

HB 3564 -2 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/18, 4/7

WHAT THE MEASURE DOES:

This measure modifies and updates the process for investigating, retracting or correcting a written, defamatory statement.

Detailed Summary:

- Clarifies that a civil action for defamation can be filed in response to either a printed or electronic publication.
- Expands the time in which an individual can demand a retraction or correction from 20 to 60 days after receiving actual knowledge of the associated statement and allows demands to be issued via email.
- Directs the publisher to investigate a demand within two weeks and, if it agrees that the statement merits retraction or correction, to proceed as follows:
 - For print media, publish a correction or retraction in the first issue published thereafter;
 - For electronic media, immediately place a link to the correction or retraction on the website's homepage and any page containing the defamatory statement, or simply remove the defamatory statement altogether.
 - For a radio or TV broadcast, publish the retraction on the next broadcast;
 - For a movie theater, publish the retraction or correction at the next showing.
- Makes technical changes to existing law.

ISSUES DISCUSSED:

- Short and insufficient retraction-demand period
- Outdated, especially as to electronic media
- Slow or inadequate responses from electronic media

EFFECT OF AMENDMENT:

-2 This amendment makes technical changes, requires retraction requests to be issued personally or via certified or registered mail, and provides 40 days after receiving actual knowledge for an individual to demand retraction.

FISCAL: Has minimal fiscal impact

Revenue: No impact

BACKGROUND:

The rules governing defamation claims in Oregon are set forth in ORS 31.200 to 31.225. Pursuant to ORS 31.205, the plaintiff may recover any general and special damages. However, damages are not presumed but must be pleaded and proved. To recover general damages, a plaintiff must plead and prove that (1) the defendant actually intended to defame the plaintiff, or (2) the defendant failed to publish a correction or retraction on demand. ORS 31.210(1).

The demand for a retraction must be in writing, signed, and delivered to the defendant personally within 20 days after the plaintiff receives actual knowledge of the defamatory statement. ORS 31.215(1). Upon receiving the demand, the defendant has two weeks in which to investigate and then publish a correction or retraction in the first edition or broadcast thereafter in substantially as conspicuous a manner as the defamatory statement was first published. ORS 31.215(2)–(4).