

Senate Bill 1000

Sponsored by Senators BROWN, WESTLUND, MORSE, BATES (at the request of Governor Theodore R. Kulongoski)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits discrimination against persons in specified areas of law based on sexual orientation. Defines "sexual orientation." Authorizes enforcement of prohibition through civil action for actual and punitive damages. Authorizes attorney fees in civil proceedings for unlawful discrimination. Requires state agencies to eliminate discrimination against persons based on sexual orientation.

Establishes requirements and procedures for entering into civil union contract. Applies only to civil unions between persons of same sex. Provides that partners in civil unions have same privileges, immunities, rights, benefits and responsibilities under state law as are granted to or imposed on persons who are or were married.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to human rights; creating new provisions; amending ORS 10.030, 20.107, 30.860, 93.270, 106.010, 106.020, 106.030, 106.041, 106.045, 106.050, 106.060, 106.077, 106.081, 106.100, 106.120, 106.130, 106.140, 106.150, 106.160, 106.165, 106.170, 106.180, 106.220, 109.035, 166.155, 166.165, 174.100, 179.750, 182.100, 192.630, 240.306, 243.305, 307.580, 329.025, 338.125, 353.100, 418.925, 421.352, 430.550, 443.739, 458.505, 654.062, 659.850, 659A.003, 659A.006, 659A.012, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815, 659A.885, 660.139 and 744.353; repealing ORS 236.380; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

DISCRIMINATION

SECTION 1. ORS 174.100 is amended to read:

174.100. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise:

(1) "Any other state" includes any state and the District of Columbia.

(2) "City" includes any incorporated village or town.

(3) "County court" includes board of county commissioners.

(4) "May not" and "shall not" are equivalent expressions of an absolute prohibition.

(5) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(6) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

[(6)] **(7)** "State Treasury" includes those financial assets the lawful custody of which are vested in the State Treasurer and the office of the State Treasurer relating to the custody of those financial

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 assets.

2 [(7)] (8) “To” means “to and including” when used in a reference to a series of statute sections,
3 subsections or paragraphs.

4 [(8)] (9) “United States” includes territories, outlying possessions and the District of Columbia.

5 [(9)] (10) “Violate” includes failure to comply.

6 **SECTION 2.** ORS 659A.003 is amended to read:

7 659A.003. The purpose of this chapter is to encourage the fullest utilization of **the** available
8 [*manpower*] **workforce** by removing arbitrary standards of race, **color**, religion, [*color,*] sex, [*marital*
9 *status,*] **sexual orientation**, national origin [*or,*] **marital status**, age **or disability** as a barrier to
10 employment of the inhabitants of this state, and to ensure the human dignity of all people within this
11 state and protect their health, safety and morals from the consequences of intergroup hostility,
12 tensions and practices of discrimination of any kind based on race, **color**, religion, [*color,*] sex,
13 **sexual orientation**, **national origin**, marital status, [*or national origin*] **age or disability**. To ac-
14 complish this purpose, the Legislative Assembly intends by this chapter to provide:

15 (1) A program of public education calculated to eliminate attitudes upon which practices of
16 discrimination because of race, **color**, religion, [*color,*] sex, **sexual orientation**, **national origin**,
17 marital status, [*or national origin*] **age or disability** are based.

18 (2) An adequate remedy for persons aggrieved by certain acts of discrimination because of race,
19 **color**, religion, [*color,*] sex, **sexual orientation**, **national origin**, marital status or [*national origin*]
20 **disability** or unreasonable acts of discrimination in employment based upon age.

21 (3) An adequate administrative machinery for the orderly resolution of complaints of discrimi-
22 nation through a procedure involving investigation, conference, conciliation and persuasion; to en-
23 courage the use in good faith of [*such*] **the** machinery by all parties to a complaint of discrimination;
24 and to discourage unilateral action which makes moot the outcome of final administrative or judicial
25 determination on the merits of [*such a*] **the** complaint.

26 **SECTION 3.** ORS 659A.006 is amended to read:

27 659A.006. (1) It is declared to be the public policy of Oregon that practices of discrimination
28 against any of its inhabitants because of race, **color**, religion, [*color,*] sex, **sexual orientation**, **na-**
29 **tional origin**, marital status, [*national origin,*] age or disability are a matter of state concern and
30 that [*such*] **this** discrimination **not only** threatens [*not only*] the rights and privileges of its inhab-
31 itants but menaces the institutions and foundation of a free democratic state.

32 (2) The opportunity to obtain employment without discrimination because of race, **color**, reli-
33 gion, [*color,*] sex, **sexual orientation**, **national origin**, marital status, [*national origin,*] age or dis-
34 ability hereby is recognized as and declared to be a civil right. However, this section [*shall*] **may**
35 not be construed to prevent a bona fide church or sectarian religious institution, including but not
36 limited to a school, hospital or church camp, from preferring an employee or applicant for employ-
37 ment of one religious sect or persuasion over another when:

38 (a) That religious sect or persuasion to which the employee or applicant belongs is the same as
39 that of [*such*] **the** church or institution;

40 (b) In the opinion of [*such bona fide*] **the** church or [*sectarian religious*] institution, [*such a*] **the**
41 preference will best serve the purposes of [*such*] **the** church or institution; and

42 (c) The employment involved is closely connected with or related to the primary purposes of the
43 church or institution and is not connected with a commercial or business activity [*which*] **that** has
44 no necessary relationship to the church or institution, or to its primary purposes.

45 **SECTION 4.** ORS 659A.012 is amended to read:

1 659A.012. (1) To achieve the public policy of the State of Oregon for persons in the state to at-
 2 tain employment and advancement without discrimination because of race, **color**, religion, [*color*,]
 3 sex, **sexual orientation, national origin**, marital status, [*national origin, disability or*] age or **dis-**
 4 **ability**, every state agency [*shall be*] **is** required to include in the evaluation of all management
 5 personnel the manager's or supervisor's effectiveness in achieving affirmative action objectives as
 6 a key consideration of the manager's or supervisor's performance.

7 (2) To achieve the public policy of the State of Oregon for persons in the state to attain em-
 8 ployment and advancement without discrimination because of race, **color**, religion, [*color*,] sex,
 9 **sexual orientation, national origin**, marital status, [*national origin*,] age or disability, every state
 10 agency [*shall be*] **is** required to present the affirmative action objectives and performance of that
 11 agency of the current biennium and those for the following biennium to the Governor of the State
 12 of Oregon and to the Legislative Assembly. These plans shall be reviewed as part of the budget re-
 13 view process.

14 **SECTION 5.** ORS 659A.030 is amended to read:

15 659A.030. (1) It is an unlawful employment practice:

16 (a) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orien-**
 17 **tation, national origin, marital status or age** if the individual is 18 years of age or older, or because
 18 of the race, **color**, religion, [*color*,] sex, **sexual orientation, national origin, marital status or age**
 19 of any other person with whom the individual associates, or because of [*a*] **an individual's** juvenile
 20 record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*,] to
 21 refuse to hire or employ **the individual** or to bar or discharge **the individual** from employment
 22 [*such individual*]. However, discrimination is not an unlawful employment practice if [*such*] **the** dis-
 23 crimination results from a bona fide occupational [*requirement*] **qualification** reasonably necessary
 24 to the normal operation of the employer's business.

25 (b) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orien-**
 26 **tation, national origin, marital status or age** if the individual is 18 years of age or older, or because
 27 of the race, **color**, religion, [*color*,] sex, **sexual orientation, national origin, marital status or age**
 28 of any other person with whom the individual associates, or because of [*a*] **an individual's** juvenile
 29 record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*,] to
 30 discriminate against [*such*] **the** individual in compensation or in terms, conditions or privileges of
 31 employment.

32 (c) For a labor organization, because of an individual's race, **color**, religion, [*color*,] sex, **sexual**
 33 **orientation, national origin, marital status or age** if the individual is 18 years of age or older, or
 34 because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260
 35 and 419A.262, [*of any individual*] to exclude or to expel from its membership [*such*] **the** individual
 36 or to discriminate in any way against [*any such*] **the** individual or any other person.

37 (d) For any employer or employment agency to print or circulate or cause to be printed or cir-
 38 culated any statement, advertisement or publication, or to use any form of application for employ-
 39 ment or to make any inquiry in connection with prospective employment [*which*] **that** expresses
 40 directly or indirectly any limitation, specification or discrimination as to an individual's race, **color**,
 41 religion, [*color*,] sex, **sexual orientation, national origin, marital status or age** if the individual is
 42 18 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any
 43 such limitation, specification or discrimination, unless based upon a bona fide occupational quali-
 44 fication. [*But identifying*] **Identification of** employees according to race, **color**, religion, [*color*,] sex,
 45 **sexual orientation, national origin, marital status**[,] or age does not violate this section unless the

1 Commissioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS
2 659A.805, determines that [*such a*] **the** designation expresses an intent to limit, specify or discrimi-
3 nate on the basis of race, **color**, religion, [*color,*] sex, **sexual orientation**, national origin, marital
4 status or age.

5 (e) For an employment agency, **because of an individual's race, color, religion, sex, sexual**
6 **orientation, national origin, marital status or age if the individual is 18 years of age or older,**
7 **or because of the race, color, religion, sex, sexual orientation, national origin, marital status**
8 **or age of any other person with whom the individual associates, or because of an individual's**
9 **juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262,** to classify or
10 refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate
11 against [*any*] **the** individual.[.]

12 [(A) *On the basis of the individual's race, color, national origin, sex, religion, marital status or age,*
13 *if the individual is 18 years of age or older;*]

14 [(B) *Because of the race, color, national origin, sex, religion, marital status or age of any other*
15 *person with whom the individual associates; or*]

16 [(C) *Because of a juvenile record, that has been expunged pursuant to ORS 419A.260 and*
17 *419A.262.*]

18
19 However, it is not an unlawful employment practice for an employment agency to classify or refer
20 for employment [*any*] **an** individual [*where such*] **when the** classification or referral results from a
21 bona fide occupational [*requirement*] **qualification** reasonably necessary to the normal operation of
22 the employer's business.

