

Senate Bill 381

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon State Bar Board of Governors)

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**.

Eliminates local professional responsibility committees established by board of governors of Oregon State Bar. Provides that state professional responsibility board may name one or more members of bar to serve as designated investigators for purpose of investigating conduct of attorneys.

A BILL FOR AN ACT

1
2 Relating to attorneys; amending ORS 9.532, 9.537 and 9.565.

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

4 **SECTION 1.** ORS 9.532 is amended to read:

5 9.532. *[(1) The board of governors shall create local professional responsibility committees to in-*
6 *vestigate the conduct of attorneys. The composition and authority of local professional responsibility*
7 *committees shall be as provided in the rules of procedure.]*

8 *[(2) The board of governors shall also create a state professional responsibility board to review the*
9 *conduct of attorneys and to institute disciplinary proceedings against members of the bar. The compo-*
10 *sition and authority of the state professional responsibility board shall be as provided in the rules of*
11 *procedure.]*

12 *[(3)(a) The state professional responsibility board and local professional responsibility committees*
13 *shall have the authority to take evidence, administer oaths or affirmations, and issue subpoenas to*
14 *compel the attendance of witnesses, including the member being investigated, and the production of*
15 *books, papers and documents pertaining to the matter under investigation.]*

16 *[(b) A witness in an investigation conducted by the state professional responsibility board or a*
17 *local professional responsibility committee who testifies falsely, fails to appear when subpoenaed, or*
18 *fails to produce any books, papers or documents pursuant to subpoena, shall be subject to the same*
19 *orders and penalties to which a witness before a circuit court is subject. The state professional re-*
20 *sponsibility board or local professional responsibility committees may enforce any subpoena issued*
21 *pursuant to paragraph (a) of this subsection by application to any circuit court.]*

22 *[(c) Any member of the state professional responsibility board or a local professional responsibility*
23 *committee may administer oaths or affirmations and issue any subpoena provided for in paragraph (a)*
24 *of this subsection.]*

25 **(1) The board of governors of the Oregon State Bar shall create a state professional re-**
26 **sponsibility board to review the conduct of attorneys and to institute disciplinary proceedings**
27 **against attorneys. The composition and authority of the state professional responsibility**
28 **board shall be as provided in the rules of procedure.**

29 **(2) The state professional responsibility board may name one or more members of the**

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 **bar to serve as designated investigators for the purpose of investigating the conduct of at-**
 2 **torneys on behalf of the state professional responsibility board.**

3 **(3) In the course of investigating the conduct of attorneys, any member of the state**
 4 **professional responsibility board and any designated investigator may:**

5 **(a) Take evidence;**

6 **(b) Administer oaths or affirmations;**

7 **(c) Issue subpoenas to compel the attendance of witnesses, including the attorney being**
 8 **investigated; and**

9 **(d) Issue subpoenas to compel the production of books, papers and documents relating**
 10 **to the matter under investigation.**

11 **(4) If a witness in an investigation conducted by the state professional responsibility**
 12 **board or by a designated investigator testifies falsely, fails to appear when subpoenaed or**
 13 **fails to produce any books, papers or documents pursuant to subpoena, the witness is subject**
 14 **to the same orders and penalties that are applicable to witnesses in circuit courts. The state**
 15 **professional responsibility board or a designated investigator may enforce any subpoena is-**
 16 **sued under this section by application to any circuit court.**

17 **SECTION 2.** ORS 9.537 is amended to read:

18 9.537. (1) Any person who has made a complaint to the **Oregon State** Bar concerning the con-
 19 duct of an attorney, or who has given information or testimony in or relative to a proposed or
 20 pending admission, reinstatement or disciplinary proceeding shall be absolutely immune from civil
 21 liability for any such acts.

22 (2) The Oregon State Bar, its officers, [*the members of local professional responsibility*
 23 *committees*] **investigators designated under ORS 9.532**, the state professional responsibility board,
 24 the board of bar examiners, the board of governors, the disciplinary board, and bar counsel, inves-
 25 tigators and employees of the bar shall be absolutely immune from civil liability in the performance
 26 of their duties relative to proposed or pending admission, reinstatement or disciplinary proceedings.

27 **SECTION 3.** ORS 9.565 is amended to read:

28 9.565. The Department of Revenue may furnish to the Oregon State Bar the name and address,
 29 if known, of any person admitted to practice law in this state who prepares a return or report per-
 30 mitted or required to be filed with the department for another, and may also furnish to the bar the
 31 name and address of the taxpayer, in instances where the department has reasonable grounds to
 32 believe the person preparing the return or report prepared it in violation of any provision of ORS
 33 9.460 to 9.542 or 9.705 to 9.755 or the disciplinary rules adopted thereunder. The department shall
 34 provide a statement of the basis for its belief that a violation may have occurred. The bar and any
 35 person[,] **or** board [*or committee*] described in ORS 9.537 (2), shall use the names, addresses and in-
 36 formation furnished under this section solely in the enforcement of ORS 9.460 to 9.542 or 9.705 to
 37 9.755 or the disciplinary rules adopted thereunder. Any information disclosed by the department
 38 pursuant to this section may be used in any bar proceeding relating to the discipline, admission or
 39 reinstatement of the person preparing the return or report.

40