

# Senate Bill 628

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 **as introduced**.

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.

**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 or on the basis of **an arrest record or** 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 employees according to race, religion, color, sex, national origin, marital status, or

**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 age does not violate this section unless the Commissioner of the Bureau of Labor and Industries,  
 2 after a hearing conducted pursuant to ORS 659A.805, determines that such a designation expresses  
 3 an intent to limit, specify or discriminate on the basis of race, religion, color, sex, national origin,  
 4 marital status or age.

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

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

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

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

13  
 14 However, it is not an unlawful employment practice for an employment agency to classify or refer  
 15 for employment any individual *[where such]* **when the** classification or referral results from a bona  
 16 fide occupational requirement reasonably necessary to the normal operation of the employer's busi-  
 17 ness.

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

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

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

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

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

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