

## HOUSE AMENDMENTS TO PRINTED ENGROSSED SENATE BILL 506

By COMMITTEE ON JUDICIARY

May 12, 1969

- 1 On page 1 of the printed engrossed bill, line 8, delete "116.115,".
- 2 In line 14, delete "and 708.520" and insert ", 708.520, section 6, chapter  
3 \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1158), and section 1, chapter  
4 \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1195)".
- 5 On page 6, line 30, delete "Supreme Court" and insert "Court of Ap-  
6 peals".
- 7 In line 33, delete "Supreme Court" and insert "Court of Appeals".
- 8 On page 29, line 29, after "person" insert "or executor named in the  
9 will".
- 10 On page 88, line 17, after "118.700" insert ", as amended by section 58,  
11 chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1195)".
- 12 On page 89, line 12, delete "[Supreme Court]" and insert "[Court of  
13 Appeals]".
- 14 On page 89, line 18, after "Penalties." delete the rest of the line and insert  
15 "[~~(1)~~] *Failure, neglect or refusal by any person in possession or control of*  
16 *any*".
- 17 In line 20, after "therein" delete the rest of the line.
- 18 In line 23, delete "by any person".
- 19 On page 111, after line 26 insert:
- 20 "Section 262a. Section 1, chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled  
21 House Bill 1195), is amended to read:
- 22 "Sec. 1. **Court of Appeals; creation; appellate jurisdiction.** (1) As part  
23 of the judicial branch of state government, there is created a court of  
24 justice to be known as the Court of Appeals.

**NOTE:** Matter in *italics* in an amended section is new; matter ~~[lined out and bracketed]~~ is existing law to be omitted; complete new sections begin with **Section**.

1     “(2) The Court of Appeals shall have exclusive jurisdiction of appeals  
2 in the following matters:

3     “(a) Appeals from judgments, as defined in ORS 19.005, of circuit  
4 courts in criminal cases:

5         “(A) Arising under ORS 138.010 to 138.300 and 138.510 to 138.680.

6         “(B) In habeas corpus proceedings seeking to adjudicate the validity of  
7 any conviction or imprisonment; but this subparagraph does not abrogate  
8 the original habeas corpus jurisdiction of the Supreme Court.

9         “(C) In extradition proceedings under ORS chapter 147.

10         “(D) In proceedings relating to probation or parole.

11         “(E) In proceedings arising under ORS chapter 168.

12         “(F) In proceedings arising under ORS 221.360.

13     “(b) Appeals from judgments, as defined in ORS 19.005, of circuit courts:

14         “(A) *In proceedings arising under section 7, chapter \_\_\_\_\_, Oregon*  
15 *Laws 1969 (Enrolled Senate Bill 506).*

16         “~~[(A)]~~ (B) In proceedings arising under ORS chapters ~~[111, 112, 113,~~  
17 ~~114, 115, 116, 117,] 118 [,] and 119 [, 120 and 121].~~

18         “~~[(B)]~~ (C) In guardianship and conservatorship proceedings.

19         “~~[(C)]~~ (D) In adoption proceedings under ORS 109.305 to 109.400.

20     “(c) Appeals from judgments, as defined in ORS 19.005, of circuit  
21 courts exercising jurisdiction under ORS chapter 419.

22     “(d) Appeals from judgments, as defined in ORS 19.005, of circuit  
23 courts:

24         “(A) In suits for divorce, either absolute or from bed and board.

25         “(B) In suits for annulment of the marriage contract.

26         “(C) In suits or other proceedings relating to child custody or support.

27         “(D) In filiation proceedings.

28     “(e) Appeals from judgments, as defined in ORS 19.005, of circuit courts  
29 on any action of or failure to act by state agencies, as defined by ORS  
30 183.010, 183.310 or 291.002 or by any agency of local government, except  
31 orders and rulings that are appealable to the Oregon Tax Court pursuant to  
32 ORS 305.410.

33     “(3) Nothing in this section is intended to provide or create a right of  
34 appeal where such a right is not otherwise provided or created by law.”.

1 On page 112, line 23, after "3.130" insert ", as amended by section 1,  
2 chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1576),".

3 In line 29, after "In" insert "Baker,".

4 On page 118, delete lines 11 through 31 and insert:

5 "Section 278a. Section 6, chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled  
6 House Bill 1158), is amended to read:

7 "Sec. 6. **Manner of executing anatomical gifts.** (1) ~~Notwithstanding~~  
8 ~~ORS 114.020,~~ A gift of all or part of the body under subsection (1) of  
9 section 4, ~~of this Act~~ chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House  
10 Bill 1158), may be made by will. The gift becomes effective upon the death  
11 of the testator without waiting for probate. If the will is not probated, or if  
12 it is declared invalid for testamentary purposes, the gift, to the extent  
13 that it has been acted upon in good faith, is nevertheless valid and ef-  
14 fective.

15 "(2) A gift of all or part of the body under subsection (1) of section  
16 4, ~~of this Act~~ chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1158),  
17 may also be made by document other than a will. The gift becomes effective  
18 upon the death of the donor. The document, which may be a card designed  
19 to be carried on the person, must be signed by the donor in the presence  
20 of two witnesses who must sign the document in his presence. If the donor  
21 cannot sign, the document may be signed for him at his direction and in  
22 his presence in the presence of two witnesses who must sign the document  
23 in his presence. Delivery of the document of gift during the donor's lifetime  
24 is not necessary to make the gift valid.

