

**SB 182 A STAFF MEASURE SUMMARY****Carrier:** Rep. Wilde**House Committee On Judiciary****Action Date:** 05/18/21**Action:** Do Pass the A-Eng bill.**Vote:** 10-0-0-0**Yeas:** 10 - Bynum, Dexter, Helm, Kropf, Lewis, Morgan, Noble, Power, Wallan, Wilde**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 4/28, 5/3, 5/18**WHAT THE MEASURE DOES:**

Restrains spouses from exercising authority under power of attorney, advance directive, or mental health treatment declaration upon filing of petition for separation, annulment, or dissolution. Terminates authority of spouse under power of attorney, advance directive, or mental health treatment declaration upon judgment of dissolution or annulment. Specifies occurrences that terminate the authority of an agent under power of attorney, including death of the principal, revocation of the power of attorney by the principal or court, incapacitation, resignation, or death of the agent, or termination of the power of attorney by its terms. Clarifies liability protections for each spouse when real property held by spouses as tenants in the entirety is subsequently conveyed to trustees of a revocable trust. Modifies process for attorney destruction of wills. Removes requirement that 40 years elapse between execution and destruction of the will. Allows attorney to dispose of will after 20 years if the attorney does not know if testator is deceased and cannot ascertain address of the testator after diligent inquiry. Requires attorney to retain a digital copy of the will and associated affidavits, including affidavit document attorney's diligent efforts to prove notice of destruction to testator or personal representative of testator for at least twenty years after making affidavit.

**ISSUES DISCUSSED:**

- Parties in divorce or separation may not be suitable surrogate decision makers
- Process of placing property in revocable trust
- Benefits of trust
- Current process for destruction of wills

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

The Oregon State Bar was established in 1935 to license and discipline lawyers, regulate the practice of law, and provide services to bar members and the public. The organization lists over 14,000 individuals admitted to practice law in Oregon. Various sections of the Bar propose specific changes to their practice areas.

Senate Bill 182 A is proposed on behalf of the Estate Planning and Administration Section of the Bar. It specifies that the petition for a dissolution, separation, or annulment restrains the other party from acting under authority of a power of attorney, health care representative under an advance directive, or attorney-in-fact under a declaration for mental health treatment and revokes authority under those documents when the dissolution or annulment is complete. The measure clarifies liability protection for spouses when property is held in certain trusts. SB 182 A also specifies particular provisions on the process an attorney must use when destroying wills.