

# Enrolled Senate Bill 2

Sponsored by COMMITTEE ON JUDICIARY (at the request of Governor’s Task Force on Equality in Oregon)

CHAPTER .....

AN ACT

Relating to sexual orientation discrimination; creating new provisions; amending ORS 10.030, 20.107, 30.860, 93.270, 109.035, 166.155, 166.165, 174.100, 179.750, 192.630, 240.306, 338.125, 353.100, 418.648, 418.925, 421.352, 430.550, 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815, 659A.885, 660.139 and 744.353; and repealing ORS 236.380.

**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) “May not” and “shall not” are equivalent expressions of an absolute prohibition.
- (5) “Person” includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

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

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

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

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

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

**SECTION 2.** 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, [color,] sex, [marital status,] **sexual orientation**, national origin [or], **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 discrimination of any kind based on race, **color**, religion, [color,] sex, **sexual ori-**

**entation, national origin,** marital status, [*or national origin*] **age or disability.** 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 discrimination because of race, **color,** religion, [*color,*] sex, **sexual orientation, national origin,** marital status, [*or national origin*] **age or disability** are based.

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

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

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

659A.006. (1) It is declared to be the public policy of Oregon that practices of discrimination against any of its inhabitants because of race, **color,** religion, [*color,*] sex, **sexual orientation, national origin,** marital status, [*national origin,*] age or disability are a matter of state concern and that [*such*] **this** discrimination **not only** threatens [*not only*] 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 discrimination because of race, **color,** religion, [*color,*] sex, **sexual orientation, national origin,** marital status, [*national origin,*] age or disability hereby is recognized as and declared to be a civil right. [*However, this section shall not be construed to prevent a bona fide church or sectarian religious institution, including but not limited to a school, hospital or church camp, from preferring an employee or applicant for employment of one religious sect or persuasion over another when:*]

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

[*(b) In the opinion of such bona fide church or sectarian religious institution, such a preference will best serve the purposes of such 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 which has no necessary relationship to the church or institution, or to its primary purposes.*]

(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 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:**

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

(b) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age of any other person with whom the individual associates, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*,] to discriminate against [*such*] **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, [*color*,] sex, **sexual orientation**, national origin, marital status or age if the individual is 18 years of age or older, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any individual*] to exclude or to expel from its membership [*such*] **the** individual or to discriminate in any way against [*any such*] **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 [*which*] **that** expresses directly or indirectly any limitation, specification or discrimination as to an individual's race, **color**, religion, [*color*,] sex, **sexual orientation**, 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. [*But identifying*] **Identification of prospective** employees according to race, **color**, religion, [*color*,] sex, **sexual orientation**, 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 [*such a*] **the** designation expresses an intent to limit, specify or discriminate on the basis of race, **color**, religion, [*color*,] sex, **sexual orientation**, national origin, marital status or age.

(e) For an employment agency, **because of an individual's race, color, religion, sex, sexual orientation, 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, 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 [*any*] **the** individual.[:]**

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

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

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

However, it is not an unlawful employment practice for an employment agency to classify or refer for employment *[any]* **an** individual *[where such]* **when the** classification or referral results from a bona fide occupational *[requirement]* **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 5.** 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, national origin**, marital status[, *color, national origin*] or age if the individual is 18 years of age 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; or

(b) 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 6.** 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 *[such]* **the place of public accommodation** to make any distinction, discrimination or restriction on account of race, **color**, religion, *[color,]* sex, **sexual orientation, national origin**, marital status[, *national origin*] or age if the individual is 18 years of age or older.

**SECTION 7.** ORS 659A.409 is amended to read:

659A.409. Except as provided by laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served, 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, national origin**, marital status[, *color, national origin*] or age if the individual is 18 years of age or older.

**SECTION 8.** ORS 659A.421 is amended to read:

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

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

(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 *[which]* **that** indicates any preference, limitation, specification or discrimination based on race, color, **religion**, sex, **sexual orientation, national origin**, marital status, **familial status or source of income**[, *religion or national origin*].

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

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

(2)(a) *[No]* **A** person whose business includes engaging in residential real estate related transactions *[shall]* **may not** discriminate against any person in making **a transaction** available *[such a transaction]*, or in the terms or conditions of *[such a]* **the** transaction, because of race, color, **religion**, sex, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation, 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) For securing residential real estate; or

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

(3) *[No]* **A** real estate licensee *[shall]* **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, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation, national origin, marital status, familial status or source of income**.

(4) *[No person shall]* **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, *[marital status, source of income, familial status, religion or national origin]* **sexual orientation, national origin, marital status, familial status or source of income**.

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

(6) Subsections (1) and (3) of this section do not apply with respect to sex distinction, discrimination or restriction if the real property involved is such that the application of subsections (1) and (3) 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 [*which*] **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 [*shall*] **does** not fail to meet the requirements for housing for older persons if:

(A) Persons residing in [*such*] **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 [*such*] **the** housing shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units[. *However, such*], **if the** units 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) In the sale, lease or rental of real estate, [*no person shall*] **a person may not** disclose to any person that an occupant or owner of real property has or died from human immunodeficiency virus or acquired immune deficiency syndrome.

