

**CHAPTER 367**

AN ACT

HB 3041

Relating to gender identity; amending ORS 10.030, 20.107, 30.860, 93.270, 101.115, 109.035, 131.915, 131.930, 174.100, 179.750, 181A.470, 192.630, 240.306, 338.125, 339.127, 339.128, 339.329, 339.351, 352.274, 418.648, 418.731, 418.925, 418.976, 430.550, 443.739, 458.505, 646A.787, 652.210, 653.547, 658.427, 659.850, 659A.003, 659A.006, 659A.030, 659A.130, 659A.403, 659A.406, 659A.409, 659A.421, 659A.425, 659A.805, 659A.815, 659A.885, 660.139 and 744.382 and section 2, chapter 629, Oregon Laws 2019, section 2, chapter 5, Oregon Laws 2020 (first special session), and sections 4 and 6, chapter 67, Oregon Laws 2021 (Enrolled House Bill 2534); repealing ORS 659.870; and declaring an emergency.

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

**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) **"Gender identity" means an individual's gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.**

[(4)] (5) "Husband and wife," "husband or wife," "husband" or "wife" means spouses or a spouse in a marriage.

[(5)] (6) "May not" and "shall not" are equivalent expressions of an absolute prohibition.

[(6)] (7) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

[(7)] (8) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality[,] or 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.]

[(8)] (9) "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 assets.

[(9)] (10) "To" means "to and including" when used in a reference to a series of statute sections, subsections or paragraphs.

[(10)] (11) "United States" includes territories, outlying possessions and the District of Columbia.

[(11)] (12) "Violate" includes failure to comply.

**SECTION 2.** ORS 10.030 is amended to read:

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

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

(a) Is not a citizen of the United States;

(b) Does not live in the county in which summoned for jury service;

(c) Is less than 18 years of age; or

(d) Has had rights and privileges withdrawn and not restored under ORS 137.281.

(3)(a) Any person is eligible to act as a grand juror, or as a juror in a criminal trial, unless the person:

(A) Is not a citizen of the United States;

(B) Does not live in the county in which summoned for jury service;

(C) Is less than 18 years of age;

(D) Has had rights and privileges withdrawn and not restored under ORS 137.281;

(E) Has been convicted of a felony or served a felony sentence within the 15 years immediately preceding the date the person is required to report for jury service; or

(F) Has been convicted of a misdemeanor involving violence or dishonesty, or has served a misdemeanor sentence based on a misdemeanor involving violence or dishonesty, within the five years immediately preceding the date the person is required to report for jury service.

(b) As used in this subsection:

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

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

(C) "Misdemeanor sentence" includes any incarceration or probation imposed upon conviction of a misdemeanor or served as a result of conviction of a misdemeanor.

(4) A person who is blind, hard of hearing or speech impaired or who has a physical disability is not ineligible to act as a juror and may not be excluded from a jury list or jury service on the basis of blindness, hearing or speech impairment or physical disability alone.

(5) A person is ineligible to act as a juror in any circuit court of this state within 24 months after being discharged from jury service in a federal court in this state or circuit court of this state unless that person's service as a juror is required because of a need for additional jurors.

**SECTION 3.** ORS 20.107 is amended to read:

20.107. (1) In any civil judicial proceeding, including judicial review of an administrative pro-

ceeding based on a claim of unlawful discrimination, the court shall award to the prevailing plaintiff attorney and expert witness fees reasonably and necessarily incurred in connection with the discrimination claim, at the trial court or agency level and on appeal. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court or agency.

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

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

(4) As used in this section, "unlawful discrimination" means discrimination based upon personal characteristics including, but not limited to, race, religion, sex, sexual orientation, **gender identity**, national origin, alienage, marital status or age.

**SECTION 4.** ORS 30.860 is amended to read:

30.860. (1) A person or governmental entity may not discriminate against, boycott, blacklist or refuse to buy from, sell to or trade with any person because of foreign government imposed or sanctioned discrimination based upon the race, religion, sex, sexual orientation, **gender identity** or national origin of the person or of the person's partners, members, directors, stockholders, agents, employees, business associates, suppliers or customers.

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

**SECTION 5.** ORS 93.270 is amended to read:

93.270. (1) A person conveying or contracting to convey fee title to real property, or recording a declaration under ORS 94.580, may not include in an instrument for that purpose a provision:

(a) Restricting the use of the real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, **gender identity**, national origin or disability.

(b) Restricting the use of the real property:

(A) As a certified or registered family child care home pursuant to ORS 329A.250 to 329A.450 or as the premises of an exempt family child care provider participating in the subsidy program under ORS 329A.500; or

(B) By any home or facility that is licensed under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunction with treatment or training or a combination thereof.

(2) Any provision in an instrument executed in violation of subsection (1) of this section is void and unenforceable.

(3) An instrument that contains a provision restricting the use of real property in a manner listed in subsection (1)(b) of this section does not give rise to any public or private right of action to enforce the restriction.

(4)(a) An instrument that contains a provision restricting the use of real property by requiring roofing materials with a lower fire rating than that required in the state building code established under ORS chapter 455 does not give rise to any public or private right of action to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on public or private right of action under this paragraph are limited solely to considerations of fire rating.

(b) As used in this subsection, "wildfire hazard zones" are areas that are legally declared by a governmental agency having jurisdiction over the area to have special hazards caused by a combination of combustible natural fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be determined using criteria established by the State Forestry Department.

**SECTION 5a.** If House Bill 2534 becomes law, ORS 93.270, as amended by section 1, chapter 67, Oregon Laws 2021 (Enrolled House Bill 2534), is amended to read:

93.270. (1) A person conveying or contracting to convey fee title to real property, or recording a declaration under ORS 94.580, may not include in an instrument for that purpose a provision:

(a) Restricting the use of the real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, **gender identity**, national origin or disability.

(b) Restricting the use of the real property:

(A) As a certified or registered family child care home pursuant to ORS 329A.250 to 329A.450 or as the premises of an exempt family child care provider participating in the subsidy program under ORS 329A.500; or

(B) By any home or facility that is licensed under ORS 443.400 to 443.455 or 443.705 to 443.825 to provide residential care alone or in conjunction with treatment or training or a combination thereof.

(2) A condominium that includes units used for residential purposes or planned community, including a community not subject to ORS 94.550 to 94.783, may not include in a recorded instrument governing

the community and may not enforce any provision that would restrict the use of the community or the lots or units of the community because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(3) Any provision in an instrument executed in violation of subsection (1) or (2) of this section is void and unenforceable.

(4) An instrument that contains a provision restricting the use of real property in a manner listed in subsection (1)(b) of this section does not give rise to any public or private right of action to enforce the restriction.

(5)(a) An instrument that contains a provision restricting the use of real property by requiring roofing materials with a lower fire rating than that required in the state building code established under ORS chapter 455 does not give rise to any public or private right of action to enforce the restriction in an area determined by a local jurisdiction as a wildfire hazard zone. Prohibitions on public or private right of action under this paragraph are limited solely to considerations of fire rating.

(b) As used in this subsection, "wildfire hazard zones" are areas that are legally declared by a governmental agency having jurisdiction over the area to have special hazards caused by a combination of combustible natural fuels, topography and climatic conditions that result in a significant hazard of catastrophic fire over relatively long periods each year. Wildfire hazard zones shall be determined using criteria established by the State Forestry Department.

**SECTION 5b.** If House Bill 2534 becomes law, section 4, chapter 67, Oregon Laws 2021 (Enrolled House Bill 2534), is amended to read:

**Sec. 4.** (1) On or before December 31, 2022, each homeowners association shall review each governing document currently binding on the planned community, or the lots or the lot owners within the planned community and shall:

(a) Amend or restate each document as necessary to remove all restrictions against the use of the community or the lots not allowed under ORS 93.270 (2); or

(b) Execute and record a declaration that the homeowners association has reviewed the governing documents binding on the planned community and that the documents do not contain any restriction, rule or regulation against the use of the community or the lots by a person or group of persons because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under subsection (1)(a) of this section is effective and may be recorded without the vote of the owners or the board members if the amendment or restatement includes a certification signed by the president and secretary of the homeowners association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scriveners' errors or to conform format and style.