25 "(3) The gift may be made to a specified donee or without specifying  
26 a donee. If the latter, the gift may be accepted by the attending physician  
27 as donee upon or following death. If the gift is made to a specified donee  
28 who is not available at the time and place of death, the attending physician  
29 upon or following death, in the absence of any expressed indication that  
30 the donor desired otherwise, may accept the gift as donee. The physician  
31 who becomes a donee under this subsection shall not participate in the  
32 procedures for removing or transplanting a part.

33 "(4) Notwithstanding subsection (2) of section 9, ~~of this Act~~ chapter  
34 \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1158), the donor may desig-

1 nate in his will, card, or other document of gift the surgeon or physician  
2 to carry out the appropriate procedures. In the absence of a designation  
3 or if the designee is not available, the donee or other person authorized  
4 to accept the gift may employ or authorize any surgeon or physician for  
5 the purpose.

6 “(5) Any gift by a person designated in subsection (2) of section 4, ~~of~~  
7 ~~this Act~~ chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1158), shall  
8 be made by a document signed by him or made by his telegraphic, recorded  
9 telephonic, or other recorded message.

10 “Section 279. ORS 97.130, as amended by section 10, chapter \_\_\_\_\_, Ore-  
11 gon Laws 1969 (Enrolled House Bill 1158), is amended to read:

12 “97.130. **Right to control disposition of remains.** (1) Subject to the  
13 provisions of sections 1 to 9, ~~of this 1969 Act~~ chapter \_\_\_\_\_, Oregon Laws  
14 1969 (Enrolled House Bill 1158), any of the following persons, in order  
15 of priority stated, when persons in prior classes are not available at the  
16 time of death, and in the absence of actual notice of opposition by a member  
17 of the same or a prior class, shall have the right to control the disposition  
18 of the remains of a decedent:

19 “~~{(1)}~~ (a) The spouse.

20 “~~{(2)}~~ (b) A son or daughter 18 years of age or older.

21 “~~{(3)}~~ (c) Either parent.

22 “~~{(4)}~~ (d) A brother or sister 18 years of age or older.

23 “~~{(5)}~~ (e) A guardian of the person of the decedent at the time of his  
24 death.

25 “~~{(6)}~~ (f) A person in the next degree of kindred.

26 “(2) Subject to the provisions of sections 1 to 9, chapter \_\_\_\_\_, Oregon  
27 Laws 1969 (Enrolled House Bill 1158), if disposition of the remains of a de-  
28 cedent has not been directed and authorized under subsection (1) of this  
29 section within 10 days after the date of the death of the decedent, a public  
30 health officer, the special administrator or the personal representative  
31 of the estate of the decedent may direct and authorize disposition of the  
32 remains.

33 “**Note:** Section 280 was deleted by amendment.”

- 1 On page 119, line 14, after "107.100" insert ", as amended by section 53,  
2 chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1195),".
- 3 On page 120, line 33, after "appeal" insert a period and delete the rest  
4 of the line.
- 5 In line 34, delete "to the Supreme Court".
- 6 On page 121, line 2, delete "Su-".
- 7 In line 3, delete "preme Court" and insert "appellate court".
- 8 In line 25, after "107.110" insert ", as amended by section 1, chapter  
9 \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1332), and by section 54,  
10 chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled House Bill 1195),".
- 11 In line 27, delete "; content of decree".
- 12 In line 31, delete "mari-".
- 13 In line 32, delete "tal status" and insert "marriage relationship".
- 14 On page 122, line 7, after "The" insert "Court of Appeals or the".
- 15 In line 8, after "party" insert a period and delete the rest of the line.
- 16 In line 9, delete "decendent being the nominal party therefor." and insert  
17 "The appeal may be continued by the personal representative of the de-  
18 ceased party."
- 19 In line 13, after "The" insert "Court of Appeals or the".
- 20 In line 14, after "the" insert "Court of Appeals or the".
- 21 In line 23, delete "include the".
- 22 In line 24, delete "substance of subsections (1) to (4) of this section  
23 and shall".
- 24 In line 25, delete "marital".
- 25 In line 26, delete "status" and insert "marriage relationship".
- 26 After line 26 insert:
- 27 "(6) The 60-day period specified in subsection (1) of this section does  
28 not apply when a decree declares a marriage void under ORS 107.010."
- 29 On page 130, line 31, delete "intestate".
- 30 On page 131, delete lines 32 through 34 and insert:
- 31 "(1) This Act applies to wills of decedents dying thereon or thereafter,  
32 and a will executed before the effective date of this Act shall be considered  
33 lawfully executed if the application of section 39 of this Act would make it  
34 so, but the construction of a will executed before the effective date of this

- 1 Act shall be governed by the law in effect on the date of execution unless
- 2 a contrary intent is established by the will.”.
- 3 On page 132, delete lines 1 and 2.
- 4 In line 15, after “date” insert “of this Act”.
- 5 In line 16, after “date” insert “of this Act”.
- 6 In line 20, after “date” insert “of this Act”.
- 7 In line 27, after “Repeals.” insert “(1)”.
- 8 On page 133, after line 32 insert:
- 9 “(2) If House Bill 1162 (1969) becomes law, ORS 21.313 and 114.410,
- 10 both as amended by chapter —, Oregon Laws 1969 (Enrolled House
- 11 Bill 1162), are repealed on the effective date of this Act.”.

