

OREGON STATE BAR
Legislative Proposal
Part I – Legislative Summary

RE: LC 576 Changes to ORS 111.275 and ORS 125.030
Submitted by: Oregon State Bar, Elder Law Section

Legislative Contact: Susan Grabe
Phone : (503) 431-6380
E-mail: sgrabe@osbar.org

1. Does this amend current law or program? Yes

Amends ORS 111.275 and ORS 125.030 to allow for the entry of a judgment in certain circumstances.

2. PROBLEM PRESENTED (including level of severity):

Currently, Oregon probate law allows for the entry of an order awarding attorney fees and costs to attorneys in probate matters such as estates, guardianships, conservatorships, and other protective proceedings. In certain instances, such as upon the disposition of objections to accountings, the court may enter a judgment on those attorney fees. It is argued by some that in other circumstances, the court is not authorized to issue a judgment. An order does not secure the right to payment of the approved fees and costs, and there is no remedy properly available if those fees and costs are not paid. There is also no way to recover interest that would otherwise accrue in such a situation, even though substantial amounts may remain unpaid for a period of years. The proposed language would clarify that the court has the authority to enter a judgment on the award of costs and/or attorney fees in any circumstances in an estate, a guardianship, a conservatorship, or other protective proceeding.

3. SOLUTION:

Specify in statute the court's authority to enter a judgment on an award of costs and/or attorney fees in estates, guardianships, conservatorships, and other protective proceedings.

4. PUBLIC POLICY IMPLICATION of this proposed legislative change:

No public policy implications.

5. Could the problem be addressed through a NON-LEGISLATIVE SOLUTION,

such as administrative rule or education?

No.

6. **COULD ANOTHER SECTION OR GROUP MORE APPROPRIATELY INTRODUCE THE BILL? If so, have you suggested it to the section or group?**

No other section or group is more appropriate to introduce such a bill.

7. **IDENTIFY THE GROUP OR CONSTITUENCIES THAT WOULD BE MOST IMPACTED or interested in this change. Who would support it and who would oppose it?**

It is not anticipated that any group would oppose this.

8. **Has this been introduced in a prior session? No.**