**SECTION 5c.** If House Bill 2534 becomes law, section 6, chapter 67, Oregon Laws 2021 (Enrolled House Bill 2534), is amended to read:

**Sec. 6.** (1) On or before December 31, 2022, each association of a condominium that includes units used for residential purposes shall review each governing document currently binding on the condominium or the units or unit owners within the condominium and shall:

(a) Amend or restate each document as necessary to remove all restrictions against the use of the condominium or the units not allowed under ORS 93.270 (2); or

(b) Execute and record a declaration that the association has reviewed the governing documents binding on the condominium and that the documents do not contain any restriction, rule or regulation against the use of the condominium or the units by a person or group of persons because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affinity or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits.

(2) Notwithstanding ORS 100.110, 100.135, 100.413 or any requirement of the declaration or bylaws, an amendment to or a restatement of the declaration or bylaws under this section, upon submission and approval of the Real Estate Commissioner under ORS 100.123, 100.125, 100.668 and 100.675, is effective and may be recorded without the vote of the owners or the board members if the amended or restated declaration or bylaws includes a certification signed by the president and secretary of the association that the amended or restated declaration or bylaws does not change that document except as required under this section and as may be necessary to correct scriveners' errors or to conform format and style.

**SECTION 6.** ORS 101.115 is amended to read:

101.115. (1) A provider must assist a resident, upon request, in the exercise of the resident's rights as a citizen of the United States and as a resident of this state. A resident has the right to exercise all rights that do not infringe upon the rights or safety of other residents.

(2) A resident has the right to review a provider's disclosure statements.

(3) A provider may not discriminate or impose any requirement or restriction based on sex, marital status, race, color, sexual orientation, **gender identity** or national origin of a resident, a prospective resident or a resident's visitor.

(4) A provider shall make reasonable accommodations to ensure that services are accessible to residents who have disabilities.

(5) A provider shall treat each resident with respect and dignity at all times, and ensure privacy for each resident during rehabilitation or treatment and when receiving personal care services.

(6) A resident has the right to associate and communicate privately with persons of the resident's choice and to send and receive mail that is not opened by the provider.

(7) A resident has the right to be free from abuse as defined in ORS 124.005.

(8) The residents' council has the right to meet with the provider no less than twice each year and must be allowed free discussion at the meetings of subjects that may include, but need not be limited to, facility income, expenditures, financial trends, resident concerns, proposed changes in policy, programs and services, and any other issue identified by the council or a resident under ORS 101.112 (1).

(9) A resident has the right to participate in social, religious and community activities at the discretion of the resident.

(10) A resident has the right to be fully informed, prior to or at the time of admission and during the resident's period of residency, of services available in the continuing care retirement community, whether the provider participates in the Medicare or Medicaid programs and the consequences of the participation or lack of participation by the provider in the Medicare or Medicaid programs.

(11) A resident has the right to refuse medication, treatment, care or participation in clinical trials or other research.

(12) A resident has the right to obtain treatment, care and services, including but not limited to home health and hospice care, from persons providing health care who have not entered into a contract with or are not affiliated with the provider, subject to policies of the CCRC regarding the provision of services by persons that are not under contract.

(13) A resident has the right to submit grievances and to suggest changes in policies and services either orally or in writing to staff or other individuals without fear of restraint, interference, coercion, discrimination or reprisal by the provider. A provider must adopt written policies and procedures for the timely resolution of a resident's grievance.

(14) A resident has the right to be free from harassment by other residents and to peaceful enjoyment of the CCRC without interference from other residents.

(15) A provider shall keep clinical and personal records of residents confidential. A resident or an

authorized representative of the resident has the right to a prompt inspection of the records pertaining to the resident's care. The provider shall provide photocopies or electronic copies of a resident's records to the resident or the authorized representative at a reasonable charge.

(16) A resident has the right to receive notice of proposed changes in fees or services in accordance with ORS 101.112. The provider must allow residents a reasonable opportunity to comment on the proposed changes before the changes become effective.

(17) A provider shall have a procedure in place for a resident to request that a staff person of a particular sex be assigned to assist the resident with activities of daily living. The provider shall accommodate the request unless the provider is unable to do so. If the provider is unable to accommodate the request, the provider shall notify the resident, in writing, of the reasons why the provider is unable to accommodate the request and shall maintain documentation showing why the provider cannot accommodate the request.

**SECTION 7.** ORS 109.035 is amended to read:

109.035. (1) As used in this section:

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

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

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

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

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

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

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

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

(3) In determining whether a risk of international abduction of a minor child exists, a court

shall consider the following factors involving a parent who is subject to a custody order:

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

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

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

(d) Any other relevant factors.

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

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

(b) Supervised parenting time; or

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

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

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

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

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

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

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

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

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

**SECTION 8.** ORS 131.915 is amended to read: 131.915. As used in ORS 131.915 to 131.925:

**(1) "Gender identity" has the meaning given that term in ORS 174.100.**

[(1)] (2) "Law enforcement agency" means:

(a) The Department of State Police;

(b) The Department of Justice;

(c) A district attorney's office; and

(d) Any of the following that maintains a law enforcement unit as defined in ORS 181A.355:

(A) A political subdivision or an instrumentality of the State of Oregon.

(B) A municipal corporation of the State of Oregon.

(C) A tribal government.

(D) A university.

[(2)] (3) "Law enforcement officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.121 or 353.125;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a law enforcement officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice;

(e) A humane special agent as defined in ORS 181A.345;

(f) A judicial marshal of the Security and Emergency Preparedness Office of the Judicial Department who is appointed under ORS 1.177 and trained pursuant to ORS 181A.540;

(g) A regulatory specialist exercising authority described in ORS 471.775 (2); or

(h) An authorized tribal police officer as defined in ORS 181A.680.

[(3)] (4) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based solely on the individual's real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

[(4)] (5) "Sexual orientation" has the meaning given that term in ORS 174.100.

**SECTION 9.** ORS 131.930 is amended to read: 131.930. As used in ORS 131.930 to 131.945:

**(1) "Gender identity" has the meaning given that term in ORS 174.100.**

[(1)] (2) "Law enforcement agency" means an agency employing law enforcement officers to enforce criminal laws.

[(2)] (3) "Law enforcement officer" means a member of the Oregon State Police, a sheriff or a municipal police officer.

[(3)] (4) "Officer-initiated pedestrian stop" means a detention of a pedestrian by a law enforcement officer that is not associated with a call for service. The term does not apply to detentions for routine searches performed at the point of entry to or exit from a controlled area.

[(4)] (5) "Officer-initiated traffic stop" means a detention of a driver of a motor vehicle by a law enforcement officer, not associated with a call for service, for the purpose of investigating a suspected violation of the Oregon Vehicle Code.

[(5)] (6) “Profiling” means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual’s having violated a provision of law, based solely on the individual’s real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

[(6)] (7) “Sexual orientation” has the meaning given that term in ORS 174.100.

**SECTION 10.** ORS 179.750 is amended to read:

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

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

**SECTION 11.** ORS 181A.470 is amended to read:

181A.470. The Board on Public Safety Standards and Training shall ensure that all police officers and certified reserve officers are trained to:

(1) Investigate, identify and report crimes:

(a) Motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, **gender identity**, marital status, political affiliation or beliefs, membership or activity in or on behalf of a labor organization or against a labor organization, physical or mental disability, age, economic or social status or citizenship of the victim; and

(b) That constitute abuse, as defined in ORS 419B.005, or domestic violence.

(2) Understand the requirements of the Vienna Convention on Consular Relations and identify situations in which the officers are required to inform a person of the person’s rights under the convention.

**SECTION 11a.** If House Bill 2986 becomes law, ORS 181A.470, as amended by section 1, chapter 246, Oregon Laws 2021 (Enrolled House Bill 2986), is amended to read:

181A.470. The Board on Public Safety Standards and Training shall ensure that all police officers and certified reserve officers are trained to:

(1) Investigate, identify and report crimes:

(a) Motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, gender, **gender identity**, marital status, political affiliation or beliefs, membership or activity

in or on behalf of a labor organization or against a labor organization, physical or mental disability, age, economic or social status or citizenship of the victim; and

(b) That constitute abuse, as defined in ORS 419B.005, or domestic violence.

(2) Understand the requirements of the Vienna Convention on Consular Relations and identify situations in which the officers are required to inform a person of the person’s rights under the convention.

**SECTION 12.** ORS 192.630 is amended to read:

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

(2) A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

(3) A governing body may not hold a meeting at any place where discrimination on the basis of race, color, creed, sex, sexual orientation, **gender identity**, national origin, age or disability is practiced. However, the fact that organizations with restricted membership hold meetings at the place does not restrict its use by a public body if use of the place by a restricted membership organization is not the primary purpose of the place or its predominant use.

