

**A-Engrossed**  
**House Bill 3482**

Ordered by the House April 14  
Including House Amendments dated April 14

Sponsored by Representatives TOMEI, WHISNANT; Representative THOMPSON

**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.

Requires certain employers to allow eligible employees to take unpaid leave to address issues arising from harassment [*or sexual harassment*]. Prohibits employer from taking certain employment actions toward individual who is victim of harassment [*or sexual harassment*]. Requires employer to make reasonable safety accommodation requested by employee who is victim of harassment [*or sexual harassment*]. Makes violation unlawful employment practice. **Modifies definition of "victim of stalking" for application of such statutorily created rights.**

Allows certain state employees in unclassified or exempt service to be accompanied by individual selected by employee to be present during any interview with employee requested by employer.  
Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to employment; creating new provisions; amending ORS 659A.270, 659A.272, 659A.280 and  
3 659A.290; and declaring an emergency.

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

5 **SECTION 1.** ORS 659A.270 is amended to read:

6 659A.270. As used in ORS 659A.270 to 659A.285:

7 (1) "Covered employer" means an employer who employs six or more individuals in the State  
8 of Oregon for each working day during each of 20 or more calendar workweeks in the year in which  
9 an eligible employee takes leave to address domestic violence, **harassment**, sexual assault or  
10 stalking, or in the year immediately preceding the year in which an eligible employee takes leave  
11 to address domestic violence, **harassment**, sexual assault or stalking.

12 (2) "Eligible employee" means an employee who:

13 (a) Worked an average of more than 25 hours per week for a covered employer for at least 180  
14 days immediately before the date the employee takes leave; and

15 (b) Is a victim of domestic violence, **harassment**, sexual assault or stalking or is the parent or  
16 guardian of a minor child or dependent who is a victim of domestic violence, **harassment**, sexual  
17 assault or stalking.

18 (3) "Protective order" means an order authorized by ORS 30.866, 107.095 (1)(c), 107.700 to  
19 107.735, 124.005 to 124.040 or 163.730 to 163.750 or any other order that restrains an individual from  
20 contact with an eligible employee or the employee's minor child or dependent.

21 (4) "Victim of domestic violence" means:

22 (a) An individual who has been a victim of abuse, as defined in ORS 107.705; or

23 (b) Any other individual designated as a victim of domestic violence by rule adopted under ORS  
24 659A.805.

**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       **(5) “Victim of harassment” means:**

2       **(a) An individual against whom harassment has been committed as described in ORS**  
3 **166.065.**

4       **(b) Any other individual designated as a victim of harassment by rule adopted under ORS**  
5 **659A.805.**

6       [(5)] **(6) “Victim of sexual assault” means:**

7       (a) An individual against whom a sexual offense has been committed as described in ORS 163.305  
8 to 163.467 or 163.525; or

9       (b) Any other individual designated as a victim of sexual assault by rule adopted under ORS  
10 **659A.805.**

11       [(6)] **(7) “Victim of stalking” means:**

12       (a) An individual against whom stalking has been committed as described in ORS 163.732; [or]

13       (b) [Any other] **An** individual designated as a victim of stalking by rule adopted under ORS  
14 **659A.805[.]; or**

15       **(c) An individual who has obtained a court’s stalking protective order or a temporary**  
16 **court’s stalking protective order under ORS 30.866.**

17       [(7)] **(8) “Victim services provider” means** a prosecutor-based victim assistance program or a  
18 nonprofit program offering safety planning, counseling, support or advocacy related to domestic vi-  
19 olence, **harassment**, sexual assault or stalking.

20       **SECTION 2.** ORS 659A.272 is amended to read:

21       659A.272. Except as provided in ORS 659A.275, a covered employer shall allow an eligible em-  
22 ployee to take reasonable leave from employment for any of the following purposes:

23       (1) To seek legal or law enforcement assistance or remedies to ensure the health and safety of  
24 the employee or the employee’s minor child or dependent, including preparing for and participating  
25 in protective order proceedings or other civil or criminal legal proceedings related to domestic vi-  
26 olence, **harassment**, sexual assault or stalking.

27       (2) To seek medical treatment for or to recover from injuries caused by domestic violence or  
28 sexual assault to or **harassment or** stalking of the eligible employee or the employee’s minor child  
29 or dependent.

30       (3) To obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed  
31 mental health professional related to an experience of domestic violence, **harassment**, sexual as-  
32 sault or stalking.

33       (4) To obtain services from a victim services provider for the eligible employee or the employee’s  
34 minor child or dependent.

35       (5) To relocate or take steps to secure an existing home to ensure the health and safety of the  
36 eligible employee or the employee’s minor child or dependent.

37       **SECTION 3.** ORS 659A.280 is amended to read:

38       659A.280. (1) An eligible employee shall give the covered employer reasonable advance notice  
39 of the employee’s intention to take leave for the purposes identified in ORS 659A.272, unless giving  
40 the advance notice is not feasible.

41       (2) The covered employer may require the eligible employee to provide certification that:

42       (a) The employee or the employee’s minor child or dependent is a victim of domestic violence,  
43 **harassment**, sexual assault or stalking; and

44       (b) The leave taken is for one of the purposes identified in ORS 659A.272.