23 (f) For any person to discharge, expel or otherwise discriminate against any other person be-
24 cause that other person has opposed any unlawful practice, or because that other person has filed
25 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

26 (g) For any person, whether an employer or an employee, to aid, abet, incite, compel or coerce
27 the doing of any of the acts forbidden under this chapter or to attempt to do so.

28 (2) The provisions of this section apply to an apprentice under ORS chapter 660, but the se-
29 lection of an apprentice on the basis of the ability to complete the required apprenticeship training
30 before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall
31 administer this section with respect to apprentices under ORS chapter 660 equally with regard to
32 all employees and labor organizations.

33 (3) The compulsory retirement of employees required by law at any age is not an unlawful em-
34 ployment practice if lawful under federal law.

35 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide
36 or make financial provision for child care services of a custodial or other nature to its employees
37 or members who are responsible for a minor child.

38 (b) As used in this subsection, "responsible for a minor child" means having custody or legal
39 guardianship of a minor child or acting in loco parentis to the child.

40 (5) **This section does not prohibit an employer from enforcing an otherwise valid dress**
41 **code or policy, as long as the employer provides, on a case-by-case basis, for reasonable ac-**
42 **commodation of an individual based on the health and safety needs of the individual.**

43 **SECTION 6.** ORS 659A.403 is amended to read:

44 659A.403. (1) Except as provided in subsection (2) of this section, all persons within the juris-
45 diction of this state are entitled to the full and equal accommodations, advantages, facilities and

1 privileges of any place of public accommodation, without any distinction, discrimination or re-
 2 striction on account of race, **color**, religion, sex, **sexual orientation, national origin**, marital
 3 status[, *color, national origin*] or age if the individual is 18 years of age or older.

4 (2) Subsection (1) of this section does not prohibit:

5 (a) The enforcement of laws governing the consumption of alcoholic beverages by minors and
 6 the frequenting by minors of places of public accommodation where alcoholic beverages are served;
 7 or

8 (b) The offering of special rates or services to persons 55 years of age or older.

9 (3) It is an unlawful practice for any person to deny full and equal accommodations, advantages,
 10 facilities and privileges of any place of public accommodation in violation of this section.

11 **SECTION 7.** ORS 659A.406 is amended to read:

12 659A.406. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any
 13 person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any **em-**
 14 **ployee or** person acting on behalf of [*such*] **the place of public accommodation** to make any dis-
 15 tinction, discrimination or restriction on account of race, **color**, religion, [*color,*] sex, **sexual**
 16 **orientation, national origin**, marital status[, *national origin*] or age if the individual is 18 years
 17 of age or older.

18 **SECTION 8.** ORS 659A.409 is amended to read:

19 659A.409. Except as provided by laws governing the consumption of alcoholic beverages by mi-
 20 nors and the frequenting by minors of places of public accommodation where alcoholic beverages
 21 are served, and except for special rates or services offered to persons 55 years of age or older, it
 22 is an unlawful practice for any person acting on behalf of any place of public accommodation as
 23 defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated,
 24 issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that
 25 any of the accommodations, advantages, facilities, services or privileges of [*such*] **the** place of public
 26 accommodation will be refused, withheld from or denied to, or that any discrimination will be made
 27 against, any person on account of race, **color**, religion, sex, **sexual orientation, national origin**,
 28 marital status[, *color, national origin*] or age if the individual is 18 years of age or older.

29 **SECTION 9.** ORS 659A.421 is amended to read:

30 659A.421. (1) [*No person shall*] **A person may not**, because of race, color, **religion**, sex, **sexual**
 31 **orientation, national origin**, marital status, [*source of income, familial status, religion or national*
 32 *origin*] **familial status or source of income** of any person:

33 (a) Refuse to sell, lease or rent any real property to a purchaser.

34 (b) Expel a purchaser from any real property.

35 (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,
 36 conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the
 37 furnishing of any facilities or services in connection therewith.

38 (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

39 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
 40 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
 41 of real property [*which*] **that** indicates any preference, limitation, specification or discrimination
 42 based on race, color, **religion**, sex, **sexual orientation, national origin**, marital status, **familial**
 43 **status or** source of income[, *religion or national origin*].

44 (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that
 45 violates this subsection and subsection (3) of this section.

1 (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,
 2 or on account of having aided or encouraged any other person in the exercise of, any right granted
 3 or protected by this section.

4 (2)(a) [No] **A** person whose business includes engaging in residential real estate related trans-
 5 actions [shall] **may not** discriminate against any person in making **a transaction** available [such a
 6 transaction], or in the terms or conditions of [such a] **the** transaction, because of race, color, **reli-**
 7 **gion**, sex, [marital status, source of income, familial status, religion or national origin] **sexual orien-**
 8 **tation, national origin, marital status, familial status or source of income.**

9 (b) As used in this subsection, “residential real estate related transaction” means any of the
 10 following:

11 (A) The making or purchasing of loans or providing other financial assistance:

12 (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

13 (ii) For securing residential real estate; or

14 (B) The selling, brokering or appraising of residential real property.

15 (3) [No] **A** real estate licensee [shall] **may not** accept or retain a listing of real property for
 16 sale, lease or rental with an understanding that a purchaser may be discriminated against with re-
 17 spect to the sale, rental or lease thereof because of race, color, **religion**, sex, [marital status, source
 18 of income, familial status, religion or national origin] **sexual orientation, national origin, marital**
 19 **status, familial status or source of income.**

20 (4) [No person shall] **A person may not**, for profit, induce or attempt to induce any other person
 21 to sell or rent any dwelling by representations regarding the entry or prospective entry into the
 22 neighborhood of a person or persons of a particular race, color, **religion**, sex, [marital status, source
 23 of income, familial status, religion or national origin] **sexual orientation, national origin, marital**
 24 **status, familial status or source of income.**

25 (5) For purposes of subsections (1) to (4) of this section, “source of income” does not include
 26 federal rent subsidy payments under 42 U.S.C. 1437f, income from specific occupations or income
 27 derived in an illegal manner.

28 (6) Subsections (1) and (3) of this section do not apply with respect to sex distinction, discrimi-
 29 nation or restriction if the real property involved is such that the application of subsections (1) and
 30 (3) of this section would necessarily result in common use of bath or bedroom facilities by unrelated
 31 persons of opposite sex.

32 (7)(a) This section does not apply to familial status distinction, discrimination or restriction with
 33 respect to housing for older persons.

34 (b) As used in this subsection, “housing for older persons” means housing:

35 (A) Provided under any state or federal program that is specifically designed and operated to
 36 assist elderly persons, as defined by the state or federal program;

37 (B) Intended for, and solely occupied by, persons 62 years of age or older; or

38 (C) Intended and operated for occupancy by at least one person 55 years of age or older per
 39 unit. Housing qualifies as housing for older persons under this subparagraph if:

40 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or
 41 older per unit; and

42 (ii) Policies and procedures [which] **that** demonstrate an intent by the owner or manager to
 43 provide housing for persons 55 years of age or older are published and adhered to.

44 (c) Housing [shall] **does** not fail to meet the requirements for housing for older persons if:

45 (A) Persons residing in [such] **the** housing as of September 13, 1988, do not meet the require-

1 ments of paragraph (b)(B) or (C) of this subsection. However, new occupants of [such] **the** housing
2 shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

3 (B) The housing includes unoccupied units[. *However, such*], **if the** units are reserved for occu-
4 pancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

5 (d) Nothing in this section limits the applicability of any reasonable local, state or federal re-
6 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

7 (8) In the sale, lease or rental of real estate, [*no person shall*] **a person may not** disclose to any
8 person that an occupant or owner of real property has or died from human immunodeficiency virus
9 or acquired immune deficiency syndrome.

10 (9) The provisions of subsection (1)[(a) to (d) and (f)] of this section that prohibit actions based
11 upon familial status or sex do not apply to the renting of space within a single-family residence if
12 the owner actually maintains and occupies the residence as the owner's primary residence and all
13 occupants share some common space within the residence.

14 (10) Any violation of this section is an unlawful practice.

15 **SECTION 10.** ORS 659A.424 is amended to read:

16 659A.424. (1) As used in this section:

17 (a) "Facially neutral housing policy" means a guideline, practice, rule, or screening or admission
18 criterion regarding a real property transaction that applies equally to all persons.

19 (b) "Protected class" means a group of persons distinguished by race, color, **religion**, sex, **sex-**
20 **ual orientation, national origin**, marital status, [*source of income, familial status, religion, national*
21 *origin*] **familial status, source of income** or disability.

22 (c) "Real property transaction" means an act described in ORS 659A.145 or 659A.421 involving
23 the renting or leasing of residential real property subject to ORS chapter 90.

24 (2) A court or the Commissioner of the Bureau of Labor and Industries may find that a person
25 has violated ORS 659A.145 or 659A.421 if:

26 (a) The person applies a facially neutral housing policy to a member of a protected class in a
27 real property transaction involving a residential tenancy subject to ORS chapter 90; and

28 (b) Application of the policy adversely impacts members of the protected class to a greater ex-
29 tent than the policy adversely impacts persons generally.

30 (3) In determining under subsection (2) of this section whether a violation has occurred and, if
31 so, what relief should be granted, a court or the commissioner shall consider:

32 (a) The significance of the adverse impact on the protected class;

33 (b) The importance and necessity of any business purpose for the facially neutral housing policy;
34 and

35 (c) The availability of less discriminatory alternatives for achieving the business purpose for the
36 facially neutral housing policy.

37 **SECTION 11.** ORS 659A.805 is amended to read:

38 659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner
39 of the Bureau of Labor and Industries may adopt reasonable rules:

40 (a) Establishing what acts and communications constitute a notice, sign or advertisement that
41 public accommodation or real property will be refused, withheld from, or denied to any person or
42 that discrimination will be made against the person because of race, **color**, religion, sex, **sexual**
43 **orientation, national origin**, marital status, [*color, national origin or,*] **disability or:**

44 (A) With respect to public accommodation, age.

45 (B) With respect to real property, **familial status or source of income.**

1 (b) Establishing what inquiries in connection with employment and prospective employment ex-
 2 press a limitation, specification or discrimination as to race, **color**, religion, [*color*,] sex, **sexual**
 3 **orientation**, national origin [*or*], **marital status**, age **or disability**.

