

## **HB 2950 -1 STAFF MEASURE SUMMARY**

### **House Committee On Judiciary**

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**Prepared By:** Patricia Pascone, LPRO Analyst

**Meeting Dates:** 3/15

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#### **WHAT THE MEASURE DOES:**

Bars claims against an estate when no small estate affidavit or petition for appointment of a personal representative has been filed within 18 months of the date of death, except for certain real property interests and liability insurance. Allows an interested person other than a creditor to petition for determination of descent at or after that time. Establishes procedure for petition, notice and objection for determination of descent, and vests jurisdiction in the probate court. Adds ORS Chapter 114 to chapters under which probate proceedings are authorized.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

-1 Extends the time period before claims are barred to 24 months.

##### **BACKGROUND:**

Probate is a process in which a court determines who is entitled to receive the decedent's property and what debts of the decedent must be paid from the property, and then orders the transfer of property. Probate proceedings require a personal representative of the estate to mail or deliver notice of the probate to interested persons, and to publish a notice in the newspaper. Creditors' claims are barred if not presented to the personal representative before the later of 45 days from the date that direct notice was mailed or delivered, or four months after the notice publication. Not all estate distribution must go through the probate process, but a potential creditor may later make a claim against the property at any time within the applicable statute of limitations for the type of claim, such a contract (six years) or tort (generally two years). ORS 111.005 defines an "interested person" as any person having a property right in or claim against the estate of a decedent that may be affected by a probate proceeding, including an heir, devisee, child, spouse or creditor.

ORS Chapter 114 includes petitions for support of spouse and children, estates that have personal injury claims or wrongful death claims as assets, and small estate affidavits, among other things. House Bill 2950 would add the determination of descent provisions to this Chapter.

House Bill 2950 would bar creditors' claims against estate property if no small estate affidavit or petition to appoint a personal representative is filed within 18 months of death, and it would provide a process for interested persons to petition after that time for a determination of descent.