

SB 221 STAFF MEASURE SUMMARY

Carrier: Rep. Dexter

House Committee On Judiciary

Action Date: 05/24/21

Action: Do Pass.

Vote: 10-0-0-0

Yeas: 10 - Bynum, Dexter, Helm, Kropf, Lewis, Morgan, Noble, Power, Wallan, Wilde

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 5/3, 5/5, 5/24

WHAT THE MEASURE DOES:

Corrects error in process to establish that a decedent's writing was intended to be a partial or complete revocation of the decedent's will. Declares emergency, effective on passage

ISSUES DISCUSSED:

- Technical issue of error
- Safe harbor for harmless error in will formality process
- Error in language confuses process between will and other writings
- Need for emergency clause

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon statutes provide a process for courts to determine if a writing is intended to be a will or revocation of a will. ORS 112.238 (2) describes the process for determining that a writing is a will while subsection (3) provides the process to determine if a writing is a will, or a partial or complete revocation of a will. Because subsection (3) references determining if a writing is a will, it confuses the process outlined in subsection (2).

Senate Bill 221 removes language referencing the determination that a writing is a will from subsection (3) of ORS 112.238, thereby clarifying the process in both situations and makes this change effective on passage.