

HB 3218 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/28, 3/9

WHAT THE MEASURE DOES:

Allows the execution of wills (except international wills) to be completed with the testator in the physical or electronic presence of each of the witnesses. Clarifies that "electronic presence" has the meaning given to it in the witnessing statutes. Allows statutory witnessing declaration forms to apply to wills. States that the provision applies to wills executed on or after the effective date. Takes effect on the 91st day after sine die.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon law requires several forms or documents to be executed or acknowledged in the presence of a witness in order to be effective. These include consent for autopsy, a record of or revocation of an anatomical gift, an advance directive, a declaration for mental health treatment, a voluntary acknowledgment of paternity, or consent to a life settlement contract. SB 220 was passed by the Legislature during the 2021 session. SB 220 provided that remote attestation of documents and forms may be allowed if the person's identification is provided to a satisfactory level and if particular formalities are followed. The measure required that the parties be in electronic communication in real time to the extent they would be if they were in person. The person must execute or acknowledge the writing and send the signature page to the person, who then signs it in the presence of the person and sends it back. Both witness and signer must complete a declaration of remote attestation under penalty of perjury. SB 220 specifically excluded remote attestation for the execution of wills.

House Bill 3218 allows for a person to execute a will with the witness physically or electronically present.