

SB 177 -1 STAFF MEASURE SUMMARY

**Senate Committee On Judiciary and Ballot Measure 110
Implementation**

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Meeting Dates: 3/17, 3/29

WHAT THE MEASURE DOES:

Creates exception to the prohibition against hearsay evidence, regardless of availability of witness, for certain statements offered against party when the party engaged in conduct preventing the declarant from testifying or causing the declarant to refuse to appear or testify.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. States that the proponent of a statement is not required to issue a material witness order, as defined in ORS 136.608, or seek sanctions for contempt in order to show the unavailability of the declarant under subsection (1)(e) of this section.

BACKGROUND:

Oregon statutes prohibit the admissibility of certain hearsay statements in criminal proceedings unless a well established historical or statutory exception exists. Among the statutory exceptions to hearsay prohibitions are statements offered against a party who engaged in, directed or otherwise participated in, wrongful conduct that was intended to cause the declarant to be unavailable as a witness, and did cause the declarant to be unavailable.

Senate Bill 177 modifies this exception by allowing admissibility of statements offered against a party who engaged in wrongful conduct that was intended to cause the declarant to be unavailable as a witness, regardless of whether the declarant is unavailable.