

House Bill 2478

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Department of Administrative Services)

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 statutory changes to achieve gender neutral language with respect to legally recognized marriages.

A BILL FOR AN ACT

1
2 Relating to gender neutral language in laws; amending ORS 25.280, 40.135, 40.255, 59.350, 93.180,
3 105.920, 106.020, 106.041, 106.150, 106.315, 107.005, 107.025, 107.485, 108.010, 108.020, 108.030,
4 108.040, 108.045, 108.050, 108.060, 108.080, 108.090, 108.100, 108.110, 108.510, 108.530, 108.550,
5 109.070, 109.103, 109.124, 109.125, 109.239, 109.243, 109.326, 109.804, 110.384, 136.655, 163.565,
6 164.035, 164.164, 215.705, 314.105, 315.465, 315.469, 315.610, 315.675, 316.042, 316.116, 316.122,
7 316.367, 316.567, 316.690, 316.695, 408.730, 418.210, 419B.040, 432.088, 496.146, 656.005, 656.204,
8 656.226, 659A.309, 677.365, 726.990, 742.504, 743.027 and 743A.084.

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

SECTION 1. ORS 25.280 is amended to read:

11 25.280. In any judicial or administrative proceeding for the establishment or modification of a
12 child support obligation under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400, 419B.923,
13 419C.590 or 419C.610, the amount of support determined by the formula established under ORS
14 25.275 is presumed to be the correct amount of the obligation. This is a rebuttable presumption and
15 a written finding or a specific finding on the record that the application of the formula would be
16 unjust or inappropriate in a particular case is sufficient to rebut the presumption. The following
17 criteria shall be considered in making the finding:

- 18 (1) Evidence of the other available resources of a parent;
19 (2) The reasonable necessities of a parent;
20 (3) The net income of a parent remaining after withholdings required by law or as a condition
21 of employment;
22 (4) A parent's ability to borrow;
23 (5) The number and needs of other dependents of a parent;
24 (6) The special hardships of a parent including, but not limited to, any medical circumstances
25 of a parent affecting the parent's ability to pay child support;
26 (7) The needs of the child;
27 (8) The desirability of the custodial parent remaining in the home as a full-time parent and
28 homemaker;
29 (9) The tax consequences, if any, to both parents resulting from spousal support awarded and
30 determination of which parent will name the child as a dependent; and
31 (10) The financial advantage afforded a parent's household by the income of a spouse or another

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 person with whom the parent lives in a relationship similar to *[husband and wife]* **spouses in a le-**
 2 **gally recognized marriage.**

3 **SECTION 2.** ORS 40.135 is amended to read:

4 40.135. (1) The following are presumptions:

5 (a) A person intends the ordinary consequences of a voluntary act.

6 (b) A person takes ordinary care of the person's own concerns.

7 (c) Evidence willfully suppressed would be adverse to the party suppressing it.

8 (d) Money paid by one to another was due to the latter.

9 (e) A thing delivered by one to another belonged to the latter.

10 (f) An obligation delivered to the debtor has been paid.

11 (g) A person is the owner of property from exercising acts of ownership over it or from common
 12 reputation of the ownership of the person.

13 (h) A person in possession of an order on that person, for the payment of money or the delivery
 14 of a thing, has paid the money or delivered the thing accordingly.

15 (i) A person acting in a public office was regularly appointed to it.

16 (j) Official duty has been regularly performed.

17 (k) A court, or judge acting as such, whether in this state or any other state or country, was
 18 acting in the lawful exercise of the jurisdiction of the court.

19 (L) Private transactions have been fair and regular.

20 (m) The ordinary course of business has been followed.

21 (n) A promissory note or bill of exchange was given or indorsed for a sufficient consideration.

22 (o) An indorsement of a negotiable promissory note, or bill of exchange, was made at the time
 23 and place of making the note or bill.

24 (p) A writing is truly dated.

25 (q) A letter duly directed and mailed was received in the regular course of the mail.

26 (r) A person is the same person if the name is identical.

27 (s) A person not heard from in seven years is dead.

