

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1576**

1 In line 2 of the printed bill, after “matters” insert “; creating new pro-
2 visions; and amending ORS 646A.589.”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 646A.589 is amended to read:

5 “646A.589. (1)(a) The Attorney General may serve an investigative demand
6 upon any person that possesses, controls or has custody of any information,
7 document or other material that the Attorney General determines is relevant
8 to an investigation of a violation of ORS 646A.570 to 646A.589 or that could
9 lead to a discovery of relevant information. An investigative demand may
10 require the person to:

11 “(A) Appear and testify under oath at the time and place specified in the
12 investigative demand;

13 “(B) Answer written interrogatories; or

14 “(C) Produce relevant documents or physical evidence for examination at
15 the time and place specified in the investigative demand.

16 “(b) The Attorney General shall serve an investigative demand under this
17 section in the manner provided in ORS 646.622. The Attorney General may
18 enforce the investigative demand as provided in ORS 646.626.

19 “(2)(a) An attorney may accompany, represent and advise in confidence a
20 person that appears in response to a demand under subsection (1)(a)(A) of
21 this section. The person may refuse to answer any question on constitutional

1 grounds or on the basis of any other legal right or privilege, including pro-
2 tection against self-incrimination, but must answer any other question that
3 is not subject to the right or privilege. If the person refuses to answer a
4 question on grounds that the answer would be self-incriminating, the Attor-
5 ney General may compel the person to testify as provided in ORS 136.617.

6 “(b) The Attorney General shall exclude from the place in which the At-
7 torney General conducts an examination under this subsection all persons
8 other than the person the Attorney General is examining, the person’s at-
9 torney, the officer before which the person gives the testimony and any ste-
10 nographer recording the testimony.

11 “(3)(a) The Attorney General shall hold in confidence and may not dis-
12 close to any person any documents, including data protection assessments,
13 answers to interrogatories and transcripts of oral testimony, except that the
14 Attorney General may disclose the documents to:

15 “(A) The person that provided the documents or the oral testimony;

16 “(B) The attorney or representative of the person that provided the doc-
17 uments or oral testimony;

18 “(C) [*Employees of*] **Persons employed by** the Attorney General; or

19 “(D) An official of the United States or of any state who is authorized to
20 enforce federal or state consumer protection laws if the Attorney General
21 first obtains a written agreement from the official in which the official
22 agrees to abide by the confidentiality requirements of this subsection.

23 “(b) The Attorney General may use any of the materials described in
24 paragraph (a) of this subsection in any investigation the Attorney General
25 conducts under this section or in any action or proceeding the Attorney
26 General brings or initiates in a court or before an administrative agency in
27 connection with the investigation.

28 “(4)(a) The Attorney General may bring an action to seek a civil penalty
29 of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or
30 to enjoin a violation or obtain other equitable relief. The Attorney General

1 shall bring the action in the circuit court for Multnomah County or the
2 circuit court of a county where any part of the violation occurred.

3 “(b) A court may award reasonable attorney fees, expert witness fees and
4 costs of investigation to the Attorney General if the Attorney General pre-
5 vails in an action under this subsection. The court may award reasonable
6 attorney fees to a defendant that prevails in an action under this subsection
7 if the court finds that the Attorney General had no objectively reasonable
8 basis for asserting the claim or for appealing an adverse decision of the trial
9 court.

10 “(c) The Attorney General shall deposit the proceeds of any recovery un-
11 der this subsection into the Department of Justice Protection and Education
12 Revolving Account, as provided in ORS 180.095.

13 “(5) Before bringing an action under subsection (4) of this section, the
14 Attorney General shall notify a controller of a violation of ORS 646A.570 to
15 646A.589 if the Attorney General determines that the controller can cure the
16 violation. If the controller fails to cure the violation within 30 days after
17 receiving the notice of the violation, the Attorney General may bring the
18 action without further notice.

19 “(6) The Attorney General shall bring an action under subsection (4) of
20 this section within five years after the date of the last act of a controller
21 that constituted the violation for which the Attorney General seeks relief.

22 “(7) The remedies available to the Attorney General under subsection (4)
23 of this section are in addition to and not in lieu of any other relief available
24 to the Attorney General or another person under other applicable provisions
25 of law. A claim available under another provision of law may be joined to
26 the Attorney General’s claim under subsection (4) of this section.

27 “(8) The Attorney General has exclusive authority to enforce the pro-
28 visions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other
29 laws of this state, do not create a private right of action to enforce a vio-
30 lation of ORS 646A.570 to 646A.589.

