

# Senate Bill 491

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## 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**.

Directs Supreme Court to appoint state professional responsibility board. Eliminates local professional responsibility committees.

Provides for inclusion of one or more professional adjudicators on disciplinary board for disciplinary proceedings of Oregon State Bar.

Extends immunity from civil liability to disciplinary monitors and mentors of Oregon State Bar. Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to regulation of attorneys; amending ORS 9.532, 9.534, 9.537 and 9.565; and declaring an  
3 emergency.

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

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

6 9.532. *[(1) The board of governors shall create local professional responsibility committees to in-*  
7 *vestigate the conduct of attorneys. The composition and authority of local professional responsibility*  
8 *committees shall be as provided in the rules of procedure.]*

9 *[(2)]* The *[board of governors shall also create]* **Supreme Court shall appoint** a state profes-  
10 sional responsibility board to *[review the conduct of attorneys and to]* institute disciplinary pro-  
11 ceedings **of the Oregon State Bar** against members of the bar, **as provided in the bar bylaws and**  
12 **the rules of the Supreme Court.** *[The composition and authority of the state professional respon-*  
13 *sibility board shall be as provided in the rules of procedure.]*

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

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

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

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

28 9.534. (1) The Supreme Court shall appoint a disciplinary board *[to hear formal charges against*

**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 *members of the bar. The composition and authority of, and procedure before, the disciplinary board or*  
 2 *panels thereof shall be as provided in the rules of procedure], which may include one or more*  
 3 **professional adjudicators as set forth in the rules of the Supreme Court and the Oregon**  
 4 **State Bar bylaws, to adjudicate disciplinary proceedings of the bar.**

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

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

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

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

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

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

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

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

29 9.537. (1) Any person who has made a complaint to the bar concerning the conduct of an attor-  
 30 ney, or who has given information or testimony in or relative to a proposed or pending admission,  
 31 reinstatement or disciplinary proceeding [*shall be*] **is** absolutely immune from civil liability for any  
 32 such acts.

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

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

40 9.565. The Department of Revenue may furnish to the Oregon State Bar the name and address,  
 41 if known, of any person admitted to practice law in this state who prepares a return or report per-  
 42 mitted or required to be filed with the department for another, and may also furnish to the bar the  
 43 name and address of the taxpayer, in instances where the department has reasonable grounds to  
 44 believe the person preparing the return or report prepared it in violation of any provision of ORS  
 45 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted thereunder. The department shall

1 provide a statement of the basis for its belief that a violation may have occurred. The bar and any  
2 person[,] **or** board [*or committee*] described in ORS 9.537 (2), shall use the names, addresses and in-  
3 formation furnished under this section solely in the enforcement of ORS 9.460 to 9.542 or 9.705 to  
4 9.757 or the disciplinary rules adopted thereunder. Any information disclosed by the department  
5 pursuant to this section may be used in any bar proceeding relating to the discipline, admission or  
6 reinstatement of the person preparing the return or report.

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

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