(4)(a) Meetings of the governing body of a public body shall be held:

(A) Within the geographic boundaries over which the public body has jurisdiction;

(B) At the administrative headquarters of the public body;

(C) At the nearest practical location; or

(D) If the public body is a state, county, city or special district entity, within Indian country of a federally recognized Oregon Indian tribe that is within the geographic boundaries of this state. For purposes of this subparagraph, “Indian country” has the meaning given that term in 18 U.S.C. 1151.

(b) Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved.

(c) A joint meeting of two or more governing bodies or of one or more governing bodies and the elected officials of one or more federally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the nearest practical location.

(d) Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

(5)(a) It is discrimination on the basis of disability for a governing body of a public body to meet in a place inaccessible to persons with disabilities, or, upon request of a person who is deaf or hard of hearing, to fail to make a good faith effort to have an interpreter for persons who are deaf or hard of

hearing provided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of disability shall be as provided in ORS 192.680.

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

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

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

(e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the department or other state or local agency that maintains a list of qualified interpreters and arranging for the referral of one or more qualified interpreters to provide interpreter services.

**SECTION 13.** ORS 240.306 is amended to read:

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

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

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

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

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

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

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

(B) Have critical timing requirements affecting recruitment.

(6) Minimum qualifications and performance requirements and duties of a classification may be appropriately modified to permit the appointment and promotion of trainees to positions normally filled at full proficiency level.

(7) The department or delegated agencies shall establish systems to provide opportunities for promotion through meritorious service, training, education and career development assignments. The department shall certify to the eligibility of persons selected for promotion or delegate that responsibility to operating agencies in appropriate situations. Provision shall be made to bring persons into state service through open competition at higher levels when the competition provides abilities not available among existing employees, enrich state service or contribute to improved employment opportunity for underrepresented groups.

**SECTION 14.** ORS 338.125 is amended to read:

338.125. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available and subject to subsection (4) of this section.

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

(b)(A) A public charter school may give priority for admission to students who reside within the attendance boundaries that were in effect at the time a school district closed a nonchartered public school if:

(i) The public charter school began to operate not more than two years after the nonchartered public school was closed;

(ii) The school district that closed the nonchartered public school is the sponsor of the public charter school;

(iii) The public charter school is physically located within the attendance boundaries of the closed nonchartered public school; and

(iv) The school district board, through board action, approved the public charter school giving priority as described in this paragraph.

(B) Nothing in this paragraph requires an amendment to a charter. A school district board may take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of a charter.

(c) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:

(A) Were enrolled in the school in the prior year;

(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or

(C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

(A) Intent to enroll the student in a virtual public charter school; and

(B) Enrollment of the student in a virtual public charter school.

(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.

(B) For the purpose of determining whether more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district, the school district board shall include any students who:

(i) Reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5); and

(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

(C) Students who reside in the school district, regardless of whether the students are considered

residents of different school districts as provided by ORS 339.133 (5), must receive approval from the school district before enrolling in a virtual public charter school if the limit described in subparagraph (A) of this paragraph has been met.

(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school shall provide written notice of the student's enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student's parent, legal guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education pro-



gram and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but may not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

**SECTION 15.** ORS 339.127 is amended to read:

339.127. (1) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

- (a) Determining whether to give consent; or
- (b) Establishing any terms of consent.

(2) A district school board that is considering whether to admit a nonresident student by giving consent may require only the following information prior to deciding whether to give consent:

(a) The name, contact information, date of birth and grade level of the student;

(b) Information about whether the school district may be prevented or otherwise limited from providing consent as provided by ORS 339.115 (8);

(c) Information about whether the student may be given priority as provided by subsection (4) of this section; and

(d) Information about which schools the student prefers to attend.

(3)(a) A district school board that is considering whether to admit a nonresident student by giving consent may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to give consent to the student:

(i) Information about the student's race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of the school district or to otherwise meet with any representatives of a school or a school district prior to the district school board deciding whether to give consent to the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to give consent to the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4)(a) A district school board that gives consent as described in ORS 339.133 (5)(a) may limit the number of students to whom consent is given. The district school board must make the determination whether to limit the number of students to whom consent is given by an annual date established by the board.

(b) If the number of students seeking consent exceeds any limitations imposed by the district school board, the board must give consent to students based on an equitable lottery selection process. The process may give priority to students who:

(A) Have siblings currently enrolled in a school of the same school district for which the student seeks admission;

(B) Previously had received consent as provided by subsection (10) of this section because of a change in legal residence; or

(C) Attended a public charter school located in the same district for which the student seeks admission for at least three consecutive years, completed the highest grade offered by the public charter school and did not enroll in and attend school in another district following completion of the highest grade offered by the public charter school.

(c) A district school board may revise the maximum number of students to whom consent will be given at a time other than the annual date established by the board if there are no pending applications for consent.

(5) A district school board that is requested to give consent to allow a resident student to be admitted by another school district as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when determining whether to give consent.

(6) If a district school board decides to not give consent to a student, the board must provide a written explanation to the student.

(7)(a) For a nonresident student who receives consent to be admitted to a school district as described in ORS 339.133 (5)(a), a district school board may:

(A) Determine the length of time for which consent is given; and

(B) Revoke consent for failure to comply with minimum standards for behavior or attendance, but may not revoke consent for failure to meet standards for academics.

(b) Any limitations in length of time for consent, as allowed under paragraph (a) of this subsection, must be applied consistently among all students to whom consent is given. The length of time for which consent is given shall not be affected by any changes in the legal residence of the student if the student wishes to continue to attend the schools of the school district.

(c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not request consent from the same school district that revoked the consent for the school year following the school year in which the consent was revoked.

(8) For a resident student who receives consent to be admitted to another school district as described in ORS 339.133 (5)(a), a district school board may not impose any limitations on the length of time for which consent is given to the student. The board may not require the student to receive consent more than one time to be admitted to the same school district, regardless of any time limitations imposed by the district school board under paragraph (a) of this subsection.

(9)(a) A school district that provides consent to nonresident students to attend the schools of the school district may not expend moneys received from the State School Fund or as Local Revenues, as described in ORS 327.011, to advertise openings for nonresident students if the advertisements are:

(A) Located outside the boundaries of the school district, including advertisements that are made by signage or billboards; or

(B) Directed to nonresident students, including:

(i) Advertisements that are targeted to nonresident students through direct mail or online marketing;

(ii) Television or radio advertisements; or

(iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves the residents of the school district.

(b) Notwithstanding paragraph (a)(A) of this subsection, if a school is located outside the boundaries of the school district, the school district may advertise openings for nonresident students on the property of the school.

(c) Nothing in this subsection:

(A) Prohibits a school district from providing information or advertisements to nonresident students if the parents of the students request the information or advertisements.

(B) Prohibits a public charter school from advertising openings.

(10) Notwithstanding any other provision of this section, a district school board that is requested to give consent as described in ORS 339.133 (5)(a) must give consent to a student whose legal residence changes to a different school district:

(a) During the school year, to enable the student to complete the school year in the school district; or

(b) During the summer prior to the school year, to enable the student to complete the school year following the summer in the school district.

(11) Nothing in this section:

(a) Requires a district school board to admit students for whom priority may be given under subsection (4)(b) of this section if the board imposes limitations on the number of students admitted by consent.

(b) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(c) Prevents a district school board from requesting information or giving consent to a student in the event of:

(A) An emergency to protect the health, safety or welfare of the student; or

(B) A hardship of the student, as determined based on rules adopted by the State Board of Education.

(d) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district.

**SECTION 16.** ORS 339.128 is amended to read:

339.128. (1) A district school board that admits nonresident students and charges nonresident students tuition may not consider race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

(a) Determining whether to accept a nonresident student; or

(b) Establishing the amount of tuition.

(2) A district school board that admits nonresident students and charges nonresident students tuition may require a student seeking to attend the schools of the school district to provide the following information:

(a) The name, contact information, date of birth and grade level of the student; and

(b) Information about whether the school district may be prevented or otherwise limited from admitting the student as provided by ORS 339.115 (8).

(3)(a) A district school board that admits nonresident students and charges nonresident students tuition may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to admit the student:

(i) Information about the student’s race, religion, sex, sexual orientation, **gender identity**, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of the school district or to otherwise meet with any representatives of a school or a school district prior to the district school board deciding whether to admit the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to admit the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4) If a district school board decides to deny admission to a nonresident student and to charge the nonresident student tuition, the board must provide a written explanation to the student.

