

## **HB 3080 -1, -2 STAFF MEASURE SUMMARY**

### **House Committee On Judiciary**

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**Meeting Dates:** 3/25

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

The measure establishes a priority list of persons who shall be appointed as an incapacitated person's health care representative if such persons can be located and are willing to serve as the healthcare representative, including the incapacitated person's spouse, children, parents, adult siblings, other relatives, or an adult who meets certain requirements like exhibiting special care and concern for the incapacitate person, is familiar with the person's personal values, is reasonably available to make health care decisions, and has provided a declaration establishing certain facts. The measure permits health care providers to rely on such a declaration. It also prohibits certain persons from providing informed consent to proposed health care as a health care representative, including if there is someone with higher priority under the measure who has refused to authorize the proposed care. The measure requires the health care representative appointed according to the measure to provide informed consent only if they have determined either that the incapacitated person would consent to the proposed care if they had capacity or, if they are unable to determine that the incapacitated person would have consented to the care, that the proposed care is in the incapacitated person's best interest. The measure prohibits someone who receives compensation to provide care to a person from being that person's health care representative and makes other modifications to the authorities of a health care representative in general and in specific circumstances such as for withdrawing life support.

#### **ISSUES DISCUSSED:**

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

-1 The amendment clarifies that the authority of an incapacitated person's spouse to act as a health care representative ends upon the filing of a petition for dissolution or annulment of the marriage. The amendment also amends ORS 127.535 to clarify that the section does not supersede the authority of a health care provider under federal regulations to deny access to a person's information or records if the provider determines that the access is likely to endanger someone's life or physical safety.

-2 The amendment makes clarifications regarding the persons who are excluded from being appointed as a health care representative.

##### **BACKGROUND:**

Oregon law permits a person to issue an advanced directive to designate someone as their health care representative, a person who is authorized to make medical decisions on their behalf if they are no longer able to do so. ORS 127.535. This authority includes the decision to withdraw or withhold life-sustaining procedures under certain circumstances. A health care representative may be appointed if one is not designated by an advanced directive in certain circumstances where, for example, a person is permanently unconscious and receiving life-sustaining procedures. ORS 127.635.