23 **than the deficiency in life insurance proceeds, if any, after taking into account life insurance**
24 **proceeds received by the court-ordered beneficiary under life insurance policies maintained**
25 **or obtained by the obligor other than the life insurance policy that is the subject of the**
26 **action brought pursuant to this section.**

27 (c) **If there was a current spousal or child support obligation at the time of the obligor's**
28 **death, the court-ordered beneficiary shall recover the amount of life insurance proceeds or-**
29 **dered in the judgment or, if the amount is not specified in the judgment, the court may grant**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 equitable relief taking into account the amount of the last support order, the amount of life
2 insurance previously ordered and the ages and circumstances of the court-ordered benefi-
3 cary or persons otherwise entitled to receive the spousal or child support that is ensured by
4 the court-ordered life insurance provision.

5 (d) If there is no current support obligation at the time of the obligor's death but support
6 arrears are owing, the court-ordered beneficiary shall recover the amount of life insurance
7 proceeds sufficient to pay the arrears plus interest.

8 (2) The civil action authorized by this section must be filed in a separate proceeding from
9 the family law proceeding in which the judgment containing the life insurance provision was
10 entered.

11 (3) It is an affirmative defense to a civil action filed under this section that the third-
12 party beneficiary was the purchaser of the life insurance policy against which a claim is
13 made by a court-ordered beneficiary.

14 (4) Temporary or injunctive relief is available to the court-ordered beneficiary under
15 ORCP 79.

16 (5) The court-ordered beneficiary shall serve notice of an action filed under this section
17 on all parties in the family law proceeding in which the judgment containing the life insur-
18 ance policy requirement under ORS 107.820 was entered, the life insurance company that is-
19 sued the policy and any other interested parties.

20 SECTION 3. Section 2 of this 2017 Act applies to judgments entered on or after the ef-
21 fective date of this 2017 Act.