4 (c) Establishing what inquiries in connection with employment and prospective employment so-
 5 liciting information as to race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin
 6 [*or*], **marital status**, age **or disability** are based on bona fide [*job*] **occupational** qualifications.

7 (d) For internal operation and practice and procedure before the commissioner under this
 8 chapter.

9 (e) Covering any other matter required to carry out the purposes of this chapter.

10 (2) In adopting rules under this section the commissioner shall consider the following factors,
 11 among others:

12 (a) The relevance of information requested to job performance in connection with which it is
 13 requested.

14 (b) Available reasonable alternative ways of obtaining requested information without soliciting
 15 responses as to race, **color**, religion, [*color*,] sex, **sexual orientation**, **national origin**, marital sta-
 16 tus, [*national origin or*] age, **disability**, **familial status or source of income**.

17 (c) Whether a statement or inquiry soliciting information as to race, **color**, religion, [*color*,] sex,
 18 **sexual orientation**, **national origin**, marital status, [*national origin or*] age, **disability**, **familial**
 19 **status or source of income** communicates an idea independent of an intention to limit, specify or
 20 discriminate as to race, **color**, religion, [*color*,] sex, **sexual orientation**, **national origin**, marital
 21 status, [*national origin or*] age, **disability**, **familial status or source of income**.

22 (d) Whether the independent idea communicated is relevant to a legitimate objective of the kind
 23 of transaction [*which*] **that** it contemplates.

24 (e) The ease with which the independent idea relating to a legitimate objective of the kind of
 25 transaction contemplated could be communicated without connoting an intention to discriminate as
 26 to race, **color**, religion, [*color*,] sex, **sexual orientation**, **national origin**, marital status, [*national*
 27 *origin or*] age, **disability**, **familial status or source of income**.

28 **SECTION 12.** ORS 659A.815 is amended to read:

29 659A.815. (1) The Commissioner of the Bureau of Labor and Industries shall create [*such*] advi-
 30 sory agencies and intergroup-relations councils[, *local, regional or statewide, as in the judgment of*]
 31 **that** the commissioner [*will*] **believes necessary to** aid in effectuating the purposes of this chapter.
 32 The commissioner may empower [*them*] **advisory agencies and councils**:

33 (a) To study the problems of discrimination in all or specific fields of human relationships or in
 34 specific instances of discrimination because of race, **color**, religion, [*color*,] sex, [*or*] **sexual orien-**
 35 **tation**, national origin, **marital status**, age, **disability**, **familial status or source of income**.

36 (b) To foster, through community effort or otherwise, goodwill, cooperation and conciliation
 37 among the groups and elements of the population of the state.

38 (c) To make recommendations to the commissioner for the development of policies and proce-
 39 dures in general and in specific instances, and for programs of formal and informal education.

40 (2) [*Such*] **The** advisory agencies and councils shall be composed of representative citizens,
 41 serving without pay, but with reimbursement for actual and necessary expenses in accordance with
 42 laws and regulations governing state officers.

43 (3) The commissioner may make provision for technical and clerical assistance to [*such*] **the**
 44 **advisory** agencies and councils and for the expenses of [*such*] **the** assistance.

45 **SECTION 13.** ORS 659A.885 is amended to read:

1 659A.885. (1) Any individual claiming to be aggrieved by an unlawful practice specified in sub-
2 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
3 the court may order injunctive relief and [*such*] **any** other equitable relief [*as*] **that** may be appro-
4 priate, including but not limited to reinstatement or the hiring of employees with or without back
5 pay. A court may order back pay in an action under this subsection only for the two-year period
6 immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the
7 Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced,
8 the two-year period immediately preceding the filing of the action. In any action under this sub-
9 section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on
10 appeal. Except as provided in subsection (3) of this section:

11 (a) The judge shall determine the facts in an action under this subsection; and

12 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
13 review the judgment pursuant to the standard established by ORS 19.415 (3).

14 (2) An action may be brought under subsection (1) of this section for the following unlawful
15 practices: ORS 25.337, 25.424, 399.235, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069,
16 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233,
17 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.318 and 659A.421 (1) or (3).

18 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
19 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262,
20 659A.318 or 659A.421 (1) or (3):

21 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
22 compensatory damages or \$200, whichever is greater, and punitive damages;

23 (b) At the request of any party, the action shall be tried to a jury;

24 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
25 ment pursuant to the standard established by ORS 19.415 (1); and

26 (d) Any attorney fee agreement shall be subject to approval by the court.

27 (4) In any action under subsection (1) of this section alleging a violation of ORS 659A.203 or
28 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this sec-
29 tion, compensatory damages or \$250, whichever is greater.

30 (5) Any individual against whom any distinction, discrimination or restriction on account of
31 race, **color**, religion, sex, [*marital status, color,*] **sexual orientation**, national origin, **marital status**
32 or age, if the individual is 18 years of age or older, has been made by any place of public accom-
33 modation, as defined in ORS 659A.400, by any **employee or** person acting on behalf of [*such*] **the**
34 place or by any person aiding or abetting [*such*] **the** place or person in violation of ORS 659A.406,
35 may bring an action against the operator or manager of [*such*] **the** place, the employee or person
36 acting on behalf of [*such*] **the** place or the aider or abettor of [*such*] **the** place or person.
37 Notwithstanding subsection (1) of this section, in an action under this subsection:

38 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
39 compensatory and punitive damages;

40 (b) The operator or manager of the place of public accommodation, the employee or person
41 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
42 damages awarded in the action;

43 (c) At the request of any party, the action shall be tried to a jury;

44 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

45 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-

1 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 2 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 3 and

4 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
 5 judgment pursuant to the standard established by ORS 19.415 (1).

6 **SECTION 14.** ORS 10.030 is amended to read:

7 10.030. (1) Except as otherwise specifically provided by statute, the opportunity for jury service
 8 [*shall*] **may** not be denied or limited on the basis of race, [*national origin, gender,*] **religion, sex,**
 9 **sexual orientation, national origin,** age, [*religious belief,*] income, occupation or any other factor
 10 that discriminates against a cognizable group in this state.

11 (2) Any person is eligible to act as a juror in a civil trial unless the person:

- 12 (a) Is not a citizen of the United States;
- 13 (b) Does not live in the county in which summoned for jury service;
- 14 (c) Is less than 18 years of age; or
- 15 (d) Has had rights and privileges withdrawn and not restored under ORS 137.281.

16 (3)(a) Any person is eligible to act as a juror in a criminal trial, beginning on or after December
 17 5, 1996, unless the person:

- 18 (A) Is not a citizen of the United States;
- 19 (B) Does not live in the county in which summoned for jury service;
- 20 (C) Is less than 18 years of age;
- 21 (D) Has had rights and privileges withdrawn and not restored under ORS 137.281; or
- 22 (E) Has been convicted of a felony or served a felony sentence within the prior 15 years.

23 (b) As used in this subsection:

24 (A) "Felony sentence" includes any incarceration, post-prison supervision, parole or probation
 25 imposed upon conviction of a felony or served as a result of conviction of a felony.

26 (B) "Has been convicted of a felony" has the meaning given that term in ORS 166.270.

27 (4) A person who is blind, hearing or speech impaired or physically disabled [*shall not be*] **is**
 28 **not** ineligible to act as a juror [*or*] **and may not** be excluded from a jury list or jury service on the
 29 basis of blindness, hearing or speech impairment or physical disability alone.

30 (5) [*No*] **A** person is [*eligible*] **ineligible** to act as a juror in any circuit court of this state within
 31 24 months after being discharged from jury service in a federal court in this state or circuit court
 32 of this state unless that person's service as a juror is required because of a need for additional ju-
 33 rors.

34 (6) In addition to the disqualifications listed in subsection (2) of this section, a person is ineli-
 35 gible to act as a juror on a grand jury if the person has been convicted of a felony, other than a
 36 felony traffic offense, or has served a felony sentence, other than a sentence for a felony traffic of-
 37 fense, within the prior 15 years. As used in this subsection, "conviction" means an adjudication of
 38 guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

39 **SECTION 15.** ORS 20.107 is amended to read:

40 20.107. (1) In any civil judicial proceeding, including judicial review of an administrative pro-
 41 ceeding based on a claim of unlawful discrimination, the court shall award to the prevailing plaintiff
 42 attorney and expert witness fees reasonably and necessarily incurred in connection with the dis-
 43 crimination claim, at the trial court or agency level and on appeal. The court may award reasonable
 44 attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court
 45 determines that the plaintiff had no objectively reasonable basis for asserting a claim or no rea-

1 sonable basis for appealing an adverse decision of a trial court or agency.

2 (2) In making an award under this section, the court shall calculate attorney and expert witness
 3 fees on the basis of a reasonable hourly rate at the time the award is made, multiplied by the
 4 amount of time actually and reasonably spent in connection with the discrimination claim.

5 (3) When an award under this section is made against a state agency or an officer or employee
 6 of a state agency, the award shall be paid by the agency directly from funds available to it.

7 (4) As used in this section, “unlawful discrimination” means discrimination based upon personal
 8 characteristics including, but not limited to, [*gender*,] **race, religion, sex, sexual orientation**, na-
 9 tional origin, [*age*] **alienage**, marital status[, *race, religion or alienage*] **or age**.

10 **SECTION 16.** ORS 30.860 is amended to read:

11 30.860. (1) [*No*] **A** person or governmental entity [*shall*] **may not** discriminate against, boycott,
 12 blacklist, refuse to buy from, sell to or trade with any person because of foreign government imposed
 13 or sanctioned discrimination based upon the [*national origin*,] race, [*or*] religion, **sex, sexual ori-**
 14 **entation or national origin** of [*such*] **the** person or of [*such*] **the** person’s partners, members, di-
 15 rectors, stockholders, agents, employees, business associates, suppliers or customers.

16 (2) Any person directly injured in business or property by a violation of subsection (1) of this
 17 section may sue whoever knowingly practices, or conspires to practice, activities prohibited by
 18 subsection (1) of this section, and shall recover threefold the damages sustained. The court shall
 19 award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court
 20 may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails
 21 in the action if the court determines that the plaintiff had no objectively reasonable basis for as-
 22 serting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

23 **SECTION 17.** ORS 93.270 is amended to read:

24 93.270. (1) [*No*] **A** person conveying or contracting to convey fee title to real property [*shall*]
 25 **may not** include in an instrument for [*such*] **that** purpose a provision:

26 (a) Restricting the use of the real property by any person or group of persons by reason of **race**,
 27 color, [*race*,] religion, **sex, sexual orientation**, national origin or [*physical or mental handicap*]
 28 **disability**.

