

HB 2329 STAFF MEASURE SUMMARY

Carrier: Sen. Gelser Blouin

Senate Committee On Judiciary

Action Date: 02/28/23

Action: Do pass.

Vote: 4-0-1-0

Yeas: 4 - Gelser Blouin, Linthicum, Manning Jr, Prozanski

Exc: 1 - Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

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Meeting Dates: 2/21, 2/28

WHAT THE MEASURE DOES:

Creates an allowance for a notary public to complete a declaration of witness for the purposes of directing any manner of lawful disposition of the principal's remains postmortem. Creates an allowance for a notary public to complete a declaration of witness for the purposes of a declaration for mental health treatment, which includes designating a decision maker. Maintains the option to have two competent adult witnesses sign a declaration. Provides notarial certificate forms within the relevant statutes. Defines "health care provider" giving it the same meaning as in ORS 127.505 (related to advance directives for health care). Specifies who may not serve as a witness to the signing of a declaration for mental health treatment.

ISSUES DISCUSSED:

- Aligning the process with other types of similar provisions
- Difficulty in finding timely witness in certain situations
- Persons working in the health care setting with the patient are not allowed to be witnesses

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Elder Law Section of the Oregon State Bar (OSB) submitted a request, approved by OSB Board of Governors, to update the declaration for mental health treatment and appointment of a person to make decisions concerning disposition of remains to also allow for a notary or witnesses. Currently, the statute does not allow for a notary. The measure also repeals ORS 127.730, regarding persons prohibited from serving as witnesses to declaration, but relocates the contents of that section into the measure and also adds a person appointed as an attorney-in-fact to that list.

House Bill 2329 allows for a notary to execute the appointment of a person to make decisions regarding disposition of remains and for a declaration of mental health treatment.