(5) Nothing in this section:

(a) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(b) Prevents a district school board from requesting information or admitting a student in the event of an emergency to protect the health, safety or welfare of the student.

(c) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district.

**SECTION 17.** ORS 339.329 is amended to read: 339.329. (1) As used in this section:

(a) “Cyberbullying” and “harassment, intimidation or bullying” have the meanings given those terms in ORS 339.351.

(b) “Local law enforcement contact” means a local law enforcement officer designated by the Department of State Police to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety.

(c) “Personally identifiable information” means any information that would permit the identification of a person who reports information using the tip line, and is not limited to name, phone number, physical address, electronic mail address, race, gender, **gender identity**, sexual orientation, disability designation, religious affiliation, national origin, ethnicity, school of attendance, city, county or any geographic identifier included in information conveyed through the tip line, or information identifying

the machine or device used by the person in making a report using the tip line.

(d) “Service provider” means a person designated by the department to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety. “Service provider” includes:

(A) A provider of behavioral health care or mental health care;

(B) A provider of school-based health care;

(C) A certificated school counselor;

(D) A clinical social worker licensed under ORS 675.530; or

(E) A professional counselor or a marriage and family therapist licensed under ORS 675.615.

(e) “Student” means a student of:

(A) A school district, as defined in ORS 332.002;

(B) A community college, as defined in ORS 341.005;

(C) A private school that provides educational services to kindergarten through grade 12 students;

(D) A career school, as defined in ORS 345.010; or

(E) A public university listed under ORS 352.002.

(f) “Threat to student safety” includes, but is not limited to, a threat or instance of:

(A) Harassment, intimidation or bullying or cyberbullying;

(B) Suicide or self-harm; and

(C) Violence against others.

(g) “Tip line” means a statewide resource designed to accept information concerning threats to student safety or potential threats to student safety through methods of transmission including:

(A) Telephone calls;

(B) Text messages; and

(C) Electronically through the Internet.

(2) The Department of State Police shall establish a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

(3) In consultation with state and local government behavioral health care providers, the department shall adopt rules necessary to establish and operate the tip line. The rules must include, but are not limited to:

(a) Provisions that protect the personally identifiable information of a person reporting information without compromising opportunities for follow-up contact from local law enforcement contacts or service providers to provide further information to or obtain further information from the person; and

(b) Written policies and procedures for:

(A) Logging reports received on the tip line;

(B) Verifying the authenticity and validity of a reported threat to student safety or potential threat to student safety;

(C) Relaying information concerning a threat to student safety or potential threat to student safety to local law enforcement contacts, service providers and appropriate education provider contacts;

(D) Connecting the tip line with other hotlines that are available for reports of violence or for crisis prevention; and

(E) Reporting for the purposes of tracking referrals to local law enforcement contacts and service providers resulting from information received on the tip line and tracking the outcome of any action taken in response to the referral.

(4) The contents of tips reported to the tip line may be disclosed only as allowed under ORS 192.345 (41), except that:

(a) Personally identifiable information may be disclosed only as provided in this section; and

(b) Personally identifiable information and other information reported through the tip line may be disclosed to the following persons for the purpose of follow-up contact to obtain or provide further information:

(A) Tip line staff;

(B) A school district, education service district, community college, private school that provides educational services to kindergarten through grade 12 students, career school or public university;

(C) A service provider; or

(D) Law enforcement.

(5) Any person authorized to receive tip line information under subsection (4) of this section must use the information only for the purpose of making follow-up contact to obtain or provide further information. Any further information obtained through follow-up contact may be disclosed only to the persons described in subsection (4) of this section.

(6) Persons authorized to receive tip line information under subsection (4) of this section may not disclose to the public the outcomes or actions taken as a result of tip line information unless the disclosure is required by a statute other than this section.

(7) Notwithstanding subsections (4) to (6) of this section, the department may release aggregated or summary information for reporting purposes and may provide information obtained through the tip line for the purpose of educating the public about the tip line, but may not disclose personally identifiable information under this subsection.

(8) The department may seek and accept gifts, grants and donations from any source for the purpose of carrying out its duties under this section.

**SECTION 18.** ORS 339.351 is amended to read: 339.351. As used in ORS 339.351 to 339.364:

(1) “Cyberbullying” means the use of any electronic communication device to harass, intimidate or bully.

(2) “Harassment, intimidation or bullying” means any act that:

(a) Substantially interferes with a student’s educational benefits, opportunities or performance;

(b) Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;

(c) Has the effect of:

(A) Physically harming a student or damaging a student’s property;

(B) Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student’s property; or

(C) Creating a hostile educational environment, including interfering with the psychological well-being of a student; and

(d) May be based on, but not be limited to, the protected class status of a person.

(3) “Protected class” means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status, source of income or disability.

**SECTION 19.** ORS 352.274 is amended to read:

352.274. (1) Each public university listed in ORS 352.002 shall allow all students, faculty and staff to identify the person’s sexual orientation **and gender identity** on any forms used to collect demographic data that includes gender, race or ethnicity.

(2) Each public university listed in ORS 352.002 shall make the demographic data collected under subsection (1) of this section available to the Higher Education Coordinating Commission in the format determined by the commission under subsection (3) of this section.

(3) The commission shall:

(a) By rule establish a common format and time frame for the collection and reporting of the demographic data specified in subsection (1) of this section;

(b) Evaluate the degree to which public universities are complying with the requirements set forth in subsections (1) and (2) of this section; and

(c) During each regular session of the Legislative Assembly, submit a report in the manner provided by ORS 192.245 to the committees related to higher education that:

(A) Sets forth the progress public universities have made toward implementing the requirements set forth in subsections (1) and (2) of this section; and

(B) Summarizes the demographic data collected by the commission under this section.

**SECTION 20.** Section 2, chapter 629, Oregon Laws 2019, is amended to read:

**Sec. 2.** (1) The Task Force on Universal Health Care is established to recommend the design of the Health Care for All Oregon Plan, a universal health care system, administered by the Health Care for All Oregon Board, that is equitable, affordable and comprehensive, provides high quality health care and is publicly funded and available to every individual residing in Oregon.

(2) The task force consists of the following 20 members:

(a) The President of the Senate shall appoint two members from among members of the Senate, including one member from the majority party and one member from the minority party.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives, including one member from the majority party and one member from the minority party.

(c) The Governor shall appoint 13 members, subject to confirmation by the Senate under ORS 171.562 and 171.565, who reside in this state and who:

(A) Represent, to the greatest extent practicable:

(i) Diverse social identities, including but not limited to individuals who identify by geography, race, ethnicity, sex, gender [*nonconformance*] **identity**, sexual orientation, economic status, disability or health status; and

(ii) Diverse areas of expertise, based on knowledge and experience, including but not limited to patient advocacy, receipt of medical assistance, management of a business that offers health insurance to the business's employees, public health, organized labor, provision of health care or owning a small business;

(B) Represent, at a minimum, the following areas of expertise acquired by education, vocation or personal experience:

(i) Rural health;

(ii) Quality assurance and health care accountability;

(iii) Fiscal management and change management;

(iv) Social services;

(v) Public health services;

(vi) Medical and surgical services;

(vii) Alternative therapy services;

(viii) Services for persons with disabilities; and

(ix) Nursing services;

(C) Include at least one member who has an active license to provide health care in this state;

(D) Include at least one member who has an active license to provide mental or behavioral health care in this state;

(E) Include at least one member who has expertise, based on knowledge and experience, in advocating for health care equity; and

(F) Include at least one member who has personal experience in seeking and receiving health care in this state to treat complex or multiple chronic illnesses or disabilities.

(d) The Director of the Oregon Health Authority, or the director's designee, who is a nonvoting member.

(e) The Director of the Department of Consumer and Business Services, or the director's designee, who is a nonvoting member.

(f) A member of the Association of Oregon Counties, selected by the association, who is a nonvoting member.

(3) In making the appointments under subsection (2)(c) of this section, the Governor shall ensure that there is no disproportionate influence by any individual, organization, government, industry, business or profession in any decision-making by the task force and no actual or potential conflicts of interest.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force.

(6) The task force shall elect one of its members to serve as chairperson and one to serve as vice chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10)(a) The task force shall establish an advisory committee to provide input from a consumer perspective and, to the greatest extent practicable, from the diverse social identities described in subsection (2)(c)(A)(i) of this section.

(b) The following qualifications must be possessed by the membership of the advisory committee, such that at least one member:

(A) Has experience in seeking or receiving health care in this state to address one or more serious medical conditions or disabilities.