29 (b) Restricting the use of the real property by any home or facility that is licensed by or under
 30 the authority of the department under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide resi-
 31 dential care alone or in conjunction with treatment or training or a combination thereof.

32 (2) Any [*such*] provision in an instrument executed in violation of subsection (1) of this section
 33 is void and unenforceable.

34 (3) [*No*] **An** instrument that contains a provision restricting the use of real property in a manner
 35 listed in subsection (1)(b) of this section [*shall*] **does not** give rise to any public or private right of
 36 action to enforce the restriction.

37 (4)(a) [*No*] **An** instrument that contains a provision restricting the use of real property by re-
 38 quiring roofing materials with a lower fire rating than that required in the state building code es-
 39 tablished under ORS chapter 455 [*shall*] **does not** give rise to any public or private right of action
 40 to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone.
 41 Prohibitions on public or private right of action under this paragraph are limited solely to consid-
 42 erations of fire rating.

43 (b) As used in this subsection, “wildfire hazard zones” are areas that are legally declared by a
 44 governmental agency having jurisdiction over the area to have special hazards caused by a combi-
 45 nation of combustible natural fuels, topography and climatic conditions that result in a significant

1 hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be
 2 determined using criteria established by the State Forestry Department.

3 **SECTION 18.** ORS 109.035 is amended to read:

4 109.035. (1) As used in this section:

5 (a) "Custody order" includes any order, judgment or decree establishing or modifying custody
 6 of, or parenting time or visitation with, a minor child as described in ORS 107.095, 107.105 (1),
 7 107.135 or 109.103.

8 (b) "Foreign country" means any country that:

9 (A) Is not a signatory to the Hague Convention on the Civil Aspects of International Child
 10 Abduction;

11 (B) Does not provide for the extradition to the United States of a parental abductor and minor
 12 child;

13 (C) Has local laws or practices that would restrict the other parent of the minor child from
 14 freely traveling to or exiting from the country because of the [*gender*,] race, [*or*] religion, **sex or**
 15 **sexual orientation** of the other parent;

16 (D) Has local laws or practices that would restrict the ability of the minor child from legally
 17 leaving the country after the child reaches the age of majority because of the [*gender*,] race, [*or*]
 18 religion, **sex or sexual orientation** of the child; or

19 (E) Poses a significant risk that the physical health or safety of the minor child would be en-
 20 dangered in the country because of war, human rights violations or specific circumstances related
 21 to the needs of the child.

22 (2) A court that finds by clear and convincing evidence a risk of international abduction of a
 23 minor child may issue a court order requiring a parent who is subject to a custody order and who
 24 plans to travel with a minor child to a foreign country to provide security, bond or other guarantee
 25 as described in subsection (4) of this section.

26 (3) In determining whether a risk of international abduction of a minor child exists, a court shall
 27 consider the following factors involving a parent who is subject to a custody order:

28 (a) The parent has taken or retained, attempted to take or retain or threatened to take or retain
 29 a minor child in violation of state law or a valid custody order and the parent is unable to present
 30 clear and convincing evidence that the parent believed in good faith that the conduct was necessary
 31 to avoid imminent harm to the parent or the child;

32 (b) The parent has recently engaged in a pattern of activities that indicates the parent is plan-
 33 ning to abduct the minor child from this country;

34 (c) The parent has strong familial, emotional or cultural connections to this country or another
 35 country, regardless of citizenship or residency status; and

36 (d) Any other relevant factors.

37 (4) A security, bond or other guarantee required by a court under this section may include, but
 38 is not limited to, any of the following:

39 (a) A bond or security deposit in an amount that is sufficient to offset the cost of recovering the
 40 minor child if the child is abducted;

41 (b) Supervised parenting time; or

42 (c) Passport and travel controls, including but not limited to controls that:

43 (A) Prohibit the parent from removing the minor child from this state or this country;

44 (B) Require the parent to surrender a passport or an international travel visa that is issued in
 45 the name of the minor child or jointly in the names of the parent and the child;

1 (C) Prohibit the parent from applying for a new or replacement passport or international travel
2 visa on behalf of the minor child; and

3 (D) Require the parent to provide to a relevant embassy or consulate and to the Office of Chil-
4 dren's Issues in the United States Department of State the following documents:

5 (i) Written notice of passport and travel controls required under this paragraph; and

6 (ii) A certified copy of a court order issued under this section.

7 (5) After considering the factors under subsection (3) of this section and requiring a security,
8 bond or other guarantee under this section, the court shall issue a written determination supported
9 by findings of fact and conclusions of law.

10 (6) Nothing in this section is intended to limit the inherent power of a court in matters relating
11 to children.

12 **SECTION 19.** ORS 166.155 is amended to read:

13 166.155. (1) A person commits the crime of intimidation in the second degree if the person:

14 (a) Tamper or interferes with property, having no right to do so nor reasonable ground to be-
15 lieve that the person has such right, with the intent to cause substantial inconvenience to another
16 because of the person's perception of the other's race, color, religion, [*national origin or*] sexual
17 orientation **or national origin**;

18 (b) Intentionally subjects another to offensive physical contact because of the person's percep-
19 tion of the other's race, color, religion, [*national origin or*] sexual orientation **or national origin**;
20 or

21 (c) Intentionally, because of the person's perception of race, color, religion, [*national origin or*]
22 sexual orientation **or national origin** of another or of a member of the other's family, subjects
23 [*such*] **the** other person to alarm by threatening:

24 (A) To inflict serious physical injury upon or to commit a felony affecting [*such*] **the** other per-
25 son, or a member of the person's family; or

26 (B) To cause substantial damage to the property of the other person or of a member of the other
27 person's family.

28 (2) Intimidation in the second degree is a Class A misdemeanor.

29 (3) For purposes of this section[:],

30 [(a)] "property" means any tangible personal property or real property.

31 [(b)] "*Sexual orientation*" means *heterosexuality, homosexuality or bisexuality.*]

32 **SECTION 20.** ORS 166.165 is amended to read:

33 166.165. (1) Two or more persons acting together commit the crime of intimidation in the first
34 degree, if the persons:

35 (a)(A) Intentionally, knowingly or recklessly cause physical injury to another person because of
36 the actors' perception of that person's race, color, religion, [*national origin or*] sexual orientation
37 **or national origin**; or

38 (B) With criminal negligence cause physical injury to another person by means of a deadly
39 weapon because of the actors' perception of that person's race, color, religion, [*national origin or*]
40 sexual orientation **or national origin**;

41 (b) Intentionally, because of the actors' perception of another person's race, color, religion,
42 [*national origin or*] sexual orientation **or national origin**, place another person in fear of imminent
43 serious physical injury; or

44 (c) Commit such acts as would constitute the crime of intimidation in the second degree, if
45 undertaken by one person acting alone.

1 (2) Intimidation in the first degree is a Class C felony.

2 [(3) “Sexual orientation” has the meaning given that term in ORS 166.155.]

3 **SECTION 21.** ORS 179.750 is amended to read:

4 179.750. (1) Discrimination may not be made in the admission, accommodation, care, education
5 or treatment of any person in a state institution because the person does or does not contribute to
6 the cost of the care.

7 (2) Discrimination may not be made in the provision of or access to educational facilities and
8 services and recreational facilities and services to any person in the state institutions enumerated
9 in ORS 420.005 or Department of Corrections institutions as defined in ORS 421.005 on the basis of
10 race, religion, sex, **sexual orientation, national origin or** marital status [*or national origin*] of the
11 person. This subsection does not require combined domiciliary facilities at the state institutions to
12 which it applies.

13 **SECTION 22.** ORS 182.100 is amended to read:

14 182.100. (1) It is declared to be the policy of Oregon that this state shall be a leader in affir-
15 mative action. All appointive authorities for state boards, commissions and advisory bodies shall
16 implement this policy of affirmative action in their appointments, subject to the legal requirements
17 for each appointment.

18 (2) The Director of Affirmative Action shall assist all persons who have appointing authority
19 at the state level for boards, commissions or advisory bodies in carrying out the state policy stated
20 in subsection (1) of this section and ORS 236.115.

21 (3) As used in this section, “affirmative action” means a method of eliminating the effects of past
22 and present discrimination, intended or unintended, on the basis of race, religion, [*national origin,*
23 *age,*] sex, **sexual orientation, national origin,** marital status, **age or disability** [*or physical or*
24 *mental disabilities*], that are evident or indicated by analysis of present appointment patterns, prac-
25 tices and policies.

26 **SECTION 23.** ORS 192.630 is amended to read:

27 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
28 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
29 to 192.690.

30 (2) No quorum of a governing body shall meet in private for the purpose of deciding on or de-
31 liberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

32 (3) A governing body [*shall*] **may** not hold a meeting at any place where discrimination on the
33 basis of race, [*creed,*] color, **religion, creed,** sex, **sexual orientation,** [*age,*] national origin, **age** or
34 disability is practiced. However, the fact that organizations with restricted membership hold
35 meetings at the place [*shall*] **does** not restrict its use by a public body if use of the place by a re-
36 stricted membership organization is not the primary purpose of the place or its predominate use.

37 (4) Meetings of the governing body of a public body shall be held within the geographic bound-
38 aries over which the public body has jurisdiction, or at the administrative headquarters of the public
39 body or at the other nearest practical location. Training sessions may be held outside the jurisdic-
40 tion so long as no deliberations toward a decision are involved. A joint meeting of two or more
41 governing bodies or of one or more governing bodies and the elected officials of one or more feder-
42 ally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one
43 of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the
44 nearest practical location. Meetings may be held in locations other than those described in this
45 subsection in the event of an actual emergency necessitating immediate action.

1 (5)(a) It shall be considered discrimination on the basis of disability for a governing body of a
 2 public body to meet in a place inaccessible to the disabled, or, upon request of a hearing impaired
 3 person, to fail to make a good faith effort to have an interpreter for hearing impaired persons pro-
 4 vided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of disability
 5 shall be as provided in ORS 192.680.

