

Dear Senate Judiciary:

I attended the Senate Hearing on April 2, 2019. I arrived early and signed up to testify. Nevertheless, there were 100 people ahead of me. I did not get a chance to testify.

Professionally, I am an estate and probate attorney. I have written and spoken on the administration of an estate that contains firearms. This has become a confusing area of law for lawyers and their clients.

Senate Bill 978 (as amended) adds to this confusion. Section 6 deals with rules for locking firearms. This section imposes strict liability for injuries that occur for two full years after a firearm is stolen. This is abhorrent to a free society. Criminals should be responsible for their crimes, not their victims.

There is no exception for Fiduciaries or closing of estates. The bill has a series of exceptions to liability regarding securing of firearms, trigger locks, gun rooms, etc. But these may not be under the control of the fiduciary at all times.

As an example: Assume "Meth Tweaker" grandchild steals Grampa's gun on day one. Grampa does not notice. Grampa dies on day 180. Grampa's gun is then used to injure a person on day 700. Under Senate Bill 978, Grampa's estate is strictly liable.

This type of Elder abuse is common. Property is stolen by family members at an alarming rate. The idea that a law abiding trustee of a simple estate planning trust may be personally liable for the actions of a drug addicted niece or nephew is alarming, at best.

Also, there is no exception for court appointed Conservators or Guardians. Who will step up to help the elderly and risk such liability?

If a gun is stolen after death, does the liability attach to the Personal Representative or the Trustee?

At the hearing, the testimony of the parties for the bill focused on teen suicide. Such deaths are heart-wrenching.

Over eighty percent of the firearm deaths in the state of Oregon are suicides. Nationally, about 60-65 percent of all firearm deaths are by suicide.

I am not sure why Oregon's rate is so high, but it may be related to the very low high school graduation rate. Link to news story: <https://www.oregonlive.com/education/2019/01/oregon-generated-second-worst-graduation-rate-in-us-in-2017.html>

Or the very high level of sex trafficking in the state: Link: <https://www.usccr.gov/pubs/2019/02-11-Human-Trafficking-Oregon.pdf>

Note that Portland is a national leader.

Imposing strict liability is the wrong answer to a complex problem. As a society, we need to be able to assist the elderly without risking personal liability.

As for our teens, we need to address the mental health issues that underly suicide, not punish law abiding citizens.

I am against Senate Bill 978 (as amended).

Thank you.

BMT

Brian M. Thompson

The Law Office of Brian M. Thompson

66 Club Road, Suite 200

Eugene, OR 97401

Telephone: (541) 505-9293

Facsimile: (866) 305-8811

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