

SB 182 A STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow

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

Action Date: 02/18/21

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-3-0-0

Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski

Nays: 3 - Heard, Linthicum, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 2/11, 2/18

WHAT THE MEASURE DOES:

Restrains spouses from exercising authority under power of attorney, advance directive, or mental health treatment declaration upon filing of petition for separation, annulment, or dissolution. Terminates authority of spouse under power of attorney, advance directive, or mental health treatment declaration upon judgment of dissolution or annulment. Specifies occurrences that result in termination of an agent's authority through power of attorney. Clarifies liability protections for each spouse when real property held by spouses as tenants in the entirety is subsequently conveyed to trustees of a revocable trust. Modifies process for attorney destruction of wills.

ISSUES DISCUSSED:

- Protections provided by trusts
- Current process for disposal of wills requires retention of hard copy for 40 years
- Current law retains effectiveness of powers of attorney after divorce or separation unless specifically revoked
- Measure does not affect prenuptial agreements

EFFECT OF AMENDMENT:

Removes provisions relating to small estate affidavit and associated conforming amendments.

BACKGROUND:

The Oregon State Bar was established in 1935 to license and discipline lawyers, regulate the practice of law, and provide services to bar members and the public. The organization lists over 14,000 individuals admitted to practice law in Oregon. Various sections of the Bar propose specific changes to their practice areas.

Senate Bill 182 A is proposed on behalf of the Estate Planning and Administration Section of the Bar. It specifies that the petition for a dissolution, separation, or annulment restrains the other party from acting under authority of a power of attorney, health care representative under an advance directive, or attorney-in-fact under a declaration for mental health treatment and revokes authority under those documents when the dissolution or annulment is complete. The measure clarifies liability protection for spouses when property is held in certain trusts. SB 182 A also specifies particular provisions on the process an attorney must use when destroying wills.