(9) The provisions of subsection (1)(a) to (d) and (f) of this section that prohibit actions based upon [*familial status or*] sex, **sexual orientation 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.

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

**SECTION 9.** ORS 659A.424 is amended to read:

659A.424. (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**, **national origin**, marital status, [*source of income, familial status, religion, national origin*] **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 that a person has 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 adversely impacts persons generally.

(3) In determining under subsection (2) of this section whether a violation has occurred and, if so, 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 10.** 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 discrimination will be made against the person because of race, **color**, religion, sex, **sexual orientation, national origin**, marital status, [*color, national origin or,*] **disability or:**

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

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

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

- (c) Establishing what inquiries in connection with employment and prospective employment soliciting information as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, [or] marital status, age or disability** are based on bona fide [*job*] **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, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income.**

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

- (d) Whether the independent idea communicated is relevant to a legitimate objective of the kind of transaction [*which*] **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 discriminate as to race, **color**, religion, [*color,*] sex, **sexual orientation, national origin, marital status, [national origin or] age, disability, familial status or source of income.**

**SECTION 11.** 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[*, local, regional or statewide, as in the judgment of*] **as** the commissioner [*will*] **believes necessary to** aid in effectuating the purposes of this chapter. The commissioner may empower [*them*] **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, [*color,*] sex, [*or*] **sexual orientation, 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) [Such] **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 [such] **the advisory** agencies and councils and for the expenses of [such] **the** assistance.

**SECTION 12.** ORS 659A.885 is amended to read:

659A.885. (1) Any individual 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 [such] **any** other equitable relief [as] **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 ORS 25.337, 25.424, 171.120, 399.235, 476.574, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318 or 659A.421 (1) or (3).

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

(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) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574, 659A.203 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.

(5) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, **sexual orientation**, 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 [such] **the** place or by any person aiding or abetting [such] **the** place or person in violation of ORS 659A.406, may bring an action against the operator or manager of [such] **the** place, the employee or person acting on behalf of [such] **the** place or the aider or abettor of [such] **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).

**SECTION 13.** ORS 10.030 is amended to read:

10.030. (1) Except as otherwise specifically provided by statute, the opportunity for jury service [shall] **may** not be denied or limited on the basis of race, [national origin, gender,] **religion, sex, sexual orientation, national origin,** age, [religious belief,] 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 juror in a criminal trial, beginning on or after December 5, 1996, 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; or
- (E) Has been convicted of a felony or served a felony sentence within the prior 15 years.

(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.

(4) A person who is blind, hearing or speech impaired or physically disabled [shall not be] **is not** ineligible to act as a juror [or] **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) [No] **A** person is [eligible] **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.

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

**SECTION 14.** ORS 20.107 is amended to read:

20.107. (1) In any civil judicial proceeding, including judicial review of an administrative proceeding 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, [*gender,*] **race, religion, sex, sexual orientation**, national origin, [*age*] **alienage**, marital status[, *race, religion or alienage*] **or age**.

**SECTION 15.** ORS 30.860 is amended to read:

30.860. (1) [*No*] **A** person or governmental entity [*shall*] **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 [*national origin,*] race, [*or*] religion, **sex, sexual orientation or national origin** of [*such*] **the** person or of [*such*] **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 16.** ORS 93.270 is amended to read:

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

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

(b) Restricting the use of the real property by any home or facility that is licensed by or under the authority of the department 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 [*such*] provision in an instrument executed in violation of subsection (1) of this section is void and unenforceable.

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

(4)(a) [*No*] **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 [*shall*] **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 17.** 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 [*gender*,] race, [*or*] religion, **sex or sexual orientation** 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 [*gender*,] race, [*or*] religion, **sex or sexual orientation** 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 18.** ORS 166.155 is amended to read:

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

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

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

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

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

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

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

(3) For purposes of this section[.],

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

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

**SECTION 19.** ORS 166.165 is amended to read:

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

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

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

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

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

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

[(3)] "*Sexual orientation*" has the meaning given that term in ORS 166.155.]

**SECTION 20.** 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, national origin or** marital status [*or national origin*] of the person. This subsection does not require combined domiciliary facilities at the state institutions to which it applies.

**SECTION 21.** 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, [*creed,*] color, **creed**, sex, [*age,*] **sexual orientation**, 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 predominate use.

(4) Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved. 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. 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 the disabled, or, upon request of a deaf or hard-of-hearing person, to fail to make a good faith effort to have an interpreter for deaf or hard-of-hearing persons 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 Department of Human Services 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 [*such persons*] **qualified interpreters** to provide interpreter services.

**SECTION 22.** 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, [*marital status,*] **sexual orientation**, national origin, [*political affiliation,*] **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 [*which*] **that** are common to state agencies. [*Such*] **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 semi-skilled 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 [*where such*] **when the** competition provides abilities not available among existing employees, enrich state service or contribute to improved employment opportunity for underrepresented groups.

