

A-Engrossed
Senate Bill 628

Ordered by the Senate May 14
Including Senate Amendments dated May 14

Sponsored by Senator WALKER

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.

Prohibits discrimination against individual because of individual's arrest record.

A BILL FOR AN ACT

Relating to discrimination based on arrest record; amending ORS 659A.030 and 659A.421.

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

SECTION 1. 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, religion, color, sex, national origin, marital status or age if the individual is 18 years of age or older or because of the race, religion, color, sex, national origin, marital status or age of any other person with whom the individual associates, or because of **an arrest record, or** a juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, of any individual, to refuse to hire or employ or to bar or discharge from employment [*such*] **the** individual. However, discrimination is not an unlawful employment practice if [*such*] **the** discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.

(b) For an employer, because of an individual's race, religion, color, sex, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, religion, color, sex, national origin, marital status or age of any other person with whom the individual associates, or because of **an arrest record, or** a 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, religion, color, sex, national origin, marital status or age if the individual is 18 years of age or older, or because of **an arrest record, or** a 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, religion, color, sex, national origin, marital status or age if the individual is 18 years of age or older

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 or on the basis of **an arrest record** or an expunged juvenile record, or any intent to make any such
2 limitation, specification or discrimination, unless based upon a bona fide occupational qualification.
3 But identifying employees according to race, religion, color, sex, national origin, marital status, or
4 age does not violate this section unless the Commissioner of the Bureau of Labor and Industries,
5 after a hearing conducted pursuant to ORS 659A.805, determines that such a designation expresses
6 an intent to limit, specify or discriminate on the basis of race, religion, color, sex, national origin,
7 marital status or age.

8 (e) For an employment agency to classify or refer for employment, or to fail or refuse to refer
9 for employment, or otherwise to discriminate against any individual:

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

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

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

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

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

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

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

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

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

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

38 **SECTION 2.** ORS 659A.421 is amended to read:

39 659A.421. (1) No person shall, because of race, color, sex, marital status, source of income, **ar-**
40 **rest record**, familial status, religion or national origin of any person:

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

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

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

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

2 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
3 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
4 of real property which indicates any preference, limitation, specification or discrimination based on
5 race, color, sex, marital status, source of income, **arrest record**, religion or national origin.

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

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

11 (2)(a) No person whose business includes engaging in residential real estate related transactions
12 shall discriminate against any person in making available such a transaction, or in the terms or
13 conditions of such a transaction, because of race, color, sex, marital status, source of income, **arrest**
14 **record**, familial status, religion or national origin.

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

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

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

19 (ii) For securing residential real estate; or

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

21 (3) No real estate licensee shall accept or retain a listing of real property for sale, lease or
22 rental with an understanding that a purchaser may be discriminated against with respect to the sale,
23 rental or lease thereof because of race, color, sex, marital status, source of income, **arrest record**,
24 familial status, religion or national origin.

25 (4) No person shall, for profit, induce or attempt to induce any other person to sell or rent any
26 dwelling by representations regarding the entry or prospective entry into the neighborhood of a
27 person or persons of a particular race, color, sex, marital status, [*source of income*,] familial status,
28 religion or national origin **or having a particular source of income or arrest record**.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (8) In the sale, lease or rental of real estate, no person shall disclose to any person that an oc-
12 cupant or owner of real property has or died from human immunodeficiency virus or acquired im-
13 mune deficiency syndrome.

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

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