6 (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice
 7 of the request for an interpreter, shall provide the name of the requester, sign language preference
 8 and any other relevant information the governing body may request.

9 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have
 10 an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

11 (d) If certification of interpreters occurs under state or federal law, the Oregon Disabilities
 12 Commission or other state or local agency shall try to refer only certified interpreters to governing
 13 bodies for purposes of this subsection.

14 (e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the
 15 Oregon Disabilities Commission or other state or local agency that maintains a list of qualified in-
 16 terpreters and arranging for the referral of one or more [*such persons*] **qualified interpreters** to
 17 provide interpreter services.

18 **SECTION 24.** ORS 240.306 is amended to read:

19 240.306. (1) Recruiting, selecting and promoting employees shall be on the basis of their relative
 20 ability, knowledge, experience and skills, determined by open competition and consideration of
 21 qualified applicants, without regard to an individual's race, color, religion, sex, **sexual orientation**,
 22 [*marital status,*] national origin, **marital status**, [*political affiliation,*] age, disability, **political affil-**
 23 **iation** or other nonjob related factors, with proper regard for an individual's privacy. Nothing in
 24 this subsection shall be construed to enlarge or diminish the obligation of the state or the rights
 25 of employees concerning claims of employment discrimination as prescribed by applicable state and
 26 federal employment discrimination laws.

27 (2) The Oregon Department of Administrative Services shall establish procedures to provide for
 28 statewide open recruitment and selection for classifications [*which*] **that** are common to state
 29 agencies. [*Such*] **The** procedures shall include adequate public notice, affirmative action to seek out
 30 underutilized members of protected minorities, and job related testing. The department may delegate
 31 to individual operating agencies the responsibility for recruitment and selection of classifications
 32 where appropriate.

33 (3) Competition for appropriate positions may be limited to facilitate employment of those with
 34 a substantial disability or who are economically disadvantaged, or for purposes of implementing a
 35 specified affirmative action program.

36 (4) Appointments to positions in state service shall be made on the basis of qualifications and
 37 merit by selection from eligible lists established by the department or a delegated operating agency.

38 (5)(a) Noncompetitive selection and appointment procedures may be used for unskilled or semi-
 39 skilled positions, or where job related ranking measures are not practical or appropriate.

40 (b) Noncompetitive selection and appointment or direct appointment also may be used by agency
 41 appointing authorities to fill positions that:

42 (A) Require special or unique skills such as expert professional level or executive positions; or

43 (B) Have critical timing requirements affecting recruitment.

44 (6) Minimum qualifications and performance requirements and duties of a classification may be
 45 appropriately modified to permit the appointment and promotion of trainees to positions normally

1 filled at full proficiency level.

2 (7) The department or delegated agencies shall establish systems to provide opportunities for
3 promotion through meritorious service, training, education and career development assignments.
4 The department shall certify to the eligibility of persons selected for promotion or delegate that
5 responsibility to operating agencies in appropriate situations. Provision shall be made to bring per-
6 sons into state service through open competition at higher levels [*where such*] **when the** competition
7 provides abilities not available among existing employees, enrich state service or contribute to im-
8 proved employment opportunity for underrepresented groups.

9 **SECTION 25.** ORS 243.305 is amended to read:

10 243.305. (1) It is declared to be the public policy of Oregon that all branches of state government
11 shall be leaders among employing entities within the state in providing to its citizens and employees,
12 through a program of affirmative action, fair and equal opportunities for employment and advance-
13 ment in programs and services and in the awarding of contracts.

14 (2) **As used in this section**, “affirmative action” means a method of eliminating the effects of
15 past and present discrimination, intended or unintended, on the basis of race, religion, [*national or-*
16 *igin, age,*] sex, **sexual orientation, national origin**, marital status, **age or disability** [*or physical*
17 *or mental disabilities*].

18 **SECTION 26.** ORS 307.580 is amended to read:

19 307.580. (1) If not otherwise exempt by law and upon compliance with ORS 307.162, all real and
20 personal property or proportion thereof owned or being purchased by an industry apprenticeship or
21 training trust is exempt from property taxation if:

22 (a) The trust is organized pursuant to a trust instrument solely for the purpose of aiding or as-
23 sisting in the implementation or operation of one or more apprenticeship or training programs that
24 conform to and are conducted under ORS chapter 660;

25 (b) The property or proportion thereof that is the subject of the exemption is actually and ex-
26 clusively occupied and used in the implementation or operation of an apprenticeship or training
27 program or programs that are established under, conform to and are conducted under ORS chapter
28 660; and

29 (c) The trust is considered an organization exempt from federal income taxes under the federal
30 Internal Revenue Code or other laws of the United States relating to federal income taxes.

31 (2) If property described under subsection (1) of this section would be exempt from taxation ex-
32 cept that it is held under lease or lease-purchase agreement by the trust rather than owned or being
33 purchased by it, the property shall be exempt from taxation upon compliance with and subject to
34 ORS 307.112.

35 (3) [*No*] **An** exemption [*shall*] **may not** be allowed under subsection (1) or (2) of this section if
36 the property is used in the implementation or operation of an apprenticeship or training program
37 that discriminates with respect to its participants on the basis of [*age,*] race, religion, sex, **sexual**
38 **orientation**, [*or*] national origin **or age**.

39 **SECTION 27.** ORS 329.025 is amended to read:

40 329.025. It is the intent of the Legislative Assembly to maintain a system of public elementary
41 and secondary schools that allows students, parents, teachers, administrators, school district boards
42 and the State Board of Education to be accountable for the development and improvement of the
43 public school system. The public school system shall have the following characteristics:

44 (1) Provides equal and open access and educational opportunities for all students in the state
45 regardless of their linguistic background, culture, race, [*gender*] **sex, sexual orientation**, capability

1 or geographic location;

2 (2) Assumes that all students can learn and establishes high, specific skill and knowledge ex-
3 pectations and recognizes individual differences at all instructional levels;

4 (3) Provides special education, compensatory education, linguistically and culturally appropriate
5 education and other specialized programs to all students who need those services;

6 (4) Provides students with a solid foundation in the skills of reading, writing, problem solving
7 and communication;

8 (5) Provides opportunities for students to learn, think, reason, retrieve information, use tech-
9 nology and work effectively alone and in groups;

10 (6) Provides for rigorous academic content standards and instruction in mathematics, science,
11 English, history, geography, economics, civics, physical education, health, the arts and second lan-
12 guages;

13 (7) Provides students an educational background to the end that they will function successfully
14 in a constitutional republic, a participatory democracy and a multicultural nation and world;

15 (8) Provides students with the knowledge and skills that will provide the opportunities to suc-
16 ceed in the world of work, as members of families and as citizens;

17 (9) Provides students with the knowledge, skills and positive attitude that lead to an active,
18 healthy lifestyle;

19 (10) Provides students with the knowledge and skills to take responsibility for their decisions
20 and choices;

21 (11) Provides opportunities for students to learn through a variety of teaching strategies;

22 (12) Emphasizes involvement of parents and the community in the total education of students;

23 (13) Transports children safely to and from school;

24 (14) Ensures that the funds allocated to schools reflect the uncontrollable differences in costs
25 facing each district;

26 (15) Ensures that local schools have adequate control of how funds are spent to best meet the
27 needs of students in their communities; and

28 (16) Provides for a safe, educational environment.

29 **SECTION 28.** ORS 338.125 is amended to read:

30 338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who
31 reside within the school district where the public charter school is located are eligible for enroll-
32 ment at a public charter school. If the number of applications from students who reside within the
33 school district exceeds the capacity of a program, class, grade level or building, the public charter
34 school shall select students through an equitable lottery selection process. However, after a public
35 charter school has been in operation for one or more years, the public charter school may give
36 priority for admission to students:

37 (a) Who were enrolled in the school in the prior year; or

38 (b) Who have siblings who are presently enrolled in the school and who were enrolled in the
39 school in the prior year.

40 (2) If space is available a public charter school may admit students who do not reside in the
41 school district in which the public charter school is located.

42 (3) A public charter school may not limit student admission based on **race, religion, sex, sexual**
43 **orientation**, ethnicity, national origin, [*race, religion,*] disability, [*gender,*] income level, proficiency
44 in the English language or athletic ability, but may limit admission to students within a given age
45 group or grade level.

1 (4) A public charter school may conduct fund-raising activities. However, a public charter school
 2 [shall] **may** not require a student to participate in fund-raising activities as a condition of admission
 3 to the public charter school.

4 **SECTION 29.** ORS 418.925 is amended to read:

5 418.925. As used in ORS 418.925 to 418.945, “refugee child” is a person under 18 years of age
 6 who has entered the United States and is unwilling or unable to return to the person’s country be-
 7 cause of persecution or a well-founded fear of persecution on account of race, religion, **sex, sexual**
 8 **orientation**, nationality, membership in a particular group or political opinion, or whose parents
 9 entered the United States within the preceding 10 years and are or were unwilling or unable to
 10 return to their country because of persecution or a well-founded fear of persecution on account of
 11 race, religion, **sex, sexual orientation**, nationality, membership in a particular group or political
 12 opinion.

13 **SECTION 30.** ORS 430.550 is amended to read:

14 430.550. [No] **A** person, otherwise eligible, [shall] **may not** be denied evaluation or treatment
 15 under ORS 430.450 to 430.555 on account of [age,] **race, religion, sex, sexual orientation,** [race,]
 16 nationality, [religious preference] **age** or ability to pay.