28 (t) Persons acting as copartners have entered into a contract of copartnership.

29 (u) *[A man and woman]* **Two individuals** deporting themselves as *[husband and wife]* **legally**
 30 **married to each other** have entered into a lawful contract of marriage.

31 (v) A child born in lawful wedlock is legitimate.

32 (w) A thing once proved to exist continues as long as is usual with things of that nature.

33 (x) The law has been obeyed.

34 (y) An uninterrupted adverse possession of real property for 20 years or more has been held
 35 pursuant to a written conveyance.

36 (z) A trustee or other person whose duty it was to convey real property to a particular person
 37 has actually conveyed it to the person, when such presumption is necessary to perfect the title of
 38 the person or the person's successor in interest.

39 (2) A statute providing that a fact or a group of facts is prima facie evidence of another fact
 40 establishes a presumption within the meaning of this section.

41 **SECTION 3.** ORS 40.255 is amended to read:

42 40.255. (1) As used in this section, unless the context requires otherwise:

43 (a) "Confidential communication" means a communication by a spouse to the other spouse and
 44 not intended to be disclosed to any other person.

45 (b) "Marriage" means a marital relationship between *[husband and wife]* **two individuals**, le-

1 gally recognized under the laws of this state.

2 (2) In any civil or criminal action, a spouse has a privilege to refuse to disclose and to prevent
 3 the other spouse from disclosing any confidential communication made by one spouse to the other
 4 during the marriage. The privilege created by this subsection may be claimed by either spouse. The
 5 authority of the spouse to claim the privilege and the claiming of the privilege is presumed in the
 6 absence of evidence to the contrary.

7 (3) In any criminal proceeding, neither spouse, during the marriage, shall be examined adversely
 8 against the other as to any other matter occurring during the marriage unless the spouse called as
 9 a witness consents to testify.

10 (4) There is no privilege under this section:

11 (a) In all criminal actions in which one spouse is charged with bigamy or with an offense or
 12 attempted offense against the person or property of the other spouse or of a child of either, or with
 13 an offense against the person or property of a third person committed in the course of committing
 14 or attempting to commit an offense against the other spouse;

15 (b) As to matters occurring prior to the marriage; or

16 (c) In any civil action where the spouses are adverse parties.

17 **SECTION 4.** ORS 59.350 is amended to read:

18 59.350. For purposes of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995:

19 (1) A transaction with [*a husband and wife*] **spouses in a legally recognized marriage** is
 20 treated as a transaction with one person. The securities may be held jointly or individually.

21 (2) A transaction with an entity is treated as a transaction with one person. However, if an
 22 entity is formed substantially for the purpose of acquiring the securities that are offered, each se-
 23 curity holder shall be counted as a separate person.

24 **SECTION 5.** ORS 93.180 is amended to read:

25 93.180. (1) A conveyance or devise of real property, or an interest in real property, that is made
 26 to two or more persons:

27 (a) Creates a tenancy in common unless the conveyance or devise clearly and expressly declares
 28 that the grantees or devisees take the real property with right of survivorship.

29 (b) Creates a tenancy by the entirety if the conveyance or devise is to [*a husband and wife*]
 30 **spouses in a legally recognized marriage** unless the conveyance or devise clearly and expressly
 31 declares otherwise.

32 (c) Creates a joint tenancy as described in ORS 93.190 if the conveyance or devise is to a trustee
 33 or personal representative.

34 (2) A declaration of a right to survivorship creates a tenancy in common in the life estate with
 35 cross-contingent remainders in the fee simple.

36 (3) Except as provided in ORS 93.190, joint tenancy in real property is abolished and the use in
 37 a conveyance or devise of the words "joint tenants" or similar words without any other indication
 38 of an intent to create a right of survivorship creates a tenancy in common.

