

D R A F T

SUMMARY

Prohibits discrimination in employment on basis of familial status of employee.

A BILL FOR AN ACT

Relating to discrimination on basis of familial status; amending ORS 659A.001, 659A.029 and 659A.030.

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

SECTION 1. ORS 659A.029 is amended to read:

659A.029. For purposes of ORS 659A.030[,]:

(1) [*The phrase*] “Because of sex” includes, but is not limited to, because of pregnancy, childbirth and related medical conditions or occurrences. Women affected by pregnancy, childbirth or related medical conditions or occurrences shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work by reason of physical condition, and nothing in this section shall be interpreted to permit otherwise.

(2) “**Familial status**” means the state of being, or having the potential to become, a provider of care or support to a family member.

(3) “**Family member**” means:

(a) A family member as defined in ORS 659A.150.

(b) An individual who is dependent on an employee for their support or care.

SECTION 2. ORS 659A.030 is amended to read:

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

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

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

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

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment that expresses directly or indirectly

1 any limitation, specification or discrimination as to an individual's race,
2 color, religion, sex, sexual orientation, national origin, marital status, **fam-**
3 **ilial status** or age if the individual is 18 years of age or older, or on the
4 basis of an expunged juvenile record, or any intent to make any such limi-
5 tation, specification or discrimination, unless based upon a bona fide occu-
6 pational qualification. Identification of prospective employees according to
7 race, color, religion, sex, sexual orientation, national origin, marital status,
8 **familial status** or age does not violate this section unless the Commissioner
9 of the Bureau of Labor and Industries, after a hearing conducted pursuant
10 to ORS 659A.805, determines that the designation expresses an intent to
11 limit, specify or discriminate on the basis of race, color, religion, sex, sexual
12 orientation, national origin, marital status, **familial status** or age.

13 (e) For an employment agency, because of an individual's race, color, re-
14 ligion, sex, sexual orientation, national origin, marital status, **familial sta-**
15 **tus** or age if the individual is 18 years of age or older, or because of the race,
16 color, religion, sex, sexual orientation, national origin, marital status, **fam-**
17 **ilial status** or age of any other person with whom the individual associates,
18 or because of an individual's juvenile record that has been expunged pursu-
19 ant to ORS 419A.260 and 419A.262, to classify or refer for employment, or to
20 fail or refuse to refer for employment, or otherwise to discriminate against
21 the individual. However, it is not an unlawful employment practice for an
22 employment agency to classify or refer for employment an individual when
23 the classification or referral results from a bona fide occupational quali-
24 fication reasonably necessary to the normal operation of the employer's
25 business.

26 (f) For any person to discharge, expel or otherwise discriminate against
27 any other person because that other person has opposed any unlawful prac-
28 tice, or because that other person has filed a complaint, testified or assisted
29 in any proceeding under this chapter or has attempted to do so.

30 (g) For any person, whether an employer or an employee, to aid, abet,
31 incite, compel or coerce the doing of any of the acts forbidden under this

chapter or to attempt to do so.

(2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210, but the selection of an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with regard to all employees and labor organizations.

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

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

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

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

SECTION 3. ORS 659A.001 is amended to read:

659A.001. As used in this chapter, **unless the context requires otherwise:**

(1) “Bureau” means the Bureau of Labor and Industries.

(2) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

(3) “Employee” does not include any individual employed by the individual’s parents, spouse or child or in the domestic service of any person.

(4)(a) “Employer” means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be

1 performed.

2 (b) For the purposes of employee protections described in ORS 659A.350,
3 “employer” means any person who, in this state, is in an employment re-
4 lationship with an intern as described in ORS 659A.350.

5 (5) “Employment agency” includes any person undertaking to procure
6 employees or opportunities to work.

7 (6)(a) “Familial status” means the relationship between one or more in-
8 dividuals who have not attained 18 years of age and who are domiciled with:

9 (A) A parent or another person having legal custody of the individual;
10 or

11 (B) The designee of the parent or other person having such custody, with
12 the written permission of the parent or other person.

13 (b) “Familial status” includes any individual, regardless of age or
14 domicile, who is pregnant or is in the process of securing legal custody of
15 an individual who has not attained 18 years of age.

16 (7) “Labor organization” includes any organization which is constituted
17 for the purpose, in whole or in part, of collective bargaining or in dealing
18 with employers concerning grievances, terms or conditions of employment
19 or of other mutual aid or protection in connection with employees.

20 (8) “National origin” includes ancestry.

21 (9) “Person” includes:

22 (a) One or more individuals, partnerships, associations, labor organiza-
23 tions, limited liability companies, joint stock companies, corporations, legal
24 representatives, trustees, trustees in bankruptcy or receivers.

25 (b) A public body as defined in ORS 30.260.

26 (c) For purposes of ORS 659A.145 and 659A.421 and the application of any
27 federal housing law, a fiduciary, mutual company, trust or unincorporated
28 organization.

29 (10) “Respondent” means any person against whom a complaint or charge
30 of an unlawful practice is filed with the commissioner or whose name has
31 been added to such complaint or charge pursuant to ORS 659A.835.

(11) “Unlawful employment practice” means a practice specifically denominated as an unlawful employment practice in this chapter. “Unlawful employment practice” includes a practice that is specifically denominated in another statute of this state as an unlawful employment practice and that is specifically made subject to enforcement under this chapter.

(12) “Unlawful practice” means any unlawful employment practice or any other practice specifically denominated as an unlawful practice in this chapter. “Unlawful practice” includes a practice that is specifically denominated in another statute of this state as an unlawful practice and that is specifically made subject to enforcement under this chapter, or a practice that violates a rule adopted by the commissioner for the enforcement of the provisions of this chapter.