45       (3) The eligible employee shall provide the certification within a reasonable time after receiving

1 the covered employer's request for the certification.

2 (4) Any of the following constitutes sufficient certification:

3 (a) A copy of a police report indicating that the eligible employee or the employee's minor child  
4 or dependent was a victim of domestic violence, **harassment**, sexual assault or stalking.

5 (b) A copy of a protective order or other evidence from a court, **administrative agency** or at-  
6 torney that the eligible employee appeared in or was preparing for a civil, [or] criminal **or admin-  
7 istrative** proceeding related to domestic violence, **harassment**, sexual assault or stalking.

8 (c) Documentation from an attorney, law enforcement officer, health care professional, licensed  
9 mental health professional or counselor, member of the clergy or victim services provider that the  
10 eligible employee or the employee's minor child or dependent was undergoing treatment or coun-  
11 seling, obtaining services or relocating as a result of domestic violence, **harassment**, sexual assault  
12 or stalking.

13 (5) All records and information kept by a covered employer regarding an eligible employee's  
14 leave under ORS 659A.270 to 659A.285, including the fact that the employee has requested or ob-  
15 tained leave under ORS 659A.272, are confidential and may not be released without the express  
16 permission of the employee, unless otherwise required by law.

17 **SECTION 4.** ORS 659A.290 is amended to read:

18 659A.290. (1) As used in this section:

19 (a) "Reasonable safety accommodation" may include, but is not limited to, a transfer, reassign-  
20 ment, modified schedule, unpaid leave from employment, changed work telephone number, changed  
21 work station, installed lock, implemented safety procedure or any other adjustment to a job struc-  
22 ture, workplace facility or work requirement in response to actual or threatened domestic violence,  
23 **harassment**, sexual assault or stalking.

24 (b) "Victim of domestic violence" has the meaning given that term in ORS 659A.270.

25 (c) "**Victim of harassment**" has the meaning given that term in ORS 659A.270.

26 [(c)] (d) "Victim of sexual assault" has the meaning given that term in ORS 659A.270.

27 [(d)] (e) "Victim of stalking" has the meaning given that term in ORS 659A.270.

28 (2) It is an unlawful employment practice for an employer to:

29 (a) Refuse to hire an otherwise qualified individual because the individual is a victim of domestic  
30 violence, **harassment**, sexual assault or stalking.

31 (b) Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate  
32 against an individual with regard to promotion, compensation or other terms, conditions or privi-  
33 leges of employment because the individual is a victim of domestic violence, **harassment**, sexual  
34 assault or stalking.

35 (c) Refuse to make a reasonable safety accommodation requested by an individual who is a vic-  
36 tim of domestic violence, **harassment**, sexual assault or stalking, unless the employer can demon-  
37 strate that the accommodation would impose an undue hardship on the operation of the business of  
38 the employer, as determined under ORS 659A.121.

39 (3)(a) Prior to making a reasonable safety accommodation, an employer may require an individ-  
40 ual to provide certification that the individual is a victim of domestic violence, **harassment**, sexual  
41 assault or stalking.

42 (b) An individual must provide a certification required under paragraph (a) of this subsection  
43 within a reasonable time after receiving the employer's request for certification.

44 (c) Any of the following constitutes sufficient certification:

45 (A) A copy of a police report indicating that the individual was or is a victim of domestic vi-

1 olence, **harassment**, sexual assault or stalking.

2 (B) A copy of a protective order or other evidence from a court, **administrative agency** or at-  
3 torney that the individual appeared in or is preparing for a civil, [or] criminal **or administrative**  
4 proceeding related to domestic violence, **harassment**, sexual assault or stalking.

5 (C) Documentation from an attorney, law enforcement officer, health care professional, licensed  
6 mental health professional or counselor, member of the clergy or victim services provider that the  
7 individual was or is undergoing treatment or counseling, obtaining services or relocating as a result  
8 of domestic violence, **harassment**, sexual assault or stalking.

9 (d) All records and information kept by an employer regarding a reasonable safety accommo-  
10 dation made for an individual are confidential and may not be released without the express permis-  
11 sion of the individual, unless otherwise required by law.

12 **SECTION 5. Section 6 of this 2011 Act is added to and made a part of ORS chapter 240.**

13 **SECTION 6. An employee in the state service employed in an unclassified or exempt po-  
14 sition who is not a confidential employee, managerial employee or supervisory employee, as  
15 defined in ORS 243.650, and who is not represented by an exclusive representative as defined  
16 in ORS 243.650 may be accompanied by an individual selected by the employee to be present  
17 during any interview with the employee requested by the appointing authority, manager or  
18 supervisor of the employee.**

19 **SECTION 7. The amendments to ORS 659A.270, 659A.272, 659A.280 and 659A.290 by  
20 sections 1 to 4 of this 2011 Act apply to actions and proceedings commenced before, on or  
21 after the effective date of this 2011 Act.**

22 **SECTION 8. This 2011 Act being necessary for the immediate preservation of the public  
23 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
24 on its passage.**

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