

SB 1576 A STAFF MEASURE SUMMARY

Carrier: Rep. Gomberg

House Committee On Judiciary**Action Date:** 02/29/24**Action:** Do Pass the A-Eng bill.**Vote:** 10-0-0-0**Yeas:** 10 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Reynolds, Tran, Wallan, Yunker**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Tisha Pascone, LPRO Analyst**Meeting Dates:** 2/27, 2/29**WHAT THE MEASURE DOES:**

The measure is an omnibus bill relating to civil matters that has three components. First, it provides authority for the Attorney General to disclose materials obtained in investigations of consumer data privacy violations to hired consultants. Second, it provides confidentiality for court records of a minor's settlement agreement, when the agreement becomes part of the court's record pursuant to ORCP 27 I. Third, it temporarily allows all local governments to opt into immunity for trails or structures in public easements and rights of way; adds limited immunity for improved paths, trails, roads and other rights of way that are used to access land for recreational purposes; and adds walking, running and bicycling to the non-exclusive list of recreational purposes. Declares emergency, effective on passage.

Detailed Summary**Attorney General Disclosure Authority (Sections 1 - 2)**

- Allows the Attorney General to disclose material obtained during investigations of consumer data privacy violations to persons employed by the Attorney General.

Minors' Settlement Agreements in Court Records (Sections 3 - 4)

- Provides confidentiality for court records relating to the settlement of a minor's claim approved under ORCP 27 I, unless a court orders otherwise for good cause shown which may include, but is not limited to, a showing that the claimant is no longer a minor.
- Includes a conforming exception to the requirement that public bodies' settlements not be confidential.

Recreational Immunity (Sections 5 - 11)

- Allows all local governments to opt into ORS 105.668, limiting liability from ordinary negligence claims arising from the use of trails or structures on public easements or unimproved rights of way by foot, horse, bicycle or other nonmotorized means.
- Adds immunity to ORS 105.688 for improved paths, trails, roads and other rights of way that are used to access land for recreational purposes. Limits immunity for an improvement, design, or maintenance that was completed in a manner constituting gross negligence or reckless, wanton or intentional misconduct, or for which the actor is strictly liable.
- Adds running, walking, and bicycling to the non-exclusive list of outdoor activities in the definition of recreational purposes in ORS 105.672.
- Applies the measure to actions for personal injury, death, or property damage commenced on or after the effective date of the measure and before January 2, 2026.
- Sunsets on January 2, 2026.

Effective Date (Section 12)

- Declares emergency, effective on passage.

SB 1576 A STAFF MEASURE SUMMARY

ISSUES DISCUSSED:

- Trail closures since *Fields v. Newport*, 326 Or. App. 764 (2023)
- Sunset clause on recreational immunity changes
- Interim workgroup to develop recreational immunity proposals for the 2025 Session
- History of ORS 105.668
- Attorney General's use of experts
- Companies that purchase minors' settlements and their marketing practices

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Attorney General Disclosures

[Senate Bill 619](#) (2023) created consumer privacy protections for Oregon consumers' data, and it included provisions to allow the Oregon Attorney General (AG) to investigate and enforce those protections. The AG employs experts and other consultants in such investigations, which can involve complex and technical issues that require specialized expertise. The law currently authorizes "employees" of the AG to receive materials obtained during investigations, which may not include persons employed by contract.

Minors' Settlement Agreements in Court Records

[Oregon Rule of Civil Procedure 27 I](#) requires that, for cases filed in the Circuit Court by a *guardian ad litem* on behalf of a minor or a person who is incapacitated or financially incapable, a court must review and approve a settlement of those claims, with some exceptions. Through this process, the settlement documents become a public court record. A "structured settlement" spreads out payments over time to provide guaranteed income over a number of years, such as an annuity. Some companies search court records to find such settlements, then contact the injured party and try to buy part of the structured settlement at a discount, with a lump sum of cash. For minors' settlements, this solicitation can occur just as the person turns 18 years of age, when the person first becomes legally able to enter into contracts.

Recreational Immunity

ORS 105.672 to 105.696 is collectively referred to as the recreational immunity law. It provides immunity to landowners from claims of personal injury or property damage when the landowner has made the land available to the public for recreational purposes without a fee, and the claim arises from a person's use of the land for the principal purpose of recreation.

ORS 105.668 limits liability from ordinary negligence claims arising from the use of trails or structures on public easements or unimproved rights of way by foot, horse, bicycle or other nonmotorized means, for cities or counties who opt into the law. Immunity under this law is not conditioned upon the reason a person is using the trail or structure.

Some cities, counties, and other landowners have closed certain recreational trails and access trails after a decision on recreational immunity was issued in [Fields v. City of Newport](#), 326 Or. App. 764 (2023), rev. denied, 371 Or. 476. In that case, the court held that it was for the factfinder to determine whether the principal purpose of walking was recreational, when the plaintiff walked on an improved trail providing access to the beach. It found that recreational immunity does not apply to improved trails used to access other lands that the person intends to use for recreational purposes, following [Liberty v. Oregon Dept. of Transp.](#), 342 Or. 11 (2006). The Oregon Supreme Court denied review, and the case was remanded back to the Circuit Court, where it is proceeding. The Legislative Assembly explicitly provided immunity for unimproved trails used for access with [HB 2003](#) (2009) but did not do the same for improved trails at that time.