

SB 180 A STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 5/5, 5/15

WHAT THE MEASURE DOES:

This measure creates a special motion to strike a claim or lawsuit arising out of a good faith communication regarding an incident of sexual assault.

Detailed Summary

The measure creates a new basis under ORS 31.150, Oregon’s anti-SLAPP statute, for a special motion to strike a claim or lawsuit arising out of a good faith communication regarding an incident of sexual assault. The measure places the burden first on a defendant to a motion to strike to show an objectively reasonable belief that the sexual assault occurred and then shifts the burden 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 measure 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.

SENATE FLOOR: Ayes, 28; Nays, 0

FISCAL: Has Minimal Fiscal Impact

REVENUE: Has Minimal Revenue Impact

ISSUES DISCUSSED:

- Chilling effect of defamation lawsuits
- Protecting free speech
- Other states' comparable laws
- The tailoring of this measure to Oregon's anti-SLAPP statute
- Social media and the internet as modern forums
- Practical effect of this measure on defamation motion practice

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A SLAPP (strategic lawsuit against public participation) is typically a lawsuit, such as a defamation lawsuit, filed against a person for exercising protected speech, where the defendant is typically a victim, complainant, witness, whistleblower, advocate, or journalist. 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. 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).