

Submitter: John Gear

On Behalf Of:

Committee: Senate Committee On Finance and Revenue

Measure: SB626

I write to oppose SB 626, which I am certain results from a very sad situation. I write as someone who is an example of who this well-intentioned but completely unworkable concept is intended to help. (I was born into a pretty dysfunctional family but attached myself to a much healthier one as a young boy. As an adult, I changed my surname to that of my "functional" (chosen) family but I was never adopted.)

So I totally understand how our situations can be complex and the legal relationships governing who inherits from who are not always good fits for the reality of peoples' lives.

But this bill would open not just Pandora's Box of difficulties -- it would be more like Pandora's Ocean Liner of trouble.

If your goal is to unsettle the world of inheritance and to cause a boom in estates litigation in Oregon, this is probably the most perfect way to accomplish that goal -- indeed, I can't even imagine a more innocuous, simpler way to make such a big disruption for Oregonians and cause so much litigation to bloom over rights to inherit through "functional children." This is especially true when you consider that the "functional child" standard will require a thorough investigation into the whereabouts and associations of persons who went missing years before to see if they acquired "functional children."

You could not possibly begin to calculate the fiscal impact it would have on Oregon courts, as every simple probate will suddenly have the potential to turn into a long running soap opera series.

The Italians have a saying "A lawsuit is a fruit tree planted in the lawyer's garden." This bill would plant an entire orchard of fruit trees in the gardens of estates litigators, as everyone who had a close relationship to a decedent will be able to claim an entitlement to treatment as a functional child, and what were ordinary probates would suddenly become capable of becoming long-running legal sagas.

Best of all from the lawyers' perspective is that this really encourages people to have trusts (which penalizes poor people who rely on simple wills or the Oregon intestacy statute to determine who gets their stuff). That's because avoiding the probate system entirely would be the only sure way an Oregonian could avoid this mess and uncertainty that this Kinda-Family statute would create. Trusts are much more expensive to prepare than wills and put a much greater burden on the person executing the trust to maintain. We will have turned what should generally be a very

simple exercise for most people into something that nearly everyone will have to avoid.

So, while I understand and sympathize with the goal, and while my self interest suggests I should support this bill, as an Oregon taxpayer, I urge you to reject this firmly.

Educate the public about the value of wills, where every competent person can leave their property to anyone they love and care about. Presto, problem solved.