17 **SECTION 31.** ORS 443.739 is amended to read:

18 443.739. Residents of adult foster homes have the following rights. Providers shall guarantee
 19 these rights and help residents exercise them. The provider shall post a copy of the Residents’ Bill
 20 of Rights in the entry or other equally prominent place in the adult foster home. The Residents’ Bill
 21 of Rights states that each resident of an adult foster home has the right to:

- 22 (1) Be treated as an adult, with respect and dignity.
- 23 (2) Be informed of all resident rights and all house rules.
- 24 (3) Be encouraged and assisted to exercise legal rights, including the right to vote.
- 25 (4) Be informed of the resident’s medical condition and the right to consent to or refuse treat-
 26 ment.
- 27 (5) Receive appropriate care and services, and prompt medical care as needed.
- 28 (6) A safe and secure environment.
- 29 (7) Be free from mental and physical abuse.
- 30 (8) Be free from chemical or physical restraints except as ordered by a physician or other
 31 qualified practitioner.
- 32 (9) Complete privacy when receiving treatment or personal care.
- 33 (10) Associate and communicate privately with any person the resident chooses.
- 34 (11) Send and receive personal mail unopened.
- 35 (12) Participate in activities of social, religious and community groups.
- 36 (13) Have medical and personal information kept confidential.
- 37 (14) Keep and use a reasonable amount of personal clothing and belongings, and to have a rea-
 38 sonable amount of private, secure storage space.
- 39 (15) Manage the resident’s own money and financial affairs unless legally restricted.
- 40 (16) Be free from financial exploitation. The provider [shall] **may** not charge or ask for appli-
 41 cation fees or nonrefundable deposits and [shall] **may** not solicit, accept or receive money or prop-
 42 erty from a resident other than the amount agreed to for services.
- 43 (17) A written agreement regarding the services to be provided and the rate schedule to be
 44 charged. The provider must give 30 days’ written notice before any change in the rates or the
 45 ownership of the home.

1 (18) Not to be transferred or moved out of the adult foster home without 30 days' advance
 2 written notice and an opportunity for a hearing. A provider may transfer or discharge a resident
 3 only for medical reasons including a medical emergency described in ORS 443.738 (11)(b), or for the
 4 welfare of the resident or other residents, or for nonpayment.

5 (19) Be free of discrimination in regard to race, color, [*national origin,*] **religion, sex, sexual**
 6 **orientation** or [*religion*] **national origin**.

7 (20) Make suggestions and complaints without fear of retaliation.

8 **SECTION 32.** ORS 458.505 is amended to read:

9 458.505. (1) The community action agency network, established initially under the federal Eco-
 10 nomic Opportunity Act of 1964, shall be the delivery system for federal antipoverty programs in
 11 Oregon, including the Community Services Block Grant, Low Income Energy Assistance Program,
 12 State Department of Energy Weatherization Program and [*such*] **any** others [*as*] **that** may become
 13 available.

14 (2) Funds for [*such*] **the** programs shall be distributed to the community action agencies by the
 15 Housing and Community Services Department with the advice of the Community Action Directors
 16 of Oregon.

17 (3) In areas not served by a community action agency, funds other than federal community ser-
 18 vices funds may be distributed to and administered by organizations that are found by the Housing
 19 and Community Services Department to serve the antipoverty purpose of the community action
 20 agency network.

21 (4) In addition to complying with all applicable requirements of federal law, a community action
 22 agency shall:

23 (a) Be an office, division or agency of the designating political subdivision or a not for profit
 24 organization in compliance with ORS chapter 65.

25 (b) Have a community action board of at least nine but no more than 33 members, constituted
 26 so that:

27 (A) One-third of the members of the board are elected public officials currently serving or their
 28 designees. If the number of elected officials reasonably available and willing to serve is less than
 29 one-third of the membership, membership of appointed public officials may be counted as meeting the
 30 one-third requirement;

31 (B) At least one-third of the members are persons chosen through democratic selection proce-
 32 dures adequate to assure that they are representatives of the poor in the area served; and

33 (C) The remainder of the members are officials or members of business, industry, labor, religious,
 34 welfare, education or other major groups and interests in the community.

35 (c) If the agency is a private not for profit organization, be governed by the Community Action
 36 Board. The board [*shall have*] **has** all duties, responsibilities and powers normally associated with
 37 such boards, including, but not limited to:

38 (A) Selection, appointment and dismissal of the executive director of the agency;

39 (B) Approval of all contracts, grant applications and budgets and operational policies of the
 40 agency;

41 (C) Evaluation of programs; and

42 (D) Securing an annual audit of the agency.

43 (d) If the organization is an office, division or agency of a political subdivision, be administered
 44 by the board, which shall provide for the operation of the agency and be directly responsible to the
 45 governing board of the political subdivision. The administering board at a minimum, shall:

- 1 (A) Review and approve program policy;
- 2 (B) Be involved in and consulted on the hiring and firing of the agency director;
- 3 (C) Monitor and evaluate program effectiveness;
- 4 (D) Ensure the effectiveness of community involvement in the planning process; and
- 5 (E) Assume all duties delegated to it by the governing board.
- 6 (e) Have a clearly defined, specified service area. Community action service areas *[shall]* **may**
- 7 not overlap.
- 8 (f) Have an accounting system *[which]* **that** meets generally accepted accounting principles and
- 9 be so certified by an independent certified accountant.
- 10 (g) Provide assurances against the use of government funds for political activity by the com-
- 11 munity action agency.
- 12 (h) Provide assurances that *[no person shall]* **a person may not**, on the grounds of race, color,
- 13 *[national origin or]* sex, **sexual orientation or national origin**, be excluded from participation in,
- 14 be denied the benefits of or be subjected to discrimination under any program or activity funded in
- 15 whole or in part with funds made available through the community action program.
- 16 (i) Provide assurances the community action agency shall comply with any prohibition against
- 17 discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an
- 18 otherwise qualified individual with disabilities as provided in section 504 of the Rehabilitation Act
- 19 of 1973.
- 20 (5) For the purposes of this section, the Oregon Human Development Corporation is eligible to
- 21 receive federal community service funds and low-income energy assistance funds.
- 22 (6) The Housing and Community Services Department shall:
- 23 (a) Administer federal and state antipoverty programs.
- 24 (b) Apply for all available antipoverty funds on behalf of eligible entities as defined in this sec-
- 25 tion.
- 26 (c) In conjunction with the Community Action Directors of Oregon, develop a collaborative role
- 27 in advocating for, and addressing the needs of, all low income Oregonians.
- 28 (d) Biennially produce and make available to the public a status report on efforts by it and state
- 29 agencies to reduce the incidence of poverty in Oregon. This report shall contain figures regarding
- 30 the numbers and types of persons living in poverty in Oregon.
- 31 (e) On a regular basis provide information to the Community Action Directors of Oregon on the
- 32 activities and expenditures of the Housing and Community Services Department.
- 33 (f) As resources are available, provide resources for technical assistance, training and program
- 34 assistance to eligible entities.
- 35 (g) As resources are available, provide resources for the training and technical assistance needs
- 36 of the Community Action Directors of Oregon.
- 37 (h) Conduct a planning process to meet the needs of low income people in Oregon. That process
- 38 shall fully integrate the Oregon Human Development Corporation into the antipoverty delivery sys-
- 39 tem. The planning process shall include development of a plan for minimum level of services and
- 40 funding for low income migrant and seasonal farmworkers from the antipoverty programs adminis-
- 41 tered by the agency.
- 42 (i) Limit its administrative budget in an effort to maximize the availability of antipoverty federal
- 43 and state funds for expenditures by local eligible entities.
- 44 **SECTION 33.** ORS 654.062 is amended to read:
- 45 654.062. (1) Every employee should notify the employer of any violation of law, regulation or

1 standard pertaining to safety and health in the place of employment when the violation comes to the
2 knowledge of the employee.

3 (2) However, any employee or representative of the employee may complain to the Director of
4 the Department of Consumer and Business Services or any authorized representatives of the director
5 of any violation of law, regulation or standard pertaining to safety and health in the place of em-
6 ployment, whether or not the employee also notifies the employer.

7 (3) Upon receiving any employee complaint, the director shall make *[such]* inquiries, inspections
8 and investigations as the director considers reasonable and appropriate. *[Where]* **If** an employee *[has*
9 *complained]* **complains to the director** in writing of an alleged violation and *[no resulting]* **the di-**
10 **rector does not issue a** citation *[is issued]* to the employer **for the alleged violation**, the director
11 shall furnish to the employee or representative of the employee, upon written request, a statement
12 of reasons for the decision.

13 (4) The director shall establish procedures for keeping confidential the identity of any employee
14 who requests *[such protection]* **confidentiality** in writing. *[Where such]* **When** a request **for**
15 **confidentiality** has been made, neither a written complaint from an employee, or representative of
16 the employee, nor a memorandum containing the identity of a complainant *[shall be construed as a*
17 *public record]* **may be disclosed** under ORS 192.210 to 192.505 *[and 192.610 to 192.990]*.

18 (5)(a) It is an unlawful employment practice for any person to bar or discharge from employment
19 or otherwise discriminate against any employee or prospective employee because *[such]* **the** em-
20 ployee has opposed any practice forbidden by ORS 654.001 to 654.295 and 654.750 to 654.780, made
21 any complaint or instituted or caused to be instituted any proceeding under or related to ORS
22 654.001 to 654.295 and 654.750 to 654.780, or has testified or is about to testify in *[any such]* **the**
23 proceeding, or because of the exercise *[of such]* **by the** employee on behalf of the employee or others
24 of any right afforded by ORS 654.001 to 654.295 and 654.750 to 654.780.

25 (b) Any employee or prospective employee who believes that the employee has been barred or
26 discharged from employment or otherwise discriminated against in compensation, or in terms, con-
27 ditions or privileges of employment, by any person in violation of this subsection may, within 30
28 days after the employee has reasonable cause to believe that *[such]* a violation has occurred, file a
29 complaint with the Commissioner of the Bureau of Labor and Industries alleging *[such]* **the** dis-
30 crimination under the provisions of ORS 659A.820. Upon receipt of *[such]* **the** complaint, the com-
31 missioner shall process the complaint and case under the procedures, policies and remedies
32 established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295 and 654.750
33 to 654.780 in the same way and to the same extent that the complaint would be processed by the
34 commissioner if the complaint involved allegations of unlawful employment practices *[based upon*
35 *race, religion, color, national origin, sex or age]* under ORS 659A.030 (1)(f). The *[affected employee*
36 *shall also have the right to]* **employee may also** bring a suit in any circuit court of the State of
37 Oregon against any person alleged to have violated this subsection. The commissioner or the circuit
38 court may order all appropriate relief including rehiring or reinstatement of the employee to the
39 employee's former position with back pay.

40 (c) Within 90 days after the receipt of a complaint filed under this subsection, the commissioner
41 shall notify the complainant of the commissioner's determination under paragraph (b) of this sub-
42 section.