**SECTION 23.** ORS 338.125 is amended to read:

338.125. (1) Student enrollment in a public charter school shall be voluntary. All students who reside within the school district where the public charter school is located are eligible for enrollment at a public charter school. If the number of applications from students who reside within 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. However, 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:

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

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

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

(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online courses as part of the curriculum of the school, then 50 percent or more of the students who attend the public charter school must reside in the school district in which the public charter school is located.

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

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

**SECTION 24.** 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**, 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 25.** 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**, 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**, nationality, membership in a particular group or political opinion.

**SECTION 26.** ORS 430.550 is amended to read:

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

**SECTION 27.** 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 [shall] **may not** charge or ask for application fees or nonrefundable deposits and [shall] **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, [*national origin*,] **religion**, sex, **sexual orientation** or [*religion*] **national origin**.

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

**SECTION 28.** 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 Directors 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 antipoverty 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 [*which*] **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 [*shall*] **may** not overlap.



(f) Have an accounting system [*which*] **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, [*national origin or*] sex, **sexual orientation or national origin** be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity 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 Directors 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.

(e) On a regular basis provide information to the Community Action Directors 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 for the training and technical assistance needs of the Community Action Directors 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 29.** 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 [*age, disability, national origin, race, marital status, religion or sex*] **race, color, religion, sex, sexual orientation, 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) [*No*] **A** person [*in Oregon shall*] **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 State Board of Higher Education shall establish rules necessary to [*insure*] **ensure** compliance with subsection (2) of this section in the manner required by ORS chapter 183.

**SECTION 30.** 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** 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 31.** ORS 744.353 is amended to read:

744.353. (1) A licensee [*shall*] **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, 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, 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 [*shall*] **may** not solicit an investor who could influence the treatment of the illness or condition 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 [*shall be*] **is** subject to ORS 746.600 to 746.690. For purposes of this subsection, a licensee [*shall be*] **is** considered an insurance-support organization within the meaning of ORS 746.600.

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

**SECTION 32. ORS 236.380 is repealed.**

**SECTION 33.** ORS 353.100 is amended to read:

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

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.725, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, [*236.380,*] 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) [*shall*] **do** not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section [*shall not be*] **is not** subject to any provision of law enacted after

January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity.

**SECTION 34.** ORS 421.352 is amended to read:

421.352. (1) The provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292 and 293 and ORS 35.550 to 35.575, 183.710 to 183.725, 183.745, 183.750, 184.345, 190.430, 190.490, 200.035, [236.380,] 236.605 to 236.640, 243.303, 243.305, 243.315, 243.325 to 243.335, 243.345, 243.350, 243.696, 279.835 to 279.855, 282.010 to 282.150 and 656.017 (2) [shall] do not apply to Oregon Corrections Enterprises.

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

**SECTION 35.** The amendments to ORS 30.860, 93.270, 109.035, 166.155, 166.165, 179.750, 418.648, 443.739, 458.505, 659.850, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 660.139 and 744.353 by sections 4, 5, 6, 7, 8, 15, 16, 17, 18, 19, 20, 24, 27, 28, 29, 30 and 31 of this 2007 Act apply to acts committed on or after the effective date of this 2007 Act.

**SECTION 36.** The amendments to ORS 10.030 by section 13 of this 2007 Act apply to opportunities for jury service arising on or after the effective date of this 2007 Act.

**SECTION 37.** The amendments to ORS 20.107 by section 14 of this 2007 Act apply to claims of unlawful discrimination filed on or after the effective date of this 2007 Act.

**SECTION 38.** The amendments to ORS 192.630 by section 21 of this 2007 Act apply to meetings held on or after the effective date of this 2007 Act.

**SECTION 39.** The amendments to ORS 240.306 by section 22 of this 2007 Act apply to employee recruitment, selection and promotion on or after the effective date of this 2007 Act.

**SECTION 40.** The amendments to ORS 338.125 by section 23 of this 2007 Act apply to students admitted on or after the effective date of this 2007 Act.

**SECTION 41.** The amendments to ORS 430.550 by section 26 of this 2007 Act apply to evaluations or treatment performed on or after the effective date of this 2007 Act.

**SECTION 42.** The amendments to ORS 10.030, 20.107, 30.860, 93.270, 109.035, 166.155, 166.165, 174.100, 179.750, 192.630, 240.306, 338.125, 353.100, 418.648, 418.925, 421.352, 430.550, 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815, 659A.885, 660.139 and 744.353 by sections 1 to 31, 33 and 34 of this 2007 Act and the repeal of ORS 236.380 by section 32 of this 2007 Act may be cited as the Oregon Equality Act.

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**Passed by Senate March 21, 2007**

**Repassed by Senate April 19, 2007**

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Secretary of Senate

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President of Senate

**Passed by House April 17, 2007**

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Speaker of House

**Received by Governor:**

.....M,....., 2007

**Approved:**

.....M,....., 2007

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State