SB 131 A   STAFF MEASURE SUMMARY

Carrier: Sen. Manning Jr

Senate Committee On Judiciary

Action Date:	04/05/17
Action:	Do pass with amendments. (Printed A-Eng.)
Vote:	5-0-0-0
Yeas:	5 - Dembrow, Linthicum, Manning Jr, Prozanski, Thatcher
Fiscal:	No fiscal impact
Revenue:	No revenue impact
Prepared By:	Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Modifies circumstances under which court may allow telephonic or remote testimony in civil and juvenile dependency proceedings. Authorizes court to allow remote testimony in civil and juvenile dependency proceedings for good cause, unless court finds prejudice to other party outweighs the good cause. Identifies nonexclusive list of factors for court to consider in making good cause and prejudice determinations. Requires court to find video transmission is unavailable before allowing telephonic or other non-visual transmission. Declares emergency, effective on passage.

ISSUES DISCUSSED:
* Live testimony preferred but not always possible
* In some parts of the state, difficult and expensive to obtain live testimony of experts and other witnesses
* Judicial discretion to assess multitude of factors, including whether testimony is outcome determinative

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Currently, ORS 45.400 allows a court to permit telephonic or electronic testimony for good cause but prohibits it under a number of bright line rules. For example, a trial court is prohibited from allowing telephonic testimony when the issues underlying the testimony "are so determinative of the outcome that face-to-face cross-examination is necessary." See *Department of Human Services v. K.A.H.*, 278 Or. App. 284 (2016); ORS 45.400 (3)(b). Senate Bill 131-A allows the court to consider a number of factors in deciding whether good cause to allow remote testimony exists and whether that good cause outweighs any prejudice to a party. In jury trials, SB 131-A retains the additional obligation to demonstrate a compelling need before telephonic testimony is allowed.