43 **SECTION 34.** ORS 659.850 is amended to read:

44 659.850. (1) As used in this section, "discrimination" means any act that unreasonably differen-
45 tiates treatment, intended or unintended, or any act that is fair in form but discriminatory in oper-

1 ation, either of which is based on [*age, disability, national origin, race, marital status, religion or*
 2 *sex*] **race, color, religion, sex, sexual orientation, national origin, marital status, age or disa-**
 3 **bility. “Discrimination” does not include enforcement of an otherwise valid dress code or**
 4 **policy, as long as the code or policy provides, on a case-by-case basis, for reasonable ac-**
 5 **commodation of an individual based on the health and safety needs of the individual.**

6 (2) [No] A person [*in Oregon shall*] **may not** be subjected to discrimination in any public ele-
 7 mentary, secondary or community college education program or service, school or interschool ac-
 8 tivity or in any higher education program or service, school or interschool activity where the
 9 program, service, school or activity is financed in whole or in part by moneys appropriated by the
 10 Legislative Assembly.

11 (3) The State Board of Education and the State Board of Higher Education shall establish rules
 12 necessary to [*insure*] **ensure** compliance with subsection (2) of this section in the manner required
 13 by ORS chapter 183.

14 **SECTION 35.** ORS 660.139 is amended to read:

15 660.139. (1) Unless the State Apprenticeship and Training Council determines there is an adverse
 16 impact on apprenticeship opportunities based on an individual’s race, sex, **sexual orientation** or
 17 ethnic group, an applicant who is otherwise eligible for selection as an apprentice under the se-
 18 lection method used by the local joint committee may, with the consent of the applicant, be
 19 indentured to a family business or the applicant’s current employer without regard to whether an-
 20 other employer would otherwise be entitled to indenture the apprentice under the selection method
 21 used by the local joint committee.

22 (2) As used in this section:

23 (a) “Current employer” means the employer with whom the applicant has been a full-time, reg-
 24 ular employee for at least six months before the applicant is selected into the apprenticeship pro-
 25 gram.

26 (b) “Family business” means a business owned in whole or in part by a parent or grandparent
 27 of the applicant.

28 **SECTION 36.** ORS 744.353 is amended to read:

29 744.353. (1) A licensee [*shall*] **may not** pay or offer to pay a finder’s fee, commission or other
 30 compensation to a person described in this subsection, in connection with a policy insuring the life
 31 of an individual with a terminal illness or condition. The prohibition under this subsection applies
 32 with respect to payments or offers of payment to:

33 (a) The physician, attorney or accountant of the policyholder, of the certificate holder or of the
 34 insured individual when the individual is other than the policyholder or certificate holder.

35 (b) Any person other than a physician, attorney or accountant described in paragraph (a) of this
 36 subsection, who provides medical, legal or financial planning services to the policyholder, to the
 37 certificate holder or to the insured individual when the individual is other than the policyholder or
 38 certificate holder.

39 (c) Any person other than one described in paragraph (a) or (b) of this subsection who acts as
 40 an agent of the policyholder, certificate holder or insured individual.

41 (2) A licensee [*shall*] **may not** solicit an investor who could influence the treatment of the illness
 42 or condition of the individual whose life would be the subject of a life settlement contract.

43 (3) All information solicited or obtained from a policyholder or certificate holder by a licensee
 44 [*shall be*] **is** subject to ORS 746.600 to 746.690. For purposes of this subsection, a licensee [*shall be*]
 45 **is** considered an insurance-support organization within the meaning of ORS 746.600.

1 (4) A licensee [*shall*] **may** not discriminate in the making of a life settlement contract on the
 2 basis of race, [*age*] **religion, creed, sex, sexual orientation**, national origin, [*creed, religion, occu-*
 3 *pation,*] marital **status, age, [or family] familial** status[, *sexual orientation,*] **or occupation** or dis-
 4 criminate between persons who have dependents and persons who do not have dependents.

5 **SECTION 37. ORS 236.380 is repealed.**

6 **SECTION 38.** ORS 353.100, as amended by section 263, chapter 794, Oregon Laws 2003, is
 7 amended to read:

8 353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 30.260 to 30.460,
 9 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and
 10 307.112 [*shall*] apply to Oregon Health and Science University under the same terms as they apply
 11 to public bodies other than the state.

12 (2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273,
 13 276, 279, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210
 14 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105,
 15 200.035, [236.380,] 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 282.010 to
 16 282.150, 357.805 to 357.895 and 656.017 (2) [*shall*] **do** not apply to the university or any not-for-profit
 17 organization or other entity if the equity of the entity is owned exclusively by the university and
 18 if the organization or entity is created by the university to advance any of the university's statutory
 19 missions.

20 (3) The university, as a distinct governmental entity, or any organization or entity described in
 21 subsection (2) of this section [*shall not be*] **is not** subject to any provision of law enacted after
 22 January 1, 1995, with respect to any governmental entity, unless the provision specifically provides
 23 that it applies to the university or to the organization or entity.

24 **SECTION 39.** ORS 421.352, as amended by section 279, chapter 794, Oregon Laws 2003, is
 25 amended to read:

26 421.352. (1) The provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279, 279A, 279B, 279C,
 27 283, 291, 292 and 293 and ORS 35.550 to 35.575, 183.710 to 183.725, 183.745, 183.750, 184.345, 190.430,
 28 190.490, 200.035, [236.380,] 236.605 to 236.640, 243.303, 243.305, 243.315, 243.325 to 243.335, 243.345,
 29 243.350, 243.696, 282.010 to 282.150 and 656.017 (2) [*shall*] **do** not apply to Oregon Corrections En-
 30 terprises.

31 (2) Oregon Corrections Enterprises [*shall not be*] **is not** subject to any provision of law enacted
 32 after December 2, 1999, that governs state agencies generally unless the provision specifically pro-
 33 vides that it applies to Oregon Corrections Enterprises.

34 **SECTION 40. The amendments to ORS 30.860, 93.270, 166.155, 166.165, 179.750, 338.125,**
 35 **458.505, 659.850, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 660.139 and 744.353 by**
 36 **sections 5, 6, 7, 8, 9, 16, 17, 19, 20, 21, 28, 32, 34, 35 and 36 of this 2005 Act apply to acts**
 37 **committed on or after the effective date of this 2005 Act.**

38 **SECTION 41. The amendments to ORS 10.030 by section 14 of this 2005 Act apply to op-**
 39 **portunities for jury service arising on or after the effective date of this 2005 Act.**

40 **SECTION 42. The amendments to ORS 20.107 by section 15 of this 2005 Act apply to**
 41 **claims of unlawful discrimination filed on or after the effective date of this 2005 Act.**

42 **SECTION 43. The amendments to ORS 192.630 by section 23 of this 2005 Act apply to**
 43 **meetings held on or after the effective date of this 2005 Act.**

44 **SECTION 44. The amendments to ORS 240.306 by section 24 of this 2005 Act apply to**
 45 **employee recruitment, selection and promotion on or after the effective date of this 2005 Act.**

1 affiant under ORS 106.050.

2 (4)(a) A **marriage** license [*issued after July 13, 1995,*] must contain the following statement:
3 “Neither you nor your spouse is the property of the other. The laws of the State of Oregon affirm
4 your right to enter into marriage and at the same time to live within the marriage free from vi-
5 olence and abuse.”

6 (b) A **civil union license must contain the following statement: “Neither you nor your
7 partner is the property of the other. The laws of the State of Oregon affirm your right to
8 enter into a civil union and at the same time to live within the civil union free from violence
9 and abuse.”**

10 **SECTION 51.** ORS 106.045 is amended to read:

11 106.045. (1) In addition to any other fees provided by law, the county clerk shall collect a fee
12 of \$25 upon the application for a marriage license **or a civil union license**.

13 (2) The county clerk shall regularly pay over to the Director of Human Services all moneys
14 collected under subsection (1) of this section to be credited to the Domestic Violence Fund pursuant
15 to ORS 108.660.

16 **SECTION 52.** ORS 106.050 is amended to read:

17 106.050. (1) The county clerk may accept any reasonable proof of the applicant’s age satisfactory
18 to the clerk. The clerk may require proof of age by affidavit of some person other than either of the
19 parties seeking the **marriage** license **or civil union license** if the clerk deems it necessary in order
20 to determine the age of an applicant to the clerk’s satisfaction.

21 (2) If an applicant for a [*marriage*] license is less than 18 years of age, the applicant must file
22 with the county clerk an affidavit of some person other than either of the parties seeking the license
23 showing the facts other than age necessary to be shown under ORS 106.060 in the particular case,
24 except the consent of the parent or guardian required by ORS 106.060 [*shall*] **may** not be part of the
25 affidavit. The affidavit is sufficient authority to the clerk, so far as the facts stated [*therein*] **in the**
26 **affidavit**, for issuing the license.

27 **SECTION 53.** ORS 106.060 is amended to read:

28 106.060. A marriage license [*shall*] **or civil union license may** not be issued without the written
29 consent of the parent or guardian, if any, of an applicant who is less than 18 years of age, nor in
30 any case unless the parties are each of an age, as provided in ORS 106.010, capable of contracting
31 marriage **or civil union**. If either party under 18 years of age has no parent or guardian resident
32 within this state and either party has resided within the county in which application is made for the
33 six months immediately preceding the application, the license may issue, if otherwise proper, without
34 the consent of the nonresident parent or guardian.

35 **SECTION 54.** ORS 106.077 is amended to read:

36 106.077. (1) When the county clerk has received the written application for the marriage license
37 **or civil union license** from both applicants, and all other legal requirements for issuance of the
38 [*marriage*] license have been met, the county clerk shall issue [*a marriage*] **the** license. [*which shall*
39 *become*] **The license becomes** effective three days after the date on which the application was
40 signed by the applicants. The county clerk shall indicate on the license the date on which the li-
41 cense becomes effective. A license [*shall be*] **is** valid for 60 days after the effective date.

