

# Enrolled Senate Bill 491

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CHAPTER .....

AN ACT

Relating to regulation of attorneys; amending ORS 9.532, 9.534, 9.537 and 9.565; and declaring an emergency.

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

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

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

*[(2)]* The *[board of governors shall also create]* **Supreme Court shall appoint** a state professional responsibility board to *[review the conduct of attorneys and to]* institute disciplinary proceedings **of the Oregon State Bar** against members of the bar, **as provided in the bar bylaws and the rules of the Supreme Court.** *[The composition and authority of the state professional responsibility board shall be as provided in the rules of procedure.]*

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

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

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

**SECTION 2.** ORS 9.534 is amended to read:

9.534. (1) The Supreme Court shall appoint a disciplinary board *[to hear formal charges against members of the bar. The composition and authority of, and procedure before, the disciplinary board or panels thereof shall be as provided in the rules of procedure],* **which may include one or more professional adjudicators as set forth in the rules of the Supreme Court and the Oregon State Bar bylaws, to adjudicate disciplinary proceedings of the bar.**

(2) A member, formally accused of misconduct by the bar, shall be given reasonable written notice of the charges against the member, a reasonable opportunity to defend against the charges, the right to be represented by counsel, and the right to examine and cross-examine witnesses. The member *[shall also have]* **has** the right to appear and testify, and the right to the issuance of subpoenas for attendance of witnesses and the production of books, papers or documents in the defense of the member.

(3) Rules of evidence and discovery in disciplinary proceedings shall be as provided in the rules of procedure.

(4)(a) The disciplinary board *[shall have]* **has** the authority to take evidence, administer oaths or affirmations, and issue subpoenas to compel the attendance of witnesses, including the accused member, and the production of books, papers and documents pertaining to the matter before the disciplinary board.

(b) A witness in a disciplinary proceeding who testifies falsely, fails to appear when subpoenaed, or fails to produce any books, papers or documents pursuant to subpoena, *[shall be]* **is** subject to the same orders and penalties to which a witness before a circuit court is subject. Subpoenas issued pursuant to paragraph (a) of this subsection may be enforced by application to any circuit court.

(c) Any member of the disciplinary board may administer oaths or affirmations and issue any subpoena provided for in paragraph (a) of this subsection.

(5) The hearing before the disciplinary board shall be held in the county in which the member charged maintains an office for the practice of law, the county in which the member resides, or the county in which the offense is alleged to have been committed. With the consent of the member, the hearing may be held elsewhere in the state.

(6) A record of all hearings shall be made and preserved by the disciplinary board.

**SECTION 3.** ORS 9.537 is amended to read:

9.537. (1) Any person who has made a complaint to the bar concerning the conduct of an attorney, or who has given information or testimony in or relative to a proposed or pending admission, reinstatement or disciplinary proceeding *[shall be]* **is** absolutely immune from civil liability for any such acts.

(2) The Oregon State Bar[,] **and** its officers, the members of *[local professional responsibility committees,]* the state professional responsibility board, the board of bar examiners, the board of governors[,] **and** the disciplinary board, *[and]* bar counsel, investigators, **disciplinary monitors, mentors** and employees of the bar *[shall be]* **are** absolutely immune from civil liability in the performance of their duties relative to proposed or pending admission, **professional licensing requirements,** reinstatement or disciplinary proceedings.

**SECTION 4.** ORS 9.565 is amended to read:

9.565. The Department of Revenue may furnish to the Oregon State Bar the name and address, if known, of any person admitted to practice law in this state who prepares a return or report permitted or required to be filed with the department for another, and may also furnish to the bar the name and address of the taxpayer, in instances where the department has reasonable grounds to believe the person preparing the return or report prepared it in violation of any provision of ORS 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted thereunder. The department shall provide a statement of the basis for its belief that a violation may have occurred. The bar and any person[,] **or** board *[or committee]* described in ORS 9.537 (2), shall use the names, addresses and information furnished under this section solely in the enforcement of ORS 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted thereunder. Any information disclosed by the department pursuant to this section may be used in any bar proceeding relating to the discipline, admission or reinstatement of the person preparing the return or report.

**SECTION 5. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.**

**Passed by Senate February 21, 2017**

**Repassed by Senate June 21, 2017**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 19, 2017**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M.,....., 2017

**Approved:**

.....M.,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2017

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Dennis Richardson, Secretary of State