1 **“SECTION 2.** ORS 646A.589, as amended by section 11, chapter 369,
2 Oregon Laws 2023, is amended to read:

3 “646A.589. (1)(a) The Attorney General may serve an investigative demand
4 upon any person that possesses, controls or has custody of any information,
5 document or other material that the Attorney General determines is relevant
6 to an investigation of a violation of ORS 646A.570 to 646A.589 or that could
7 lead to a discovery of relevant information. An investigative demand may
8 require the person to:

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10 investigative demand;

11 “(B) Answer written interrogatories; or

12 “(C) Produce relevant documents or physical evidence for examination at
13 the time and place specified in the investigative demand.

14 “(b) The Attorney General shall serve an investigative demand under this
15 section in the manner provided in ORS 646.622. The Attorney General may
16 enforce the investigative demand as provided in ORS 646.626.

17 “(2)(a) An attorney may accompany, represent and advise in confidence a
18 person that appears in response to a demand under subsection (1)(a)(A) of
19 this section. The person may refuse to answer any question on constitutional
20 grounds or on the basis of any other legal right or privilege, including pro-
21 tection against self-incrimination, but must answer any other question that
22 is not subject to the right or privilege. If the person refuses to answer a
23 question on grounds that the answer would be self-incriminating, the Attor-
24 ney General may compel the person to testify as provided in ORS 136.617.

25 “(b) The Attorney General shall exclude from the place in which the At-
26 torney General conducts an examination under this subsection all persons
27 other than the person the Attorney General is examining, the person’s at-
28 torney, the officer before which the person gives the testimony and any ste-
29 nographer recording the testimony.

30 “(3)(a) The Attorney General shall hold in confidence and may not dis-

1 close to any person any documents, including data protection assessments,
2 answers to interrogatories and transcripts of oral testimony, except that the
3 Attorney General may disclose the documents to:

4 “(A) The person that provided the documents or the oral testimony;

5 “(B) The attorney or representative of the person that provided the doc-
6 uments or oral testimony;

7 “(C) [*Employees of*] **Persons employed by** the Attorney General; or

8 “(D) An official of the United States or of any state who is authorized to
9 enforce federal or state consumer protection laws if the Attorney General
10 first obtains a written agreement from the official in which the official
11 agrees to abide by the confidentiality requirements of this subsection.

12 “(b) The Attorney General may use any of the materials described in
13 paragraph (a) of this subsection in any investigation the Attorney General
14 conducts under this section or in any action or proceeding the Attorney
15 General brings or initiates in a court or before an administrative agency in
16 connection with the investigation.

17 “(4)(a) The Attorney General may bring an action to seek a civil penalty
18 of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or
19 to enjoin a violation or obtain other equitable relief. The Attorney General
20 shall bring the action in the circuit court for Multnomah County or the
21 circuit court of a county where any part of the violation occurred.

22 “(b) A court may award reasonable attorney fees, expert witness fees and
23 costs of investigation to the Attorney General if the Attorney General pre-
24 vails in an action under this subsection. The court may award reasonable
25 attorney fees to a defendant that prevails in an action under this subsection
26 if the court finds that the Attorney General had no objectively reasonable
27 basis for asserting the claim or for appealing an adverse decision of the trial
28 court.

29 “(c) The Attorney General shall deposit the proceeds of any recovery un-
30 der this subsection into the Department of Justice Protection and Education

1 Revolving Account, as provided in ORS 180.095.

2 “(5) The Attorney General shall bring an action under subsection (4) of
3 this section within five years after the date of the last act of a controller
4 that constituted the violation for which the Attorney General seeks relief.

5 “(6) The remedies available to the Attorney General under subsection (4)
6 of this section are in addition to and not in lieu of any other relief available
7 to the Attorney General or another person under other applicable provisions
8 of law. A claim available under another provision of law may be joined to
9 the Attorney General’s claim under subsection (4) of this section.

10 “(7) The Attorney General has exclusive authority to enforce the pro-
11 visions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other
12 laws of this state, do not create a private right of action to enforce a vio-
13 lation of ORS 646A.570 to 646A.589.

14 **“SECTION 3. A court record relating to the settlement of a minor’s**
15 **claim approved under ORCP 27 I is confidential and may not be dis-**
16 **closed while the claimant is a minor, except pursuant to a court order**
17 **issued for good cause shown.”.**

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