42 (2) For good and sufficient cause shown, a written order waiving the three-day waiting period
43 provided in subsection (1) of this section may be signed by:

44 (a) A judge of probate of the county;

45 (b) A circuit court judge of the county in which the circuit court judge is not the judge of pro-

1 bate if the jurisdiction of the circuit court has been extended to cover this section pursuant to ORS
2 3.275;

3 (c) A judge of a county court of the county in which the judge of the county court is not the
4 judge of probate if the circuit court judge does not reside [*therein*] **in the county**; or

5 (d) The county clerk or official responsible for issuing the [*marriage*] license.

6 **SECTION 55.** ORS 106.081 is amended to read:

7 106.081. When the county clerk issues a marriage license **or civil union license**, the county
8 clerk shall also give to the licensees a pamphlet describing the medical condition known as fetal
9 alcohol syndrome, its causes and its effects. The pamphlet shall be provided to the counties by the
10 Department of Human Services under ORS 431.825 for distribution under this section.

11 **SECTION 56.** ORS 106.100 is amended to read:

12 106.100. The person solemnizing the marriage **or civil union** may retain the marriage license
13 **or civil union license** in the possession of the person. The clerk who issues the license, before de-
14 livering it, shall enter in the marriage **and civil union** book a memorandum of the names of the
15 parties, the consent of the parent or guardian, if any, the name of the affiant, the substance of the
16 affidavit upon which the license issued and the date of the license.

17 **SECTION 57.** ORS 106.120 is amended to read:

18 106.120. (1) As used in this section, “judicial officer” means:

19 (a) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not
20 limited to a judge of a municipal court and a justice of the peace.

21 (b) An active judge of a federal court.

22 (c) An active United States magistrate judge.

23 (2) Marriages **and civil unions** may be solemnized by:

24 (a) A judicial officer;

25 (b) A county clerk;

26 (c) Religious congregations or organizations as indicated in ORS 106.150 (2); or

27 (d) A clergyperson of any religious congregation or organization who is authorized by the con-
28 gregation or organization to solemnize marriages **or civil unions**.

29 (3) A person authorized to solemnize marriages **or civil unions** under subsection (2) of this
30 section may solemnize a marriage **or civil union** anywhere in this state.

31 (4)(a) When a marriage **or civil union** is solemnized by a tax, appellate or circuit judge of this
32 state, the clerk of the court or the county clerk shall collect a fee of \$25 and deposit the fee in the
33 Judicial Department Operating Account established in ORS 1.009.

34 (b) When a marriage **or civil union** is solemnized by a county clerk, the county clerk shall
35 collect a fee of \$25, as provided in ORS 205.320.

36 (c) The fee described in this subsection may be collected only if:

37 (A) The marriage **or civil union** is solemnized during normal working hours, excluding holidays;

38 (B) The marriage **or civil union** is solemnized in court facilities or a county clerk’s office; or

39 (C) More than a minimal amount of staff time or other court or county clerk’s office resources
40 are used in connection with the solemnization.

41 (d) The Chief Justice of the Supreme Court or the county clerk may establish a written proce-
42 dure for waiver of the fee required under this subsection in exigent circumstances, including but not
43 limited to indigency of the parties to the marriage **or civil union**.

44 (5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this
45 state and a county clerk may charge and accept an agreed upon personal payment not to exceed

1 \$100 plus actual costs for the solemnization [*of a marriage if that solemnization*] **if it** is performed:

2 (a) At a place other than the courthouse where the judicial officer or county clerk serves; or

3 (b) Outside of the judicial officer's or county clerk's normal working hours.

4 (6) The charging and accepting of a personal payment by a judicial officer of this state or a
5 county clerk under subsection (5) of this section does not constitute a violation of any of the pro-
6 visions of ORS chapter 244.

7 (7) The amount of actual costs charged by a judicial officer of this state or a county clerk under
8 subsection (5) of this section may not exceed:

9 (a) Actual expenses for food and lodging as verified by receipts.

10 (b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial
11 officer's or county clerk's home or office, whichever is greater, compensated at the rate of re-
12 imbursement then provided by the State of Oregon to its employees or, if travel is made by a com-
13 mercial carrier, reimbursement shall be made of the actual costs thereof, verified by receipts.

14 (8) A judicial officer of this state or a county clerk shall maintain records of the amount of
15 personal payments received for performing marriages **or civil unions**, of actual costs and the sup-
16 porting documentation related [*thereto*] **to performing marriages or civil unions** for a period of
17 four years.

18 (9) The parties to a marriage **or civil union** solemnized by a tax, appellate or circuit judge of
19 this state shall show to the judge proof of payment of the fee required under subsection (4)(a) of this
20 section before solemnization. Except as provided in subsection (4)(d) of this section, the judge may
21 not solemnize a marriage **or civil union** without proof of payment of the fee.

22 **SECTION 58.** ORS 106.130 is amended to read:

23 106.130. A marriage **or civil union** solemnized before any person professing to be a judicial of-
24 ficer of this state, a county clerk or a clergyperson of a religious congregation or organization
25 therein is not void, nor shall the validity [*thereof*] **of the marriage or civil union** be in any way
26 affected, on account of any want of power or authority in [*such*] **the** person, if [*such*] **the** person
27 was acting at the time in the office or the capacity of a person authorized to solemnize [*marriage*]
28 **marriages or civil unions** and if [*such*] **the** marriage **or civil union** is consummated with the belief
29 on the part of the [*persons so married*] **parties**, or either of them, that they have been lawfully
30 joined in a marriage **or civil union**.

31 **SECTION 59.** ORS 106.140 is amended to read:

32 106.140. [*No person shall*] **A person may not** undertake to join others in a marriage **or civil**
33 **union** knowing that the person is not lawfully authorized so to do. [*No*] **A** person authorized to
34 solemnize [*marriage shall*] **marriages or civil unions may not** join persons in a marriage **or civil**
35 **union** contrary to any of the provisions of ORS 106.010 to 106.060 or 106.100 to 106.190.

36 **SECTION 60.** ORS 106.150 is amended to read:

37 106.150. (1) In the solemnization of a marriage **or civil union**, no particular form is required
38 except that the parties thereto shall assent or declare in the presence of the clergyperson, county
39 clerk or judicial officer solemnizing the marriage **or civil union** and in the presence of at least two
40 witnesses, that:

41 (a) **In the solemnization of a marriage**, they take each other to be husband and wife; **or**

42 (b) **In the solemnization of a civil union**, they take each other to be partners.

43 (2) All marriages **and civil unions**, to which there are no legal impediments, solemnized before
44 or in any religious **congregation or** organization [*or congregation*] according to the established rit-
45 ual or form commonly practiced [*therein*] **in the congregation or organization**, are valid. In

J. P.

(Judicial officer, county clerk or clergyperson, as the case may be.)

(3) The certificate for a civil union may be in the following form:

State of Oregon,)
) ss.
County of _____,)

This is to certify that the undersigned (judicial officer, county clerk or clergyperson, as the case may be), by authority of a civil union license bearing date the _____ of _____, 2____, and issued by the county clerk of the County of _____, did on the _____ day of _____, 2____, at the house of _____, in the county and state aforesaid, join in civil union, A. B., of the County of _____, and State of _____, and C. D., of the County of _____, and State of _____, with their mutual assent, in the presence of E. F. and G. H., witnesses. If the undersigned is a clergyperson, the authority to solemnize the civil union is granted by _____ (name of religious congregation or organization), located in _____ (city, town or county, and state or country).

Witness my hand.

J. P.

(Judicial officer, county clerk or clergyperson, as the case may be.)

SECTION 64. ORS 106.180 is amended to read:

106.180. (1) The county clerk shall file the certificate mentioned in ORS 106.170 and record it in the record of marriages and civil unions. [No fee shall be charged for such] The county clerk may not charge a fee for filing, recording or indexing the certificate.

(2) Notwithstanding any other provision of law, the record of [marriage] marriages and civil unions maintained by a county clerk is not a vital record as defined by ORS 432.005 and is a public record open and subject to full disclosure.

SECTION 65. ORS 106.220 is amended to read:

106.220. Upon entering into a marriage or civil union, either person may retain the prior surname, and either person may resume the person's prior legal name during the marriage or civil union.

SECTION 66. Section 67 of this 2005 Act is added to and made a part of ORS chapter 106.

SECTION 67. (1) Partners in a civil union have the same privileges, immunities, rights, benefits and responsibilities under the laws of this state, whether derived from statute, administrative or court rule, policy or common law, as are granted to or imposed on spouses joined in a marriage. If a law provides privileges, immunities, rights or benefits to, or imposes responsibilities on, a person because the person is or was married, the law applies equally to a person who is or was in a civil union.

(2) This section is intended to extend to partners in a civil union the privileges, immunities, rights, benefits and responsibilities that flow from marriage under Oregon law. Many of the laws of this state are intertwined with federal law, and the Legislative Assembly re-

1 cognizes that it does not have the jurisdiction to control federal laws or the privileges, im-
2 munities, rights, benefits and responsibilities related to federal laws.

3 (3) This section shall be construed to secure for partners in a civil union the same legal
4 status as that conferred upon spouses in a marriage, with the same privileges, immunities,
5 rights, benefits and responsibilities of marriage.

6 (4) Whenever the term "husband," "wife," "married woman," "spouse," "family," "im-
7 mediate family," "dependent" or "next of kin" or any other term that denotes or includes the
8 spousal relationship is used in the laws of this state, the term includes a partner in a civil
9 union.

10 (5)(a) Whenever the term "marriage" or any other term that denotes or includes the
11 marital relationship or the status of marriage is used in the laws of this state, the term in-
12 cludes a civil union.

13 (b) Whenever the term "marry," "marries" or "married" or any other term that denotes
14 or includes the act or state of being joined as husband and wife in marriage is used in the
15 laws of this state, the term includes the act or state of being joined as partners in a civil
16 union.

17 SECTION 68. ORS 106.045, 106.081 and 106.165 are added to and made a part of ORS
18 chapter 106.

19
20 MISCELLANEOUS

21
22 SECTION 69. The unit captions used in this 2005 Act are provided only for the conven-
23 ience of the reader and do not become part of the statutory law of this state or express any
24 legislative intent in the enactment of this 2005 Act.

25 SECTION 70. This 2005 Act takes effect on the 91st day after the date on which the
26 regular session of the Seventy-third Legislative Assembly adjourns sine die.
27