

Enrolled
House Bill 2384

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Ellen F. Rosenblum)

CHAPTER

AN ACT

Relating to service of investigative demands; creating new provisions; and amending ORS 124.125, 618.526 and 646.622.

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

SECTION 1. ORS 124.125 is amended to read:

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

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

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

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

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

(a) **By** personal service outside *[of]* this state;

(b) *[Mailing the investigative demand]* By registered or certified mail to the last-known place of business, residence or abode within or outside *[of]* this state of the person for whom *[service]* **the investigative demand** is intended;

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

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

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

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

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

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

(8) ORS 192.583 to 192.607 apply to the disclosure of financial records by a financial institution pursuant to the service of an investigative demand under subsection (3) of this section.

SECTION 2. ORS 618.526 is amended to read:

618.526. Service of *[any]* an investigative demand under ORS 618.521 shall be made personally within this state. If personal service **within this state** cannot be made, substituted service *[therefor]* **of the investigative demand** may be made in the following manner:

(1) **By** personal service *[thereof without]* **outside** this state;

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

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

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

SECTION 3. ORS 646.622 is amended to read:

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

(1) **By** personal service *[thereof without]* **outside** this state;

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

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

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

SECTION 4. The amendments to ORS 124.125, 618.526 and 646.622 by sections 1 to 3 of this 2015 Act apply to investigative demands issued under ORS 124.125, 618.521 or 646.618 on or after the effective date of this 2015 Act.

Passed by House February 18, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 7, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State