39 **SECTION 6.** ORS 105.920 is amended to read:

40 105.920. There shall be a form of co-ownership of personal property known as joint tenancy. A
 41 joint tenancy shall have the incidents of survivorship and severability as at common law. A joint
 42 tenancy may be created only by a written instrument which expressly declares the interest created
 43 to be a joint tenancy. It may be created by a transfer or bequest from a sole owner to others, or to
 44 the sole owner and others; or from tenants in common or joint tenants to others, or to themselves
 45 or some of them, or to themselves or any of them and others; or from [*husband and wife*] **spouses**

1 **in a legally recognized marriage**, when holding title as community property or otherwise, to oth-
 2 ers, or to themselves, or to one of them and to another or others. A transfer or bequest creating a
 3 joint tenancy shall not derogate from the rights of creditors.

4 **SECTION 7.** ORS 106.020 is amended to read:

5 106.020. The following marriages are prohibited; and, if solemnized within this state, are abso-
 6 lutely void:

7 (1) When either party thereto had a [*wife or husband*] **spouse in a legally recognized marriage**
 8 living at the time of [*such*] **the** marriage.

9 (2) When the parties thereto are first cousins or any nearer of kin to each other, whether of the
 10 whole or half blood, whether by blood or adoption, computing by the rules of the civil law, except
 11 that when the parties are first cousins by adoption only, the marriage is not prohibited or void.

12 **SECTION 8.** ORS 106.041 is amended to read:

13 106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license
 14 from the county clerk upon application, directed to any person or religious organization or congre-
 15 gation authorized by ORS 106.120 to solemnize marriages, and authorizing the person, organization
 16 or congregation to join together as [*husband and wife*] **spouses in a legally recognized marriage**
 17 the persons named in the license.

18 (2) The State Registrar of the Center for Health Statistics shall provide a standard form of the
 19 application, license and record of marriage to be used in this state that must include:

20 (a) Each applicant's Social Security number recorded on a confidential portion of the applica-
 21 tion, license and record of marriage;

22 (b) Certain statistical data regarding age, place of birth, sex, occupation, residence and previous
 23 marital status of each applicant;

24 (c) The name and address of the affiant under ORS 106.050, if required; and

25 (d) Each applicant's name after marriage as provided in ORS 106.220.

26 (3) Each applicant for a marriage license shall file with the county clerk from whom the mar-
 27 riage license is sought a written application for the license on forms prescribed for this purpose by
 28 the Center for Health Statistics.

29 (4) A marriage license must contain the following statement: "Neither you nor your spouse is
 30 the property of the other. The laws of the State of Oregon affirm your right to enter into marriage
 31 and at the same time to live within the marriage free from violence and abuse."

32 (5) An applicant may not intentionally make a material false statement in the records required
 33 by this section.

34 (6) The county clerk may not issue a marriage license until the provisions of this section and
 35 ORS 106.050 and 106.060 are complied with.

36 **SECTION 9.** ORS 106.150 is amended to read:

37 106.150. (1) In the solemnization of a marriage no particular form is required except that the
 38 parties thereto shall assent or declare in the presence of the clergyman, county clerk or judicial
 39 officer solemnizing the marriage and in the presence of at least two witnesses, that they take each
 40 other to be [*husband and wife*] **spouses in a legally recognized marriage**.

41 (2) All marriages, to which there are no legal impediments, solemnized before or in any religious
 42 organization or congregation according to the established ritual or form commonly practiced
 43 therein, are valid. In such case, the person presiding or officiating in the religious organization or
 44 congregation shall deliver to the county clerk who issued the marriage license the application, li-
 45 cense and record of marriage in accordance with ORS 106.170.

SECTION 10. ORS 106.315 is amended to read:

106.315. (1) A domestic partnership is prohibited and void when:

(a) Either party to the domestic partnership had a partner[, *wife or husband*] **or spouse in a legally recognized marriage** living at the time of the domestic partnership unless the partner[, *wife or husband*] **or spouse** was the other party to the domestic partnership.

(b) The parties to the domestic partnership are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the domestic partnership is not prohibited or void.

(2) When either party to a domestic partnership is incapable of making the civil contract or consenting to the contract for want of legal age or sufficient understanding, or when the consent of either party is obtained by force or fraud, the domestic partnership is void from the time it is so declared by a judgment of a court having jurisdiction of the domestic partnership.