(B) Is enrolled in health insurance offered by the Public Employees' Benefit Board or the Oregon Educators Benefit Board or represents public employees.

(C) Is enrolled in employer-sponsored health insurance, group health insurance or a self-insured health plan offered by an employer.

(D) Is enrolled in commercial insurance purchased without any employer contribution.

(E) Receives medical assistance.

(F) Is Enrolled in Medicare.

(G) Is a parent or guardian of a child enrolled in the Children's Health Insurance Program.

(H) Is enrolled in the Federal Employees Health Benefit Program.

(I) Is enrolled in TRICARE.

(J) Receives care from the United States Department of Veterans Affairs Veterans Health Administration.

(K) Receives care from the Indian Health Service.

(c) Members of the advisory committee are entitled to compensation and reimbursement of actual and necessary travel expenses incurred in the performance of the members' official duties in the manner and amount provided in ORS 292.495.

(11) The task force may establish additional advisory or technical committees the task force considers necessary. The committees may be continuing or temporary. The task force shall determine the representation, membership, terms and organization of the committees and shall appoint the members of the committees.

(12) The Legislative Policy and Research Director shall provide staff support to the task force.

(13) The task force may apply for public or private grants from nonprofit organizations for the costs of research.

(14) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(15) Members of the task force are entitled to compensation and actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount as provided in ORS 292.495.

(16) Members of advisory or technical committees, other than the advisory committee established in subsection (10) of this section, are not entitled to compensation but, in the discretion of the task force, may be reimbursed for actual and necessary travel and other expenses incurred by the members of the advisory or technical committees in the performance of official duties in the manner and amount provided in ORS 292.495.

(17) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

**SECTION 21.** ORS 418.648 is amended to read: 418.648. A foster parent has the right to:

(1) Be treated with dignity, respect and trust as a member of a team, including respect for the family values and routines of the foster parent.

(2) Be included as a valued member of a team that provides care and planning for a foster child placed in the home of the foster parent.

(3) Receive support services, as resources permit, from the Department of Human Services that are designed to assist in the care of the foster child placed in the home of the foster parent.

(4) Be informed of any condition that relates solely to a foster child placed in the home of the foster parent that may jeopardize the health or safety of the foster parent or other members of the home or alter the manner in which foster care should be provided to the foster child. The information shall include complete access to written reports, psychological evaluations and diagnoses that relate solely to a foster child placed in the home of the foster parent provided that confidential information given to a foster parent must be kept confidential by the foster parent, except as necessary to promote or to protect the health and welfare of the foster child and the community.

(5) Have input into a permanency plan for a foster child placed in the home of the foster parent.

(6) Receive assistance from the department in dealing with family loss and separation when the foster child leaves the home of the foster parent.

(7) Be informed of all policies and procedures of the department that relate to the role of the foster parent.

(8) Be informed of how to receive services and to have access to department personnel or service providers 24 hours a day, seven days a week.

(9) Initiate an inactive referral status for a reasonable period of time, not to exceed 12 months, to allow a foster parent relief from caring for foster children.

(10) Not be discriminated against on the basis of race, color, religion, sex, sexual orientation, **gender identity**, national origin, age or disability.

(11) Be notified of the foster parent's right to limited participation in proceedings in the juvenile court and provided with an explanation of that right.

**SECTION 22.** ORS 418.731 is amended to read: 418.731. (1) As used in this section and ORS 418.733:

(a) "Youth" means a person 10 through 24 years of age.

(b) "Youth suicide" means a completed or attempted suicide by a person 10 through 24 years of age.

(2) There is established a Youth Suicide Intervention and Prevention Coordinator within that part of the Oregon Health Authority that works with mental health and addiction issues. The coordinator shall:

(a) Facilitate the development of a statewide strategic Youth Suicide Intervention and Prevention Plan to address youth suicide and youth self-inflicted injury, and develop strategies for intervention with suicidal, depressed and at-risk youth;

(b) Improve outreach to special populations of youth that are at risk for suicide and self-inflicted injury;

(c) Identify barriers to accessing intervention services for suicidal, depressed and at-risk youth; and

(d) Provide technical assistance to state and local partners and coordinate interagency efforts to establish youth suicide and youth self-inflicted injury prevention and intervention strategies.

(3) The coordinator shall review data and prepare an annual report to interim and regular committees of the Legislative Assembly with subject matter jurisdiction over child welfare, mental health and addiction issues, and to the Oregon Health Authority, regarding:

(a) The number of emergency room admissions for completed and attempted youth suicides and incidents of youth self-inflicted injury;

(b) The manner and method of completed and attempted youth suicides and incidents of youth self-inflicted injury;

(c) The counties in which the completed and attempted suicides and self-injury incidents occurred;

(d) The number of middle schools and high schools with completed youth suicides among the student body;

(e) The number of completed youth suicides where the youth had previously been admitted to a hospital or emergency room for treatment of attempted youth suicide or self-inflicted injury or had

been the subject of a request for intervention services related to depression, suicidal ideation or self-injury within the prior 12 months;

(f) Demographic information regarding youth who completed or attempted youth suicide or who had self-injury incidents, including but not limited to:

- (A) Age;
  - (B) Gender **or gender identity**;
  - (C) Race;
  - (D) Primary spoken language;
  - (E) Sexual orientation;
  - (F) The existence of any physical, mental, intellectual or emotional disability; and
  - (G) Foster care status; and
- (g) Recommendations for administrative and legislative changes to address service gaps in youth suicide prevention, intervention and post-suicide activities, developed in consultation with the Youth Suicide Intervention and Prevention Advisory Committee established in ORS 418.726.

**SECTION 23.** ORS 418.925 is amended to read:

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

**SECTION 24.** ORS 418.976 is amended to read:

418.976. As used in ORS 418.976 to 418.981, unless the context requires otherwise:

(1) “Cultural competence” means accepting and respecting diversity and differences in a continuous process of self-assessment and reflection on one’s personal and organizational perceptions of the dynamics of culture.

(2) “Cultural responsiveness” means the process by which people and systems respond respectfully and effectively to individuals of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, **gender identities**, sexual orientations and other diversity factors in a manner that recognizes, affirms and values the worth of individuals, families and communities, and that protects and preserves the dignity of each.

(3) “Family” includes, with respect to a youth:

- (a) A biological or legal parent;
- (b) A sibling;
- (c) An individual related by blood, marriage or adoption;
- (d) A foster parent;
- (e) A legal guardian;

(f) A caregiver;

(g) An individual with a significant social relationship with the youth;

(h) Any person who provides support to the youth that the youth identifies as important; and

(i) Any person identified by the youth as being family.

(4) “Services and supports” means public, private and community resources that assist youth in the achievement of positive outcomes, including but not limited to education, child welfare, public health, primary care, pediatric care, juvenile justice, mental health treatment, substance use treatment and services for individuals with intellectual and developmental disabilities.

(5) “System of care” means a coordinated network of services and supports to youth that:

(a) Integrates care planning and management across multiple levels of care;

(b) Recognizes disability as a natural and healthy part of the human experience;

(c) Is culturally and linguistically competent;

(d) Is designed to build meaningful partnerships with families and youth in the delivery and management of services and the development of policy;

(e) Has a supportive policy and management infrastructure at the state and local levels; and

(f) Is community-based with relationships at the local level.

(6) “Youth” means an individual 25 years of age or younger who has, or is at increased risk of developing, chronic behavioral, emotional, physical or developmental conditions and is under the supervision of or engaged with two or more systems of care.

**SECTION 25.** ORS 430.550 is amended to read:

430.550. A person, otherwise eligible, may not be denied evaluation or treatment under ORS 430.450 to 430.555 on account of the person’s race, religion, sex, sexual orientation, **gender identity**, nationality, age or ability to pay.

**SECTION 26.** ORS 443.739 is amended to read:

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

(1) Be treated as an adult, with respect and dignity.

(2) Be informed of all resident rights and all house rules.

(3) Be encouraged and assisted to exercise legal rights, including the right to vote.

(4) Be informed of the resident’s medical condition and the right to consent to or refuse treatment.

(5) Receive appropriate care and services, and prompt medical care as needed.

(6) A safe and secure environment.

(7) Be free from mental and physical abuse.

(8) Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner.

(9) Complete privacy when receiving treatment or personal care.

(10) Associate and communicate privately with any person the resident chooses.

(11) Send and receive personal mail unopened.

(12) Participate in activities of social, religious and community groups.

