

**HB 4094 B STAFF MEASURE SUMMARY**

**Carrier:** Sen. Prozanski

**Senate Committee On Judiciary**

---

**Action Date:** 02/27/18

**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

**Vote:** 4-3-0-0

**Yeas:** 4 - Dembrow, Gelser, Prozanski, Wagner

**Nays:** 3 - Bentz, Linthicum, Thatcher

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Channa Newell, Counsel

---

**WHAT THE MEASURE DOES:**

Makes the affidavits in support of petition for approval of a settlement of a personal injury claim for incapacitated person, minor, or decedent confidential. Requires the disclosure of a person's removal as fiduciary, or surcharge under ORS 125.025(3)(e) or similar statute in another jurisdiction for causing a loss, in a petition for protective proceedings in which the person is nominated to serve as fiduciary. Requires statement of the circumstances surrounding the removal or surcharge. Requires immediate notification to the court if a fiduciary is removed or surcharged.

**ISSUES DISCUSSED:**

- Probate court reviews terms of settlement when settlement involves minor or incapacitated person
- Traditionally, courts agree to seal file as it goes through the probate process
- Some courts now asking for redaction of sensitive materials
- Cost of redaction in one case was \$3,000
- Balance of transparency and open courts with protecting sensitive information
- Measure does not conflict with Article 1, Section 10 of Oregon's Constitution

**EFFECT OF AMENDMENT:**

Clarifies that person nominated as fiduciary must disclose or report if the person has caused any loss resulting in a surcharge under Oregon statute, or a similar statute in another jurisdiction.

**BACKGROUND:**

When a personal injury case is settled on behalf of a minor or incapacitated person, the probate court will review the settlement to determine whether it is reasonable. The parties often submit affidavits in support of the settlement, which may contain sensitive and personal information. Additionally, there is currently no requirement that a person, who has been removed as a fiduciary in a protective proceeding, report that removal to the court.

House Bill 4094-B makes confidential the affidavits in support of a petition for approval of a settlement involving a minor, incapacitated person, or decedent. The measure also requires disclosure of whether a person who is nominated to serve as a fiduciary in a protective proceeding has been removed or surcharged in a different proceeding. The measure requires immediate notice to the court if a person is removed or surcharged, but also requires disclosure in future petitions for appointment.