

Byers, Dave

From: Joel England <Joel.England@staff.azbar.org>
Sent: Thursday, February 15, 2024 10:05 AM
To: Byers, Dave; Garcia, Liana; Janna Day
Cc: Joe.Hengemueller; Noah Coakley; Vessella, Maret; Amy Rehm
Subject: FW: Legis

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All -

Below is some proposed language from Maret. As we've discussed, the purpose of the system is to protect the public. The more stringent standing requirements are, the less that goal may be accomplished. The proposed language provides some discretion by the Bar under limited circumstances to become the complainant even if standing requirements are not met. This is in place with the protection of the public goal in mind.

The definition of standing would have to be worked out. Agree with Maret, the clearer the better. Under original bill language, would probably get disagreement on what "substantial nexus" means. On Liana's language, I think the question could be what constitutes "direct." Do I need to be a witness, party etc.? If a judge issues sanctions in a case for a frivolous suit but doesn't refer the case, nor do the parties, but a third party brings it to the attention of bar counsel, can the Bar take the case? Another question is how do standing requirements intersect with a lawyer's duty under Rule 8.3 to report misconduct.

Joel



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From: Maret Vessella <Maret.Vessella@staff.azbar.org>
Sent: Thursday, February 15, 2024 9:14 AM
To: Joel England <Joel.England@staff.azbar.org>; Amy Rehm <Amy.Rehm@staff.azbar.org>
Subject: RE: Legis

We still think this is problematic but in order to strike a balance with the obvious goals of the legislature we offer the following:

The Supreme Court shall adopt a rule requiring that only an individual or entity with standing can submit a charge to the State Bar. Charges brought by an individual or entity who do not have standing shall not be docketed unless the State Bar determines that the charge alleges specific and ongoing harm to the public by an attorney that has a substantial likelihood of continuing. If such a determination is made, the State Bar shall be named the complainant and the individual or entity who submitted it shall not be entitled to communication and other procedural rights provided to complainants by the rules.

Note: Any change to the rule should include a definition of standing. It is necessary to have a rule that is clear and not subject to constant interpretation.

From: Byers, Dave <DByers@courts.az.gov>
Sent: Wednesday, February 14, 2024 4:51 PM
To: Joel England <Joel.England@staff.azbar.org>
Subject: FW: Legis

does this work?

From: Byers, Dave
Sent: Wednesday, February 14, 2024 4:46 PM
To: Garcia, Liana <liagarcia@courts.az.gov>
Subject: RE: Legis

From: Garcia, Liana <liagarcia@courts.az.gov>
Sent: Wednesday, February 14, 2024 2:47 PM
To: Byers, Dave <DByers@courts.az.gov>
Subject: Re: Legis

OK how about this:

The Supreme Court shall adopt a rule requiring that any complaint or charge against a licensed attorney be dismissed unless the complainant alleges direct and specific knowledge of a violation of the Rules of Arizona Supreme Court, including the Rules of Professional Conduct.

Does this still allow for the situations Maret laid out?

Liana Garcia
Director of Government Affairs
Arizona Supreme Court
C (602)513-3398

On Feb 14, 2024, at 1:01 PM, Byers, Dave <DByers@courts.az.gov> wrote:

I think we need more specify language that "nexus" and would like the ability for the bar itself to bring a charge. I suspect Kern might not like that, but on occasion, the bar bring a complaint they learn form the news etc.....They can't wait for a complaint on a serious matter.

From: Garcia, Liana <liagarcia@courts.az.gov>
Sent: Wednesday, February 14, 2024 12:36 PM
To: Byers, Dave <DByers@courts.az.gov>
Subject: Re: Legis

On Kern's SB1471 on bar complainants requiring a nexus to the case, do we want wording similar to Petersen's CLE bill? Attached -
Liana Garcia
<[image001.jpg](#)>
Director of Government Affairs
Arizona Supreme Court
C (602)513-3398

On Feb 14, 2024, at 10:45 AM, Byers, Dave <DByers@courts.az.gov> wrote:

We officially oppose Kerns SCR 1044
On the SB 1471....Can you see if he is willing to allow some refinement on the wording as if he will, we might support.
SB 1586 we oppose....In reading the actual wording, while you indicated this would prevent hiring contract lobbyist.

I need to double back with him on the Gowen Retention SCR.

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