SECTION 11. ORS 107.005 is amended to read:

107.005. (1) A marriage may be declared void from the beginning for any of the causes specified in ORS 106.020; and, whether so declared or not, shall be deemed and held to be void in any action, suit or proceeding in which [*it*] **the marriage** may come into question.

(2) When either [*husband or wife*] **spouse** claims or pretends that the marriage is void or voidable under the provisions of ORS 106.020, [*it*] **the marriage** may at the suit of the other be declared valid or that [*it*] **the marriage** was void from the beginning or that [*it*] **the marriage** is void from the time of the judgment.

(3) A marriage once declared valid by the judgment of a court having jurisdiction thereof, in a suit for that purpose, cannot afterward be questioned for the same cause directly or otherwise.

SECTION 12. ORS 107.025 is amended to read:

107.025. (1) A judgment for the dissolution of a marriage or a permanent or unlimited separation may be rendered when irreconcilable differences between the parties have caused the irremediable breakdown of the marriage.

(2) A judgment for separation may be rendered when:

(a) Irreconcilable differences between the parties have caused a temporary or unlimited breakdown of the marriage;

(b) The parties make and file with the court an agreement suspending for a period not less than one year their obligation to live together as [*husband and wife*] **spouses in a legally recognized marriage**, and the court finds such agreement to be just and equitable; or

(c) Irreconcilable differences exist between the parties and the continuation of their status as married persons preserves or protects legal, financial, social or religious interest.

SECTION 13. ORS 107.485 is amended to read:

107.485. A marriage may be dissolved by the summary dissolution procedure specified in this section and ORS 107.490 when all of the following conditions exist at the time the proceeding is commenced:

(1) The jurisdictional requirements of ORS 107.025 and 107.075 are met.

(2)(a) There are no minor children born to the parties or adopted by the parties during the marriage;

(b) There are no children over age 18 attending school, as described in ORS 107.108, either born to the parties or adopted by the parties during the marriage;

(c) There are no minor children born to or adopted by the parties prior to the marriage; and

1 (d) [*The wife is not*] **Neither spouse is** now pregnant.

2 (3) The marriage is not more than 10 years in duration.

3 (4) Neither party has any interest in real property wherever situated.

4 (5) There are no unpaid obligations in excess of \$15,000 incurred by either or both of the parties
5 from the date of the marriage.

6 (6) The total aggregate fair market value of personal property assets in which either of the
7 parties has any interest, excluding all encumbrances, is less than \$30,000.

8 (7) The petitioner waives any right to spousal support.

9 (8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS
10 107.700 to 107.735 or 124.005 to 124.040.

11 (9) The petitioner knows of no other pending domestic relations suits involving the marriage in
12 this or any other state.

13 **SECTION 14.** ORS 108.010 is amended to read:

14 108.010. (1) All laws [*which*] **that** impose or recognize civil disabilities upon a [*wife which*]
15 **spouse in a legally recognized marriage that** are not imposed **upon** or recognized as existing
16 [*as*] **with respect** to the [*husband*] **other spouse are** hereby [*are*] repealed[; *and*].

17 (2) All civil rights belonging to [*the husband*] **a spouse in a legally recognized marriage** not
18 conferred upon the [*wife*] **other spouse** prior to June 14, 1941, or [*which she*] **that the other spouse**
19 does not have at common law, **are** hereby [*are*] conferred upon [*her*] **the other spouse**, including,
20 [*among other things*] **but not limited to**, the right of action for loss of consortium of [*her husband*]
21 **the spouse**.

22 **SECTION 15.** ORS 108.020 is amended to read:

23 108.020. Neither [*husband nor wife*] **spouse in a legally recognized marriage** is liable for the
24 debts or liabilities of the other **spouse** incurred before marriage[; *and*]. Except as [*otherwise*] pro-
25 vided in ORS 108.040, [*they are*] **a spouse in a legally recognized marriage is** not liable for the
26 separate debts of [*each other, nor is*] **the other spouse, and** the rent or income of property owned
27 by either [*husband or wife*] **spouse is not** liable for the separate debts of the other **spouse**.

