

SB 180 -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/27, 4/7

WHAT THE MEASURE DOES:

The measure prohibits a person from filing a retaliatory defamation lawsuit against an individual who, in good faith, makes a statement regarding an incident of sexual assault, harassment, or discrimination. The measure provides a prevailing defendant with the right to recover their associated attorney fees along with remedial sanctions.

Detailed Summary:

- Prohibits the filing of defamation lawsuits against an individual who, upon a reasonable belief and without malice, makes a communication regarding an incident of sexual assault, harassment, or discrimination, regardless of whether the individual filed a formal complaint.
- Allows a prevailing defendant to recover their reasonable attorney fees and remedial sanctions.

ISSUES DISCUSSED:

- Free speech of survivors
- Oregon's existing anti-SLAPP statute
- Speech in private forums such as social media
- Proper scope of recovery and associated deterrent of SLAPP lawsuits

EFFECT OF AMENDMENT:

-3 This amendment reworks the measure, creating a new basis under ORS 31.150, Oregon's anti-SLAPP statute, for a motion to strike a claim or lawsuit arising out of a good faith communication regarding an incident of sexual assault. Once a defendant carries their initial burden on a motion to strike by showing an objectively reasonable belief that the sexual assault occurred, the burden then shifts to the plaintiff to show a probability of prevailing on their defamation claim, including a probability that the defendant made the subject communication with malice. This amendment also requires a defamation plaintiff, regarding a communication about sexual assault, to establish the communication was made with malice as an element of their claim.

REVENUE: Has minimal revenue impact

FISCAL: Has minimal fiscal impact

BACKGROUND:

A SLAPP (strategic lawsuit against public participation) is typically a lawsuit, such as a defamation lawsuit, filed in retaliation against a victim, complainant, witness, whistleblower, advocate, or journalist to intimidate or silence the person from speaking out. Oregon's anti-SLAPP statute, ORS 31.150, provides a special process (an anti-SLAPP motion) for early dismissal of a claim alleged in a lawsuit when the claim arises out of the defendant's exercise of specified categories of protected speech such as communications made in a public forum, in connection with an issue of public concern, or pursuant to a governmental process. However, ORS 31.150's current categories of protected speech do not directly address, apply to, or protect those speaking out about an incident of sexual assault, harassment, or discrimination. ORS 31.152 sets out the procedure and timeline for filing an anti-SLAPP motion and allows the prevailing party to recover their attorney fees and costs. Several states have adopted or are considering statutes to protect those speaking out about incidents of sexual assault. *See, e.g.* CA Code, CIV 47.1, AB 933; NJ SB 3758 (2024); and IL HB 2836 (2023).

This summary has not been adopted or officially endorsed by action of the committee.