

Byers, Dave

From: Joel England <Joel.England@staff.azbar.org>
Sent: Wednesday, February 14, 2024 2:41 PM
To: Byers, Dave
Subject: RE: Kern striker on SB1471

Caution: This message was sent from outside your organization.

Will work on it.

Joel

From: Byers, Dave <DByers@courts.az.gov>
Sent: Wednesday, February 14, 2024 2:39 PM
To: Joel England <Joel.England@staff.azbar.org>
Subject: RE: Kern striker on SB1471

Could you folks craft better wording that prevents the problem they are trying to solve and yet allows for the filings you outline in the message....It ironic that both the Discipline oversight committee and the full court had a general discussion of the misuse of the current system this week. It would be good if we could find a solution.

From: Joel England <Joel.England@staff.azbar.org>
Sent: Wednesday, February 14, 2024 2:32 PM
To: Janna Day <jday@policonnect.com>; Garcia, Liana <liagarcia@courts.az.gov>
Cc: Joe Hengemueller <Joe.Hengemueller@staff.azbar.org>; Noah Coakley <Noah.Coakley@staff.azbar.org>; Byers, Dave <DByers@courts.az.gov>
Subject: FW: Kern striker on SB1471

Caution: This message was sent from outside your organization.

Janna/Liana --

See below for initial thoughts from Maret. Thanks.

Joel

From: Maret Vessella <Maret.Vessella@staff.azbar.org>

Sent: Wednesday, February 14, 2024 10:32 AM

To: Joel England <Joel.England@staff.azbar.org>; Amy Rehm <Amy.Rehm@staff.azbar.org>

Subject: RE: Kern striker on SB1471

These are just some preliminary thoughts:

The striker significantly restricts the ability to file a charge against a lawyer unless there is an attorney client relationship or other significant nexus. Narrowing the ability to file a charge in this way would significantly impact regulation's ability to discharge its duty to protect the public. Supreme Court Rule 55 requires that the state bar evaluate all information coming to its attention (by any source) to determine whether it states facts that would violate a rule of professional conduct. Historically, having a rule that broadly allows individuals to bring a charge has resulted in situations coming to our attention that we would otherwise not have known about and that resulted in significant sanctions or opportunities for remedial measures. Some examples include anonymous submissions showing a lawyer was convicted of a crime, trust account overdraft notifications that are automatically generated and sent to the State Bar, consumers that alert the Bar to a problematic lawyer advertisement, healthcare providers whose lien was not timely paid, lawyers with significant substance abuse issues, and others.

The striker, as written, would place the State Bar in a position to determine the "nexus" between person/entity submitting the charge and the alleged misconduct. Our determination may lead to litigation to resolve the question. Additionally, what duty would we have if significant misconduct is brought to our attention, but the person who submits it has no standing? The striker would preclude us from acting, even in the face of ongoing significant harm to the public.

From: Joel England <Joel.England@staff.azbar.org>

Sent: Wednesday, February 14, 2024 9:44 AM

To: Maret Vessella <Maret.Vessella@staff.azbar.org>; Amy Rehm <Amy.Rehm@staff.azbar.org>

Subject: RE: Kern striker on SB1471

You all have any thoughts on this? Thanks.

Joel

From: Garcia, Liana <liagarcia@courts.az.gov>

Sent: Tuesday, February 13, 2024 8:04:06 PM

To: Janna Day <JDay@poli.connect.com>; Joel England <Joel.England@staff.azbar.org>; Joe Hengemuehler <Joe.Hengemuehler@staff.azbar.org>

Cc: Byers, Dave <DByers@courts.az.gov>

Subject: Kern striker on SB1471

Just posted this afternoon - see attached new striker scheduled for Senate Jud on Thursday morning. The hits just keep coming!

https://www.azleg.gov/legtext/56leg/2R/proposed/S_1471KERN.pdf

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