

HB 4095 STAFF MEASURE SUMMARY

Carrier: Sen. Bentz

Senate Committee On Judiciary

Action Date: 02/16/18

Action: Do pass.

Vote: 7-0-0-0

Yeas: 7 - Bentz, Dembrow, Gelser, Linthicum, Prozanski, Thatcher, Wagner

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Extends the existing evidentiary attorney-client privilege to communications between a potential client and a lawyer referral service. Defines lawyer referral service.

ISSUES DISCUSSED:

- Oregon State Bar's lawyer referral service received nearly 75,000 phone calls and 4,000 emails last year from consumers seeking legal assistance
- Scope of measure does not reach people who suggest a person get legal advice
- Intent of the measure is to capture those in the business of collecting information to appropriately match a potential client with a lawyer
- Measure promotes access to justice and consumer protection

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Rule 503 of the Oregon Evidence Code protects confidential communications between clients and their lawyers. The privilege is held by the client, who can refuse disclosure of “confidential communications made for the purpose of facilitating the rendition of professional legal services to the client.” The privilege extends to consultations with a lawyer for the purpose of obtaining legal services. Oregon’s Rule 503 is not clear on whether information shared with a lawyer referral service is given the same protection as information shared directly with a lawyer, even if it is shared with the intention of obtaining legal services.

House Bill 4095 extends the existing attorney-client confidentiality privilege to clients who consult a lawyer referral service with the view to obtain professional legal advice from a lawyer.