

SB 168 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Tisha Pascone, LPRO Analyst

Meeting Dates: 1/23, 1/30

WHAT THE MEASURE DOES:

The measure makes several changes to estate laws, including to parentage for intestate succession, what property is excluded from the simple estate affidavit limit, when the harmless error law applies, and what kind of discovery is allowed in a probate case.

Detailed Summary

- Reverts test for establishing parentage for intestate succession back to whether the person can meet either one of two criteria, instead of both.
- Excludes property given by a will to a trustee of a trust created by the decedent from the simple estate affidavit value limit.
- Adds requirement to the harmless error law that the writing be signed by the decedent or at the decedent's direction at any time during the decedent's lifetime, excluding electronic records or images, if the decedent died on or after the measure's effective date.
- Adds requests for admissions to the discovery tools that can be used in contested probate proceedings.

Fiscal impact: No fiscal impact.

Revenue impact: No revenue impact.

ISSUES DISCUSSED:

- 2015 enactment of harmless error statute applied it only to writings made in 2016 or later.
- Threshold limits for simple estates.
- Parentage criteria was originally disjunctive.
- Changes in terms requested.

EFFECT OF AMENDMENT:

-1 Replaces term "distributees" with "devisees" for the measure's changes to simple estates law. Clarifies that the measure's sections on intestate succession and simple estates apply to "estates of decedents" instead of "decedents" on or after the measure's effective date.

BACKGROUND:

The [Estate Planning and Administration Section](#) of the Oregon State Bar is a non-exclusive group of attorneys who practice this area of law, and who recommend changes in laws relating to estates, among other activities. An estate is the combination of assets and liabilities left by a deceased person. Intestate succession sets an order of priority among a deceased person's relations for assets not devised in a will. Simple estates are estates that have value under a specified threshold. A probate is a type of court proceeding opened for the purpose of administering an estate.