

Senate Bill 655

Sponsored by Senators BATES, MORSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Medical Malpractice Court. Specifies jurisdiction of court. Provides that court has _____ judges. Directs that judges of court be nominated and elected in same manner as judges of Court of Appeals and receive same compensation and benefits as circuit court judges. Provides that procedures in court be same as provided for circuit courts.

A BILL FOR AN ACT

1
2 Relating to Medical Malpractice Court.

3 Whereas the resolution of disputes in cases involving medical malpractice issues should be im-
4 proved to assure litigants that the process is equitable and just; and

5 Whereas improving quality in these cases leads to efficient allocation of judicial resources; and

6 Whereas a Medical Malpractice Court would provide these litigants with access to the courts
7 and efficient resolution of the disputes; and

8 Whereas Medical Malpractice Courts should be created in locations that provide accessible and
9 efficient access to justice, with appropriate consideration of the geographic distribution of cases
10 coming within the jurisdiction of the Medical Malpractice Court and of the efficient allocation of
11 judicial resources; now, therefore,

12 **Be It Enacted by the People of the State of Oregon:**

13 **SECTION 1. Medical Malpractice Court established.** (1) **A Medical Malpractice Court is**
14 **hereby established as a court of limited jurisdiction pursuant to section 1, Article VII**
15 **(Amended) of the Oregon Constitution.**

16 (2) **The Medical Malpractice Court, in all causes within its jurisdiction, may grant legal**
17 **and equitable relief so that all matters in controversy between parties appearing before the**
18 **court may be completely determined.**

19 (3) **The Medical Malpractice Court is a court of record. Judgments of the Medical**
20 **Malpractice Court may be appealed to the Court of Appeals in the same manner as provided**
21 **for appeals of judgments of a circuit court.**

22 **SECTION 2. Court locations.** (1) **The Medical Malpractice Court shall maintain permanent**
23 **locations in Portland, Salem and Eugene, and may hold sessions at other locations through-**
24 **out the state.**

25 (2) **The State Court Administrator shall provide courtrooms, chambers and offices for the**
26 **Medical Malpractice Court at the required permanent locations specified in this section and**
27 **shall arrange for courtrooms, chambers and offices or other appropriate facilities at other**
28 **locations throughout the state.**

29 **SECTION 3. Judges of Medical Malpractice Court.** (1) **There are _____ judges of the**
30 **Medical Malpractice Court.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **(2) A judge of the Medical Malpractice Court must be nominated and elected in the same**
 2 **manner as provided for judges of the Court of Appeals.**

3 **(3) A judge of the Medical Malpractice Court shall receive annual compensation, retire-**
 4 **ment benefits and other compensation and benefits equal to those provided to a circuit court**
 5 **judge.**

6 **(4) A judge of the Medical Malpractice Court may not engage in the private practice of**
 7 **law or other gainful pursuit.**

8 **(5) Except as specifically provided in sections 1 to 7 of this 2007 Act, all laws of this state**
 9 **applicable to circuit court judges are applicable to judges of the Medical Malpractice Court.**

10 **SECTION 4. Presiding judge; report.** (1) **The Chief Justice of the Supreme Court shall**
 11 **assign one of the judges of the Medical Malpractice Court to be the presiding judge of the**
 12 **Medical Malpractice Court. The presiding judge shall, subject to the supervision of the Chief**
 13 **Justice, be responsible for the administration of the Medical Malpractice Court.**

14 **(2) The presiding judge of the Medical Malpractice Court shall submit an annual report**
 15 **to the Chief Justice. The report shall be published by the State Court Administrator. The**
 16 **report shall contain information and statistics for the previous calendar year concerning the**
 17 **operation of the Medical Malpractice Court. The report may also contain recommendations**
 18 **by the presiding judge regarding the clarification or revision of laws and rules relating to**
 19 **medical malpractice and to practice and procedure in the Medical Malpractice Court.**

20 **SECTION 5. Jurisdiction of Medical Malpractice Court.** (1) **The Medical Malpractice Court**
 21 **has jurisdiction over every civil action against the following health care providers that al-**
 22 **leges personal injury or death arising out of services rendered by a health care provider**
 23 **while the provider was acting within the scope of the license or certificate issued to the**
 24 **provider:**

25 **(a) Emergency medical technicians certified by the Department of Human Services under**
 26 **ORS chapter 682;**

27 **(b) A health care facility as defined in ORS 442.015; and**

28 **(c) Any person who is licensed or certified by:**

29 **(A) The State Board of Examiners for Speech-Language Pathology and Audiology;**

30 **(B) The State Board of Chiropractic Examiners;**

31 **(C) The State Board of Clinical Social Workers;**

32 **(D) The Oregon Board of Licensed Professional Counselors and Therapists;**

33 **(E) The Oregon Board of Dentistry;**

34 **(F) The Board of Examiners of Licensed Dietitians;**

35 **(G) The State Board of Massage Therapists;**

36 **(H) The Board of Naturopathic Examiners;**

37 **(I) The Oregon State Board of Nursing;**

38 **(J) The Board of Examiners of Nursing Home Administrators;**

39 **(K) The Oregon Board of Optometry;**

40 **(L) The State Board of Pharmacy;**

41 **(M) The Board of Medical Examiners;**

42 **(N) The Occupational Therapy Licensing Board;**

43 **(O) The Physical Therapist Licensing Board;**

44 **(P) The State Board of Psychologist Examiners;**

45 **(Q) The Board of Radiologic Technology; or**

1 (R) The Oregon Health Licensing Agency.

2 (2) In addition to the civil actions specified in subsection (1) of this section, the Medical
3 Malpractice Court has jurisdiction over:

4 (a) Any action in which the parties have agreed in writing that any matter arising out
5 of the agreement would be resolved in Medical Malpractice Court;

6 (b) Any dispute concerning medical malpractice liability insurance; and

7 (c) Any other medical malpractice dispute as provided by order of the Chief Justice of the
8 Supreme Court.

9 SECTION 6. Fees in Medical Malpractice Court. (1) The filing fees and court costs for
10 proceedings in the Medical Malpractice Court are the same as provided for circuit courts.

11 (2) No proceeding shall be heard by the Medical Malpractice Court unless the required
12 fees and costs are paid, deferred or waived.

13 (3) All filing fees and court costs collected in the Medical Malpractice Court shall be
14 payable to the State Court Administrator and shall be treated in the same way as fees and
15 costs collected in circuit court.

16 SECTION 7. Procedure in Medical Malpractice Court. (1) Proceedings in the Medical
17 Malpractice Court are subject to the Oregon Evidence Code and the Oregon Rules of Civil
18 Procedure.

19 (2) Except as provided in sections 1 to 7 of this 2007 Act, all laws of this state relating
20 to the procedures in circuit courts apply to procedures in the Medical Malpractice Court.

21 SECTION 8. The section captions used in this 2007 Act are provided only for the con-
22 venience of the reader and do not become part of the statutory law of this state or express
23 any legislative intent in the enactment of this 2007 Act.

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