

# Senate Bill 250

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## SUMMARY

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

Prohibits introduction of reputation and opinion evidence of plaintiff's past sexual behavior and manner of dress in civil action claiming unlawful discrimination by reason of sex. Allows introduction of other evidence of plaintiff's past sexual behavior and manner of dress in those actions only after court order making specified findings.

## A BILL FOR AN ACT

1  
2 Relating to evidence in civil actions claiming unlawful discrimination.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 40.010 to 40.585.**

5 **SECTION 2. (1) Notwithstanding any other provision of law, the following evidence is not**  
6 **admissible in a civil action claiming unlawful discrimination by reason of sex:**

7 (a) **Reputation or opinion evidence of the past sexual behavior of the plaintiff; or**

8 (b) **Reputation or opinion evidence presented for the purpose of showing that the manner**  
9 **of dress of the plaintiff incited the conduct alleged to constitute unlawful discrimination or**  
10 **indicated consent to the conduct by the plaintiff.**

11 (2) **Notwithstanding any other provision of law, evidence of a plaintiff's past sexual be-**  
12 **havior that is not reputation or opinion evidence is admissible in a civil action claiming un-**  
13 **lawful discrimination by reason of sex only if the court determines that the evidence:**

14 (a) **Relates to the motive or bias of the plaintiff; or**

15 (b) **Is necessary to rebut or explain scientific or medical evidence offered by the plaintiff.**

16 (3) **Notwithstanding any other provision of law, evidence relating to the plaintiff's man-**  
17 **ner of dress that is not reputation or opinion evidence may be introduced in a civil action**  
18 **claiming unlawful discrimination by reason of sex only if the court determines that the evi-**  
19 **dence:**

20 (a) **Relates to the motive or bias of the plaintiff; or**

21 (b) **Is necessary to rebut or explain scientific, medical or testimonial evidence offered by**  
22 **the plaintiff.**

23 (4) **A defendant may introduce evidence under subsection (2) or (3) of this section only**  
24 **after entry of an order by the court that authorizes the introduction. A defendant seeking**  
25 **to introduce evidence under subsection (2) or (3) of this section must make the motion not**  
26 **later than 15 days before the date on which the trial in which the evidence is to be offered**  
27 **is scheduled to begin. The court may allow the motion to be made at a later date, including**  
28 **during trial, if the court determines that the evidence is newly discovered and could not have**  
29 **been obtained earlier through the exercise of due diligence or that the issue to which the**

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

1 evidence relates has newly arisen in the case. Motions under this subsection must be served  
2 on all other parties.

3 (5) A motion under subsection (4) of this section must be accompanied by a written offer  
4 of proof. If the court determines that the offer of proof contains evidence described in sub-  
5 section (2) or (3) of this section, the court shall order a hearing outside of the presence of  
6 the jury and the public to determine if the evidence is admissible. The parties may call wit-  
7 nesses and offer relevant evidence at the hearing. If the relevancy of the evidence that the  
8 defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the  
9 court shall accept evidence on, and decide whether, the condition of fact is fulfilled.

10 (6) The court shall order evidence admissible after a hearing under subsection (5) of this  
11 section only if the court determines that the evidence is relevant and that the probative  
12 value of the evidence outweighs the danger of unfair prejudice. The order of the court shall  
13 identify the specific evidence that may be admitted and subjects on which a witness may be  
14 examined.

15 **SECTION 3.** Section 2 of this 2007 Act applies only to civil actions commenced as de-  
16 scribed in ORS 12.020 on or after the effective date of this 2007 Act.

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