(13) Have medical and personal information kept confidential.

(14) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space.

(15) Manage the resident's own money and financial affairs unless legally restricted.

(16) Be free from financial exploitation. The provider may not charge or ask for application fees or nonrefundable deposits and may not solicit, accept or receive money or property from a resident other than the amount agreed to for services.

(17) A written agreement regarding the services to be provided and the rate schedule to be charged. The provider must give 30 days' written notice before any change in the rates or the ownership of the home.

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

(19) Be free of discrimination in regard to race, color, religion, sex, sexual orientation, **gender identity** or national origin.

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

**SECTION 27.** ORS 458.505 is amended to read:

458.505. (1) The community action agency network, established initially under the federal Economic Opportunity Act of 1964, shall be the delivery system for federal antipoverty programs in Oregon, including the Community Services Block Grant, Low Income Energy Assistance Program, State Department of Energy Weatherization Program and such others as may become available.

(2) Funds for such programs shall be distributed to the community action agencies by the Housing and Community Services Department with the advice of the Community Action Partnership of Oregon.

(3) In areas not served by a community action agency, funds other than federal community services funds may be distributed to and administered by organizations that are found by the Housing and Community Services Department to serve the anti-poverty purpose of the community action agency network.

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

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

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

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

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

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

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

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

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

(C) Evaluation of programs; and

(D) Securing an annual audit of the agency.

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

(A) Review and approve program policy;

(B) Be involved in and consulted on the hiring and firing of the agency director;

(C) Monitor and evaluate program effectiveness;

(D) Ensure the effectiveness of community involvement in the planning process; and

(E) Assume all duties delegated to it by the governing board.

(e) Have a clearly defined, specified service area. Community action service areas may not overlap.

(f) Have an accounting system that meets generally accepted accounting principles and be so certified by an independent certified accountant.

(g) Provide assurances against the use of government funds for political activity by the community action agency.

(h) Provide assurances that no person shall, on the grounds of race, color, sex, sexual orientation, **gender identity** or national origin be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or ac-



tivity funded in whole or in part with funds made available through the community action program.

(i) Provide assurances the community action agency shall comply with any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified individual with disabilities as provided in section 504 of the Rehabilitation Act of 1973.

(5) For the purposes of this section, the Oregon Human Development Corporation is eligible to receive federal community service funds and low-income energy assistance funds.

(6) The Housing and Community Services Department shall:

(a) Administer federal and state antipoverty programs.

(b) Apply for all available antipoverty funds on behalf of eligible entities as defined in this section.

(c) In conjunction with the Community Action Partnership of Oregon, develop a collaborative role in advocating for, and addressing the needs of, all low income Oregonians.

(d) Biennially produce and make available to the public a status report on efforts by it and state agencies to reduce the incidence of poverty in Oregon. This report shall contain figures regarding the numbers and types of persons living in poverty in Oregon. The report shall also describe the status of efforts by the department and the Department of Human Services to implement the state policy regarding homelessness described in ORS 458.528.

(e) On a regular basis provide information to the Community Action Partnership of Oregon on the activities and expenditures of the Housing and Community Services Department.

(f) As resources are available, provide resources for technical assistance, training and program assistance to eligible entities.

(g) As resources are available, provide resources pursuant to ORS 409.750 for the training and technical assistance needs of the Community Action Partnership of Oregon.

(h) Conduct a planning process to meet the needs of low income people in Oregon. That process shall fully integrate the Oregon Human Development Corporation into the antipoverty delivery system. The planning process shall include development of a plan for minimum level of services and funding for low income migrant and seasonal farmworkers from the antipoverty programs administered by the agency.

(i) Limit its administrative budget in an effort to maximize the availability of antipoverty federal and state funds for expenditures by local eligible entities.

**SECTION 28.** ORS 646A.787 is amended to read: 646A.787. (1) A person that is subject to ORS 646A.770 to 646A.787 shall act in a fiduciary capacity with respect to funds the person receives or holds for the benefit of another person.

(2) A person that sells a guaranteed asset protection waiver in connection with a retail sale of a motor vehicle may not:

(a) Charge more for the guaranteed asset protection waiver than five percent of the amount the borrower finances under a finance agreement; or

(b) Vary the benefits, terms, conditions or price of the guaranteed asset protection waiver on account of a borrower's race, sex, sexual orientation, **gender identity**, income or education.

**SECTION 29.** ORS 652.210 is amended to read: 652.210. As used in ORS 652.210 to 652.235, unless the context requires otherwise:

(1) "Compensation" includes wages, salary, bonuses, benefits, fringe benefits and equity-based compensation.

(2) "Employee" means any individual who, otherwise than as a copartner of the employer, as an independent contractor or as a participant in a work training program administered under the state or federal assistance laws, renders personal services wholly or partly in this state to an employer who pays or agrees to pay such individual at a fixed rate. However, when services are rendered only partly in this state, an individual is not an employee unless the contract of employment of the employee has been entered into, or payments thereunder are ordinarily made or to be made, within this state.

(3)(a) "Employer" means any person employing one or more employees, including the State of Oregon or any political subdivision thereof or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter.

(b) "Employer" does not include the federal government.

(4) "Equal-pay analysis" means an evaluation process to assess and correct wage disparities among employees who perform work of comparable character.

**(5) "Gender identity" has the meaning given that term in ORS 174.100.**

[(5)] (6) "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, veteran status, disability or age.

[(6)] (7) "Rate" with reference to wages means:

(a) The basis of compensation for services by an employee for an employer; and

(b) Compensation based on the time spent in the performance of the services, on the number of operations accomplished or on the quantity produced or handled.

[(7)] (8) "Sexual orientation" has the meaning given that term in ORS 174.100.

[(8)] (9) "System" means a consistent and verifiable method in use at the time that a violation is alleged under ORS 652.220.

[(9)] (10) "Unpaid wages" means the difference between the wages actually paid to an employee and the wages required under ORS 652.220 to be paid to the employee.

[(10)] (11) “Veteran status” means an individual is a veteran as defined in ORS 408.225.

[(11)] (12) “Wages” means all compensation for performance of service by an employee for an employer, whether paid by the employer or another person, or paid in cash or any medium other than cash.

[(12)] (13) “Working conditions” includes work environment, hours, time of day, physical surroundings and potential hazards encountered by an employee.

[(13)] (14) “Work of comparable character” means work that requires substantially similar knowledge, skill, effort, responsibility and working conditions in the performance of work, regardless of job description or job title.

**SECTION 30.** ORS 653.547 is amended to read: 653.547. (1) As used in this section:

(a) “Domestic service” means services related to the care of persons in private homes or the maintenance of private homes or their premises.

(b)(A) “Domestic worker” means an individual who works in the home of another person for the purpose of caring for a child, doing housekeeping or providing other domestic service and who is not compensated with public funds for the work performed.

(B) “Domestic worker” does not include:

- (i) A parent or spouse of the employer.
- (ii) A child of the employer who is under 26 years of age.
- (iii) Students who regularly attend elementary or secondary school during the day.
- (iv) Children, other than children of the employer, who are under 14 years of age.
- (v) Children under 18 years of age who provide babysitting services and persons who provide babysitting on a casual basis.
- (vi) Persons who perform casual labor in private homes or the maintenance of private homes or their premises, including but not limited to yard work, washing windows and shoveling snow.
- (vii) Individuals employed by organizations licensed as required by ORS 443.015 or 443.315.
- (viii) Independent contractors.
- (ix) Individuals performing companionship services exempt from the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
- (x) Persons who perform house sitting duties that do not involve domestic service.
- (xi) Persons who provide domestic service in exchange for an in-kind good or service.

(c) “Employer” means a person that employs another person in this state.

(2) A person employing a domestic worker shall:

(a) Notwithstanding ORS 653.020, pay the domestic worker an overtime wage at a rate of one and one-half times the worker’s base rate for hours worked in excess of 40 hours in a workweek, or in excess of 44 hours in a workweek if the domestic worker lives in the home of the employer.

(b) Provide the domestic worker at least 24 consecutive hours of rest each workweek. If the domestic worker agrees to work on the anticipated day of rest, the employer shall pay the employee the overtime rate specified in paragraph (a) of this subsection.

(c) If the domestic worker lives in the home of the employer, provide at least eight consecutive hours of rest within each 24-hour period and provide a space with adequate conditions for uninterrupted sleep.

(d) If the domestic worker lives in the home of the employer, permit the domestic worker to cook the worker’s own food, subject to reasonable restrictions based on the religious or health needs of the home’s residents.

