

March 3, 2025

Hearing for SB 744 at 3 pm

PB Case: 17PB06229

Per Testimony from Kimberly Sullivan.

I am not a legal scholar, but I have noted my concerns and some suggestions to help assure the petitioner requesting the PR appointment is truthful and appropriate.

I feel some terms used need to be specifically spelled out, adding the specific requirements, deadlines and a bond for security required by the court.

To start with the SB 744 Summary Digest area, I have the following concerns and suggestions, but my suggestions also carry over to the actual ORS 113.085 SECTION 1 (2) area where the current amendments are showing.

I am not sure if the Digest area is part of the ORS laws or not but the following are my suggestions for each area.

1 - In the "Digest" area, it states "...asking the probate court a **thing to try to find and give notice to certain people...**"

Suggestion for change is to define in detail what "thing" and "give notice to certain people" means as follows:

"...asking the probate court to **to required evidence that all possible heirs and family members have been located and given notice by one of the following means giving a 14-calendar day deadline to respond.**

- 1- notify by certified letter with a return-receipt giving a 14-calendar day deadline to respond from the date of receipt.**
- 2- Serve by Sheriff giving a 14-calendar day deadline to respond from date of service.**
- 3- Private Process Server giving a 14-calendar day deadline to respond from the date of service. If the petitioner is not in Oregon, the process server can be a resident of the state where the petitioner is.**

After the 14-calendar day deadline, proof/evidence of this contact along with the response from each possible heir or family member must be provided to the court BEFORE approval for the appointment is given requiring a bond for security by the court.

If no response is received, then further diligence must be proven and evidence submitted to the court to be sure the correct address/resident/place of employment was used for notification and proof of receipt provided BEFORE approval is given by the court.

2 – Continued in the Digest area “...petitioner in an intestate estate to make a “reasonable effort” to “find persons”...”

Suggestion is to define “reasonable effort” and “find persons” as follows:

“...petitioner in an intestate estate to make an "active effort" to find and notify all possible heirs and family members by one of the following means giving a 14-calendar day deadline upon receipt to respond.

- 1- Notify by certified letter with a return-receipt giving a 14-calendar day deadline to respond from the date of receipt.**
- 2- Serve by Sheriff giving a 14-calendar day deadline to respond from date of service.**
- 3- Private Process Server giving a 14-calendar day deadline to respond from the date of service. If the petitioner is not in Oregon, the process server can be a resident of the state where the petitioner is.**

After the 14-calendar day deadline, proof/evidence of this contact along with the response from each possible heir or family member must be provided to the court BEFORE approval for the appointment is given requiring a bond for security by the court.

If no response is received, then further diligence must be proven and evidence submitted to the court to be sure the correct address/resident/place of employment was used for notification and proof of receipt provided BEFORE approval is given by the court.

3- In the body of the ORS 1113.085 Section 1 (2) the amendments made are great help but not sufficient. It now reads “....**shall** require the petitioner to make a **reasonable attempt to locate and** notify persons....”.

Again, this is better but as I noted above more details are needed and the above noted suggestions, I feel “reasonable effort” should be removed all together and it should state in the actual ORS 113.085 SECTION 1 (2) should read as follows:

Before the court appoints a personal representative under subsection (1)(b) to (g) of this section, **the court shall require the petitioner to locate and notify all possible heirs and family members by one of the following means giving a 14-calendar day deadline upon receipt to respond.**

- 1- Notify by certified letter with a return-receipt giving a 14-calendar day deadline to respond from the date of receipt.**
- 2- Serve by Sheriff giving a 14-calendar day deadline to respond from date of service.**
- 3- Private Process Server giving a 14-calendar day deadline to respond from the date of service. If the petitioner is not in Oregon, the process server can be a resident of the state where the petitioner is.**

After the 14-calendar day deadline, proof/evidence of this contact along with the response from each possible heir or family member must be provided to the court BEFORE approval for the appointment is given requiring a bond for security by the court.

If no response is received, then further diligence must be proven and evidence submitted to the court to be sure the correct address/residence/place of employment was used for notification and proof of receipt provided BEFORE approval is given by the court. Again, requiring a bond for security is provided to the court.

Thank you for your consideration, time and for listening! I hope this all makes sense and that we can improve our ORSs to protect the deceased and put more responsibility on the judges and attorneys that have the power to enable bad people.