

# House Bill 2646

Sponsored by Representative READ, Senator EDWARDS, Representative SMITH WARNER; Representative VEGA PEDERSON (at the request of Commissioner of the Bureau of Labor and Industries Brad Avakian) (Presession filed.)

## 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**.

Makes failure of employer to grant employee unpaid parental leave to attend certain school-related activities unlawful employment practice.

## A BILL FOR AN ACT

1  
2 Relating to parental leave; creating new provisions; and amending ORS 659A.885.

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

4 **SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of ORS**  
5 **chapter 659A.**

6 **SECTION 2. It is an unlawful employment practice for an employer to terminate, or**  
7 **threaten to terminate, the employment of or to impose, or threaten to impose, any discipli-**  
8 **nary action or otherwise discriminate in the terms or conditions of employment of an em-**  
9 **ployee because the employee, as the parent, guardian or custodian of a child:**

10 (1) **Attends a school conference at the request of an administrator of the school attended**  
11 **by the child;**

12 (2) **Is notified during the employee's work day by an employee of the school attended by**  
13 **the child of an emergency concerning the child; or**

14 (3) **Takes leave as specified in section 3 of this 2015 Act.**

15 **SECTION 3. (1) Except as provided in subsection (5) of this section, an employer shall**  
16 **grant, to an employee who is the parent, guardian or custodian of a child who is enrolled in**  
17 **school, eight hours of unpaid leave per school year to:**

18 (a) **Attend conferences with the child's teachers;**

19 (b) **Attend school-related activities during regular school hours;**

20 (c) **Volunteer at or otherwise be involved at the school in which the child is enrolled**  
21 **during regular school hours; and**

22 (d) **Attend school-sponsored events.**

23 (2) **Leave required under subsection (1) of this section must be taken in increments of**  
24 **at least one hour.**

25 (3) **An employer may require an employee to provide:**

26 (a) **A written leave request, for leave taken under subsection (1) of this section, at least**  
27 **five school days before the leave is taken; and**

28 (b) **Documentation from the school in which the child is enrolled of the employee's at-**  
29 **tendance at, or involvement in, one of the authorized purposes for leave specified in sub-**  
30 **section (1) of this section.**

**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       **(4) An employer shall grant leave specified in this section when requested by an employee**  
 2 **who is the parent, guardian or custodian of a child, for each child who is enrolled in school.**

3       **(5) This section does not apply to an employee who, in accordance with the terms of a**  
 4 **collective bargaining agreement, is entitled to:**

5       **(a) At least eight hours of unpaid leave per school year as specified in subsections (1)**  
 6 **through (3) of this section; and**

7       **(b) Protections and remedies for violations of the agreement that are substantially simi-**  
 8 **lar to those for violations of this 2015 Act.**

9       **SECTION 4.** ORS 659A.885 is amended to read:

10       659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-  
 11 section (2) of this section may file a civil action in circuit court. In any action under this subsection,  
 12 the court may order injunctive relief and any other equitable relief that may be appropriate, in-  
 13 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A  
 14 court may order back pay in an action under this subsection only for the two-year period imme-  
 15 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau  
 16 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-  
 17 year period immediately preceding the filing of the action. In any action under this subsection, the  
 18 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
 19 cept as provided in subsection (3) of this section:

20       (a) The judge shall determine the facts in an action under this subsection; and

21       (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall  
 22 review the judgment pursuant to the standard established by ORS 19.415 (3).

23       (2) An action may be brought under subsection (1) of this section alleging a violation of ORS  
 24 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 476.574, 652.355, 653.060, 659A.030,  
 25 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,  
 26 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,  
 27 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,  
 28 659A.318, 659A.320 or 659A.421 **or section 2 of this 2015 Act.**

29       (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,  
 30 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,  
 31 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

32       (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
 33 compensatory damages or \$200, whichever is greater, and punitive damages;

34       (b) At the request of any party, the action shall be tried to a jury;

35       (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-  
 36 ment pursuant to the standard established by ORS 19.415 (1); and

37       (d) Any attorney fee agreement shall be subject to approval by the court.

38       (4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or  
 39 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,  
 40 compensatory damages or \$200, whichever is greater.

41       (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,  
 42 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)  
 43 of this section, compensatory damages or \$250, whichever is greater.

44       (6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,  
 45 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil

1 penalty in the amount of \$720.

2 (7) Any individual against whom any distinction, discrimination or restriction on account of  
 3 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual  
 4 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS  
 5 659A.400, by any employee or person acting on behalf of the place or by any person aiding or  
 6 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator  
 7 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor  
 8 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-  
 9 section:

10 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
 11 compensatory and punitive damages;

12 (b) The operator or manager of the place of public accommodation, the employee or person  
 13 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all  
 14 damages awarded in the action;

15 (c) At the request of any party, the action shall be tried to a jury;

16 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

17 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-  
 18 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable  
 19 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;  
 20 and

21 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the  
 22 judgment pursuant to the standard established by ORS 19.415 (1).

23 (8) When the commissioner or the Attorney General has reasonable cause to believe that a  
 24 person or group of persons is engaged in a pattern or practice of resistance to the rights protected  
 25 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied  
 26 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner  
 27 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same  
 28 manner as a person or group of persons may file a civil action under this section. In a civil action  
 29 filed under this subsection, the court may assess against the respondent, in addition to the relief  
 30 authorized under subsections (1) and (3) of this section, a civil penalty:

31 (a) In an amount not exceeding \$50,000 for a first violation; and

32 (b) In an amount not exceeding \$100,000 for any subsequent violation.

33 (9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or  
 34 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
 35 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
 36 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
 37 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court  
 38 determines that the commissioner had no objectively reasonable basis for asserting the claim or for  
 39 appealing an adverse decision of the trial court.

40 (10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145  
 41 or 659A.421 or discrimination under federal housing law:

42 (a) "Aggrieved person" includes a person who believes that the person:

43 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

44 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to  
 45 occur.

1 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of  
2 right in the action. The Attorney General may intervene in the action if the Attorney General cer-  
3 tifies that the case is of general public importance. The court may allow an intervenor prevailing  
4 party costs and reasonable attorney fees at trial and on appeal.

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