

House Bill 2267

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

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**.

Allows substituted service of investigative demands in connection with certain actions to be accomplished in manner provided for service of summons in action or suit.

A BILL FOR AN ACT

1
2 Relating to service of investigative demands; creating new provisions; and amending ORS 124.125
3 and 646.622.

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

5 **SECTION 1.** ORS 124.125 is amended to read:

6 124.125. (1) The Attorney General, the Department of Human Services or *[any]* a district attorney
7 may bring an action against *[any]* a person *[who]* **that** engages in conduct described in ORS
8 124.105 and 124.110. In addition to remedies otherwise provided in ORS 124.100 to 124.140, upon
9 prevailing in the action, the court shall award to the Attorney General, Department of Human Ser-
10 vices or district attorney costs of investigation and penalties. Penalties awarded under this section
11 may not exceed \$25,000 per occurrence.

12 (2) The Attorney General may intervene in *[any]* a civil action brought under ORS 124.100 if the
13 Attorney General certifies that, in the opinion of the Attorney General, the action is of general
14 public importance. In the action, the state *[shall be]* **is** entitled to the same relief as if the Attorney
15 General instituted the action under the provisions of this section.

16 (3) When it appears that a person is engaging in conduct described in ORS 124.105 or 124.110,
17 the Attorney General or *[any]* a district attorney may execute in writing and cause to be served an
18 investigative demand upon *[any]* a person who is believed to have information, documentary material
19 or physical evidence relevant to the alleged or suspected violation. The investigative demand shall
20 require the person, under oath or otherwise, to appear and testify, to answer written interrogatories
21 or to produce relevant documentary material or physical evidence for examination, at a reasonable
22 time and place as stated in the investigative demand.

23 (4) At any time before the return date specified in an investigative demand, or within 20 days
24 after the demand has been served, whichever period is shorter, a petition to extend the return date,
25 or to modify or set aside the demand, stating good cause, including a request for privileged material,
26 may be filed in the appropriate court.

27 (5) Service of an investigative demand under subsection (3) of this section shall be made per-
28 sonally within this state. If personal service within this state cannot be made, substituted service
29 may be made by any of the following methods:

30 (a) Personal service **of the investigative demand** outside *[of]* this state;

31 (b) Mailing the investigative demand by registered or certified mail to the last-known place of

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 business, residence or abode within or outside [of] this state of the person for whom [service] **the**
2 **investigative demand** is intended;

3 (c) [As to any person other than a natural person,] In the manner provided for service of summons
4 in an action or suit; or

5 (d) [Such service as the court may direct.] **Service in accordance with the direction of a court.**

6 (6) If [any] a person after being served with an investigative demand under subsection (3) of this
7 section fails or refuses to obey an investigative demand issued by the Attorney General or a district
8 attorney, the Attorney General or district attorney may, after notice to an appropriate court and
9 after a hearing, request an order:

10 (a) Granting injunctive relief to restrain the person from engaging in conduct that is involved
11 in the alleged or suspected violation; or

12 (b) Granting other relief as may be required, until the person obeys the investigative demand.

13 (7) [Any] Disobedience of [any] a final order of a court under subsection (6) of this section shall
14 be punished as a contempt of court.

15 (8) ORS 192.550 to 192.595 apply to the disclosure of financial records by a financial institution
16 pursuant to the service of an investigative demand under subsection (3) of this section.

17 **SECTION 2.** ORS 646.622 is amended to read:

18 646.622. Service of [any] **an** investigative demand under ORS 646.618 shall be made personally
19 within this state. If personal service within this state cannot be made, substituted service [therefor]
20 may be made by any of the following methods:

21 (1) Personal service [thereof without] **of the investigative demand outside** this state;

22 (2) [The mailing thereof] **Mailing the investigative demand** by registered or certified mail to
23 the last-known place of business, residence or abode within or [without] **outside** this state of [such]
24 **the** person for whom the [same] **investigative demand** is intended;

25 (3) [As to any person other than a natural person,] In the manner provided for service of summons
26 in an action or suit; or

27 (4) [Such service as the court may direct in lieu of personal service within this state.] **Service in**
28 **accordance with the direction of a court.**

29 **SECTION 3.** The amendments to ORS 124.125 and 646.622 by sections 1 and 2 of this 2009
30 Act apply to service of investigative demands issued under ORS 124.125 or 646.618 on or after
31 the effective date of this 2009 Act.
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