

# OREGON TRIAL LAWYERS ASSOCIATION

812 SW Washington Street, #900

Portland, OR 97205

[www.oregontriallawyers.org](http://www.oregontriallawyers.org)

503-799-1017

Testimony of Arthur Towers

OTLA Political Director

**In opposition to Senate Bill 306**

Before the Senate Committee on Judiciary

January 18, 2023

Chair Prozanski, Vice-Chair Thatcher, members of the committee. Thank you for the opportunity to submit testimony on SB 306.

OTLA members are lawyers who fight for underdogs. We stand for access to justice – it is part of our organization’s mission statement. We appreciate that this proposal is brought forward in that same spirit.

SB 306 adds a class of legal practitioners who have not gone to law school or passed the bar. It is modeled after a program in Washington state that was a failure and discontinued due to lack of interest.

If the legislature decides to proceed with this program, we should make sure that Oregonians who might benefit from this type of legal service have rigorous consumer protection. In particular, we want to make sure that this new group of practitioners has training sufficient to adequately serve their clients. We also want to make sure that these practitioners have sufficient malpractice insurance to compensate clients when mistakes are made.

This new type of practitioner can make a mistake as consequential as a mistake made by a lawyer. They should be required to have malpractice insurance at the same levels as lawyers. Malpractice insurance is a critical part of an attorney’s practice. Mistakes do get made, and this is a safeguard that needs to be fully fleshed out. The consumers of these services can be facing an adversary represented by an attorney who could exploit the disparity in training and expertise.

Suggestions have been made to limit the liability of these new practitioners in order to reduce costs. That means that harm caused by their negligence would be borne by their client. From a consumer protection perspective this makes absolutely no sense.

This new group of practitioners will be aiding clients going through extremely traumatic family events such as evictions, divorce, child custody contests, division of assets, and the like. We need to make sure these consumers of legal services have heightened protections.

One of the laudable goals of the bill is to expand access to rural and other underserved communities, but it is not clear there will be mandates or incentives that the new practitioners serve Oregonians in these underserved communities.

In short, the details of this new service matter a great deal, and the details need to be worked out before the bill is passed. There is no point setting this up and then having a fiasco as they did in Washington. We urge a NO vote on SB 306.