

House Bill 2384

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

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 certain investigative demands on natural persons 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,
3 618.526 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 engages in conduct described in ORS 124.105
8 and 124.110. In addition to remedies otherwise provided in ORS 124.100 to 124.140, upon prevailing
9 in the action, the court shall award to the Attorney General, Department of Human Services or
10 district attorney costs of investigation and penalties. Penalties awarded under this section may not
11 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 personally
28 within this state. If personal service within this state cannot be made, substituted service
29 **of the investigative demand** may be made by any of the following methods:

30 (a) **By** personal service 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.] **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 192.583 to 192.607 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 618.526 is amended to read:

18 618.526. Service of [any] **an** investigative demand under ORS 618.521 shall be made personally
 19 within this state. If personal service **within this state** cannot be made, substituted service
 20 [therefor] **of the investigative demand** may be made in the following manner:

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

22 (2) [The mailing thereof] By registered or certified mail to the last-known place of business,
 23 residence or abode within or [without] **outside** this state of [such] **the** person for whom the [same]
 24 **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.] **In accord-**
 28 **ance with the direction of a court.**

29 **SECTION 3.** ORS 646.622 is amended to read:

30 646.622. Service of [any] **an** investigative demand under ORS 646.618 shall be made personally
 31 within this state. If personal service within this state cannot be made, substituted service [therefor]
 32 **of the investigative demand** may be made by any of the following methods:

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

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

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

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

41 **SECTION 4.** The amendments to ORS 124.125, 618.526 and 646.622 by sections 1 to 3 of this
 42 **2015 Act apply to investigative demands issued under ORS 124.125, 618.521 or 646.618 on or**
 43 **after the effective date of this 2015 Act.**