

SB 306 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary**Action Date:** 02/02/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 5-0-0-0**Yeas:** 5 - Gelser Blouin, Linthicum, Manning Jr, Prozanski, Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Amie Fender-Sosa, LPRO Analyst**Meeting Dates:** 1/18, 2/2**WHAT THE MEASURE DOES:**

Expands the definition of "member" of the Oregon State Bar to include persons who are not attorneys. Allows for nonattorney members of the Oregon State Bar to practice law in permitted scopes of practice. Specifies that the Board of Governors shall formulate rules of professional conduct for attorneys. Allows for referral of claims, suits or actions between members of the Bar; allows division of fees for legal services with another member. Expands bar complaint process against attorneys to members of the Bar. Allows for an award of attorney's fees to associate members of the Bar. Expands lawyer-client privilege and confidential communications to law practitioners. Defines "law practitioner" as a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation. Allows members of the Bar to have a lien for compensation for services rendered. Expands the term "attorney," in child support and landlord tenant laws, to include an associate member of the Oregon State Bar practicing law within the member's approved scope of practice. Directs the Board of Governors for the Oregon State Bar (Board) to establish a reasonable standard for claims against associate members. On a yearly basis, if the claims submitted by associate members exceed that standard, directs the Board to authorize substantially equivalent coverage for all members (associate members and attorneys) for the next calendar year. Requires the Board to report to the Legislative Assembly annually through 2026 on the aggregate covered claims submitted to the Professional Liability Fund. Repeals the reporting requirement on January 2, 2028.

ISSUES DISCUSSED:

- Self-represented litigants lead to poorer outcomes and reduced court efficiencies
- Limited-license program in discrete fields of law
- In 80 percent of family court cases, at least one party has no attorney
- The program concept went through the Oregon State Bar Futures Task Force and Board of Governor's authorized implementation committee
- Concerns about ensuring this type of legal service has rigorous consumer protection, including adequate malpractice insurance
- Meaning of "substantially equivalent coverage"
- Rationale behind aggregated data

EFFECT OF AMENDMENT:

Directs the Board of Governors for the Oregon State Bar (Board) to establish a reasonable standard for claims against associate members. On a yearly basis, if the claims submitted by associate members exceeds that standard, directs the Board to authorize substantially equivalent coverage for all members (associate members and attorneys) for the next calendar year. Requires the Board to report to the Legislative Assembly on an annual basis through 2026 on the aggregate covered claims submitted to the Professional Liability Fund. Repeals the reporting requirement on January 2, 2028.

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BACKGROUND:

In July 2022, the Oregon Supreme Court approved a proposal to license paralegals to provide some legal services that currently only lawyers may provide. Under the new rules, licensed paralegals will be allowed to provide limited legal services only in family law and landlord/tenant cases. The Court also approved professional conduct rules and minimum education requirements. Nonlawyers can only come under the Oregon State Bar's purview -- for admission and regulation -- through revisions to statute.

As of September 2022, there are three other states that allow some sort of limited license for paralegals: Arizona, Minnesota, and Utah. The limited license expands what a nonlawyer can do without running afoul of the illegal practice of law limitations. All of these programs are limited in scope, by legal subject area.

Senate Bill 306 A allows for a limited practice paralegal program and allows the Oregon State Bar to license and regulate paralegals.