(e) If the domestic worker worked an average of at least 30 hours per week during the previous year, provide the domestic worker with at least three paid personal leave days off.

(3) Notwithstanding subsection (2)(a) of this section, the Commissioner of the Bureau of Labor and Industries shall adopt rules for the calculation of overtime wages for domestic workers during periods of travel and medical emergencies.

(4) A person that employs a domestic worker may not:

(a) Request that the domestic worker allow the employer, on either a mandatory or voluntary basis, to have possession of the worker’s passport.

(b) Engage in unwelcome sexual advances, request sexual favors or engage in other verbal or physical conduct of a sexual nature directed toward a domestic worker when:

(A) Submission to the conduct is made, either explicitly or implicitly, a term or condition of the domestic worker’s employment;

(B) Submission to or rejection of the conduct by the domestic worker is used as the basis for employment decisions affecting the domestic worker; or

(C) The conduct has the purpose or effect of unreasonably interfering with the domestic worker’s work performance by creating an intimidating, hostile or offensive work environment.

(c) Subject a domestic worker to harassment based on gender, race, religion, disability, sexual orientation, **gender identity** or national origin if the harassment has the purpose or effect of unreasonably interfering with the worker’s work performance by creating an intimidating, hostile or offensive work environment.

(d) Retaliate or in any way discriminate against an individual with respect to hire or tenure or any other term or condition of employment because the individual has inquired about the provisions of this section and ORS 653.549 or has reported a violation to, or filed a complaint with, the Bureau of Labor and Industries alleging a violation of this section.

**SECTION 31.** ORS 658.427 is amended to read: 658.427. (1) The Commissioner of the Bureau of Labor and Industries shall establish, by rule, proce-

dures for the licensing of property services contractors.

(2) Rules adopted under this section must require that a property services contractor provide the following information to the commissioner:

(a) The total number of employees employed by the property services contractor who perform janitorial services.

(b) The physical address of the work location or locations at which janitorial services are provided by an employee of the property services contractor.

(c) Demographic data that is voluntarily provided by employees relating to race, sex, sexual orientation, **gender identity**, national origin, marital status and age.

**SECTION 32.** ORS 659.850 is amended to read:

659.850. (1) As used in this section, "discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age or disability. "Discrimination" does not include enforcement of an otherwise valid dress code or policy, as long as the code or policy provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

(2) A person may not be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.

(3) The State Board of Education and the Higher Education Coordinating Commission shall establish rules necessary to ensure compliance with subsection (2) of this section in the manner required by ORS chapter 183.

**SECTION 33.** ORS 659A.003 is amended to read:

659A.003. The purpose of this chapter is to encourage the fullest utilization of the available workforce by removing arbitrary standards of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age or disability as a barrier to employment of the inhabitants of this state, and to ensure the human dignity of all people within this state and protect their health, safety and morals from the consequences of intergroup hostility, tensions and practices of unlawful discrimination of any kind based on race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability or familial status. To accomplish this purpose, the Legislative Assembly intends by this chapter to provide:

(1) A program of public education calculated to eliminate attitudes upon which practices of unlawful discrimination because of race, color, religion, sex, sexual orientation, **gender identity**, national origin,

marital status, age, disability or familial status are based.

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

(3) An adequate administrative machinery for the orderly resolution of complaints of unlawful discrimination through a procedure involving investigation, conference, conciliation and persuasion, to encourage the use in good faith of the machinery by all parties to a complaint of unlawful discrimination and to discourage unilateral action that makes moot the outcome of final administrative or judicial determination on the merits of the complaint.

**SECTION 34.** ORS 659A.006 is amended to read:

659A.006. (1) It is declared to be the public policy of Oregon that practices of unlawful discrimination against any of its inhabitants because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability or familial status are a matter of state concern and that this discrimination not only threatens the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic state.

(2) The opportunity to obtain employment or housing or to use and enjoy places of public accommodation without unlawful discrimination because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age or disability hereby is recognized as and declared to be a civil right.

(3) It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing or the use of facilities based on a bona fide religious belief about sexual orientation **or gender identity** as long as the housing or the use of facilities is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(4) It is not an unlawful employment practice for a bona fide church or other religious institution, including but not limited to a school, hospital or church camp, to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another if:

(a) The religious sect or persuasion to which the employee or applicant belongs is the same as that of the church or institution;

(b) In the opinion of the church or institution, the preference will best serve the purposes of the church or institution; and

(c) The employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(5) It is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about sexual orientation or **gender identity**:

(a) In employment positions directly related to the operation of a church or other place of worship, such as clergy, religious instructors and support staff;

(b) In employment positions in a nonprofit religious school, nonprofit religious camp, nonprofit religious day care center, nonprofit religious thrift store, nonprofit religious bookstore, nonprofit religious radio station or nonprofit religious shelter; or

(c) In other employment positions that involve religious activities, as long as the employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

**SECTION 35.** 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, **gender identity**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital 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, **gender identity**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital 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, **gender identity**, national origin, marital 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 any limitation, specification or discrimination as to an individual's race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age if the individual is 18 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification. Identification of prospective employees according to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age does not violate this section unless the Commissioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS 659A.805, determines that the designation expresses an intent to limit, specify or discriminate on the basis of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age.

(e) For an employment agency, because of an individual's race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital 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 classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against the individual. However, it is not an unlawful employment practice for an employment agency to classify or refer for employment an individual when the classification or referral results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

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

(g) For any person, whether an employer or an employee, to aid, abet, 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 36.** ORS 659A.130 is amended to read: 659A.130. *[(1) For the purposes of ORS 659A.112 to 659A.139, sexual orientation is not a physical or mental impairment. An individual does not have a disability for the purposes of ORS 659A.112 to 659A.139 solely by reason of the individual’s sexual orientation.]*

*[(2)]* For the purposes of ORS 659A.112 to 659A.139, the following conditions are not physical or mental impairments, and an individual with one or more of the following conditions does not have a disability for the purposes of ORS 659A.112 to 659A.139 solely by reason of that condition:

*[(a)]* (1) Pedophilia, exhibitionism, voyeurism or other sexual behavior disorders.

*[(b)]* (2) Compulsive gambling, kleptomania or pyromania.

*[(c)]* (3) Psychoactive substance use disorders resulting from current illegal use of drugs.

**SECTION 37.** ORS 659A.403 is amended to read: 659A.403. (1) Except as provided in subsection (2) of this section, all persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age if the individual is of age, as described in this section, or older.

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

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

(b) The enforcement of laws governing the use of marijuana items, as defined in ORS 475B.015, by persons under 21 years of age and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold; or

(c) The offering of special rates or services to persons 50 years of age or older.

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

**SECTION 38.** ORS 659A.406 is amended to read: 659A.406. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any employee or person acting on behalf of the place of public accommodation to make any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age if the individual is 18 years of age or older.

**SECTION 39.** ORS 659A.409 is amended to read: 659A.409. Except as provided by laws governing the consumption of alcoholic beverages by minors, the use of marijuana items, as defined in ORS 475B.015, by persons under 21 years of age, the frequenting by minors of places of public accommodation where alcoholic beverages are served and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold, and except for special rates or services offered to persons 50 years of age or older, it is an unlawful practice for any person acting on behalf of any place of public accommodation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of the place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age if the individual is of age, as described in this section, or older.

**SECTION 40.** ORS 659A.421 is amended to read: 659A.421. (1) As used in this section:

(a) “Dwelling” means:

(A) A building or structure, or portion of a building or structure, that is occupied, or designed or intended for occupancy, as a residence by one or more families; or

(B) Vacant land offered for sale or lease for the construction or location of a building or structure, or portion of a building or structure, that is occupied, or designed or intended for occupancy, as a residence by one or more families.

(b) “Purchaser” includes an occupant, prospective occupant, renter, prospective renter, lessee, prospective lessee, buyer or prospective buyer.

(c) “Real property” includes a dwelling.

(d)(A) “Source of income” includes federal rent subsidy payments under 42 U.S.C. 1437f and any other local, state or federal housing assistance.

(B) “Source of income” does not include income derived from a specific occupation or income derived in an illegal manner.

(2) A person may not, because of the race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status or source of income of any person:

(a) Refuse to sell, lease or rent any real property to a purchaser. This paragraph does not prevent a person from refusing to lease or rent real property to a prospective renter or prospective lessee:

(A) Based upon the past conduct of a prospective renter or prospective lessee provided the refusal to lease or rent based on past conduct is consistent with local, state and federal law, including but not limited to fair housing laws; or

(B) Based upon the prospective renter’s or prospective lessee’s inability to pay rent, taking into account the value of the prospective renter’s or prospective lessee’s local, state and federal housing assistance, provided the refusal to lease or rent based on inability to pay rent is consistent with local, state and federal law, including but not limited to fair housing laws.

(b) Expel a purchaser from any real property.

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

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

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

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

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

(h) Deny access to, or membership or participation in, any multiple listing service, real estate brokers’ organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against any person in the terms or conditions of the access, membership or participation.

(i) Represent to a person that a dwelling is not available for inspection, sale or rental when the dwelling in fact is available for inspection, sale or rental.

(j) Otherwise make unavailable or deny a dwelling to a person.

(3)(a) A person whose business includes engaging in residential real estate related transactions may not discriminate against any person in making a transaction available, or in the terms or conditions of the transaction, because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status or source of income.

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

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

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

(ii) Secured by residential real estate; or

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

(4) A real estate licensee may not accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status or source of income.

(5) A person may not, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status or source of income.

(6) This section does not apply with respect to sex distinction, discrimination or restriction if the real property involved is such that the application of this section would necessarily result in common use of bath or bedroom facilities by unrelated persons of opposite sex.

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

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

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

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

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

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

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

(c) Housing does not fail to meet the requirements for housing for older persons if:

(A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units that are reserved for occupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

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

(8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based upon sex, sexual orientation, **gender identity** or familial status do not apply to the renting of space within a single-family residence if the owner actually maintains and occupies the residence as the owner's primary residence and all occupants share some common space within the residence.

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

**SECTION 41.** ORS 659A.425 is amended to read: 659A.425. (1) As used in this section:

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

(b) "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status, source of income or disability.

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

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

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

(b) Application of the policy adversely impacts members of the protected class to a greater extent than the policy impacts persons generally.

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

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

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

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

**SECTION 42.** ORS 659A.805 is amended to read: 659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner of the Bureau of Labor and Industries may adopt reasonable rules:

(a) Establishing what acts and communications constitute a notice, sign or advertisement that public accommodation or real property will be refused, withheld from, or denied to any person or that the person will be unlawfully discriminated against because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, disability or:

(A) With respect to public accommodation, age.

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

(b) Establishing what inquiries in connection with employment and prospective employment express a limitation, specification or unlawful discrimination as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age or disability.

(c) Establishing what inquiries in connection with employment and prospective employment soliciting information as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age or disability are based on bona fide occupational qualifications.

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

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

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

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

(b) Available reasonable alternative ways of obtaining requested information without soliciting responses as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status.

(c) Whether a statement or inquiry soliciting information as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status, communicates an idea independent of an intention to limit, specify or unlawfully discriminate as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status.

(d) Whether the independent idea communicated is relevant to a legitimate objective of the kind of transaction that it contemplates.

(e) The ease with which the independent idea relating to a legitimate objective of the kind of transaction contemplated could be communicated without connoting an intention to unlawfully dis-

criminate as to race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status.

**SECTION 43.** ORS 659A.815 is amended to read:

659A.815. (1) The Commissioner of the Bureau of Labor and Industries shall create such advisory agencies and intergroup-relations councils as the commissioner believes necessary to aid in effectuating the purposes of this chapter. The commissioner may empower advisory agencies and councils:

(a) To study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, age, disability, familial status or source of income.

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

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

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

(3) The commissioner may make provision for technical and clerical assistance to the advisory agencies and councils and for the expenses of the assistance.

**SECTION 44.** ORS 659A.885, as amended by section 7, chapter 343, Oregon Laws 2019, section 7, chapter 463, Oregon Laws 2019, and section 12, chapter 701, Oregon Laws 2019, is amended to read:

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

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

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

(2) An action may be brought under subsection (1) of this section alleging a violation of:

(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421; or

(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

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

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

(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a violation of ORS 652.220, the court may award punitive damages if:

(a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted with malice or acted with willful and wanton misconduct; or

(b) An employer was previously adjudicated in a proceeding under this section or under ORS 659A.850 for a violation of ORS 652.220.

(5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief au-



thorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(8) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

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

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

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

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

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

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

(9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

(a) In an amount not exceeding \$50,000 for a first violation; and

(b) In an amount not exceeding \$100,000 for any subsequent violation.

(10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the

court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

**SECTION 45.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019, and section 13, chapter 701, Oregon Laws 2019, is amended to read:

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

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

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

(2) An action may be brought under subsection (1) of this section alleging a violation of:

(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265,

653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421; or

(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a violation of ORS 652.220, the court may award punitive damages if:

(a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted with malice or acted with willful and wanton misconduct; or

(b) An employer was previously adjudicated in a proceeding under this section or under ORS 659A.850 for a violation of ORS 652.220.

(5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(8) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as de-

finied in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

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

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

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

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

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

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

(9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

(a) In an amount not exceeding \$50,000 for a first violation; and

(b) In an amount not exceeding \$100,000 for any subsequent violation.

(10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) “Aggrieved person” includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

**SECTION 46.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, and section 13, chapter 701, Oregon Laws 2019, is amended to read:

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

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

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

(2) An action may be brought under subsection (1) of this section alleging a violation of:

(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,

659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421; or

(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a violation of ORS 652.220, the court may award punitive damages if:

(a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted with malice or acted with willful and wanton misconduct; or

(b) An employer was previously adjudicated in a proceeding under this section or under ORS 659A.850 for a violation of ORS 652.220.

(5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(8) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection

(1) of this section, in an action under this subsection:

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

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

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

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

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

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

(9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

(a) In an amount not exceeding \$50,000 for a first violation; and

(b) In an amount not exceeding \$100,000 for any subsequent violation.

(10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

**SECTION 47.** ORS 660.139 is amended to read:

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

(2) As used in this section:

(a) "Current employer" means the employer with whom the applicant has been a full-time, regular employee for at least six months before the applicant is selected into the apprenticeship program.

(b) "Family business" means a business owned in whole or in part by a parent or grandparent of the applicant.

**SECTION 48.** ORS 744.382 is amended to read:

744.382. (1) A licensee may not pay or offer to pay a finder's fee, commission or other compensation to a person described in this subsection, in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection applies with respect to payments or offers of payment to:

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

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

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

(2) A licensee may not solicit an investor who could influence the treatment of the illness or con-

dition of the individual whose life would be the subject of a life settlement contract.

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

(4) A licensee may not discriminate in the making of a life settlement contract on the basis of race, religion, creed, sex, sexual orientation, **gender identity**, national origin, marital status, age, familial status or occupation or discriminate between persons who have dependents and persons who do not have dependents.

**SECTION 49.** Section 2, chapter 5, Oregon Laws 2020 (first special session), is amended to read:

**Sec. 2.** (1) As used in this section, “misconduct” means:

(a) Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the use of force policy for the law enforcement unit employing the offending officer;

(b) Sexual harassment or sexual misconduct;

(c) Discrimination against a person based on race, color, religion, sex, sexual orientation, **gender identity**, national origin, disability or age;

(d) A crime; or

(e) A violation of the minimum standards for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410.

(2) Without regard to rank or assignment, a police officer or reserve officer shall intervene to prevent or stop another police officer or reserve officer engaged in any act the intervening officer knows or reasonably should know is misconduct, unless the intervening officer cannot intervene safely.

(3) A police officer or reserve officer who witnesses another police officer or reserve officer engaging in misconduct shall report the misconduct to a supervisor as soon as practicable, but no later than 72 hours after witnessing the misconduct.

(4) Failure to intervene or report as required by subsections (2) and (3) of this section is grounds for disciplinary action against a police officer or reserve officer by the law enforcement unit employing the officer or for the Department of Public Safety Standards and Training to suspend or revoke the officer’s certification as provided in ORS 181A.630, 181A.640 and 181A.650.

(5) An employer may not discharge, demote, suspend or in any manner discriminate or retaliate against a police officer or reserve officer with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the officer intervened or reported as required by subsections (2) and (3) of this section. Violation of this subsection is an unlawful employment practice as provided in ORS 659A.199.

(6) The Department of Public Safety Standards and Training shall report at least annually to an appropriate committee of the Legislative Assembly on any rules adopted by the department implementing this section.

**SECTION 50. ORS 659.870 is repealed.**

**SECTION 51. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.**

Approved by the Governor June 23, 2021  
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