28 **SECTION 16.** ORS 108.030 is amended to read:

29 108.030. For all civil injuries committed by a [*married woman*] **spouse in a legally recognized**
30 **marriage**, damages may be recovered from [*her alone*] **that spouse only**, and [*her husband shall*]
31 **not be** **the other spouse is not** responsible [*therefor*] **for such civil injuries**, except [*in case*] where
32 [*he*] **the spouses** would be jointly responsible with [*her*] **each other** if the marriage did not exist.

33 **SECTION 17.** ORS 108.040 is amended to read:

34 108.040. (1)(a) The expenses of the family and the education of the minor children are chargeable
35 upon the property of both [*husband and wife*] **spouses in a legally recognized marriage who are**
36 **parents of the minor children**, or either of them, and in relation thereto they may be sued jointly
37 or separately.

38 (b) As used in this subsection:

39 (A) "Expenses of the family" includes only expenses incurred for the benefit of a member of the
40 family.

41 (B) "Family" means the [*husband, wife*] **spouses in a legally recognized marriage and the**
42 **minor children of the** [*husband and wife*] **spouses**.

43 (2) Notwithstanding subsection (1) of this section, after the separation of one spouse from the
44 other spouse, a spouse is not responsible for debts contracted by the other spouse after the sepa-
45 ration except for debts incurred for maintenance, support and education of the minor children of the

1 spouses.

2 (3) For the purposes of subsection (2) of this section, spouses shall be considered separated if
 3 *[they]* **the spouses** are living in separate residences without intention of reconciliation at the time
 4 the debt is incurred. The court may consider the following factors in determining whether the
 5 spouses are separated in addition to such other factors as may be relevant:

- 6 (a) Whether the spouses subsequently reconciled.
- 7 (b) The number of separations and reconciliations of the spouses.
- 8 (c) The length of time the spouses lived apart.
- 9 (d) Whether the spouses intend to reconcile.
- 10 (e) Whether the spouses have filed a petition for separation or dissolution.

11 (4) An action under this section shall be commenced within the period otherwise provided by
 12 law.

13 **SECTION 18.** ORS 108.045 is amended to read:

14 108.045. (1) The expenses of the family and the education of **the** minor children, including
 15 stepchildren, are chargeable upon the property of both *[husband and wife]* **spouses in a legally**
 16 **recognized marriage who are parents or stepparents of the minor children**, or either of them.
 17 However, with regard to stepchildren, the obligation shall cease upon entry of a judgment of dis-
 18 solution.

19 (2) As used in this section, “stepchild” means a child under the age of 18, or a child attending
 20 school as defined in ORS 107.108 who is in the custody of one biological or adoptive parent who is
 21 married to and not legally separated from a person other than the second biological or adoptive
 22 parent of such child.

23 (3) Notwithstanding subsection (1) of this section, the legal duty of a parent to provide support
 24 for a child, as otherwise required by law, shall not be affected.

25 **SECTION 19.** ORS 108.050 is amended to read:

26 108.050. The property and pecuniary rights of every *[married woman]* **spouse in a legally re-**
 27 **cognized marriage acquired** at the time of *[her]* **the** marriage or afterwards *[acquired]*, including
 28 real or personal property acquired by *[her]* **the spouse’s** own labor during *[coverture]* **the**
 29 **marriage**, shall not be subject to the debts or contracts of *[her husband]* **the other spouse**.

30 **SECTION 20.** ORS 108.060 is amended to read:

31 108.060. When property is owned by either *[husband or wife]* **spouse in a legally recognized**
 32 **marriage**, the other **spouse** has no interest *[therein which]* **in that property that** can be the sub-
 33 ject of contract between *[them]* **the spouses**, or *[such interest as will]* **that can** make the *[same]*
 34 **spouses** liable for the contracts or liabilities of *[either the husband or wife]* **the other spouse** who
 35 is not the owner of the property, except as provided in ORS 108.040.

36 **SECTION 21.** ORS 108.080 is amended to read:

37 108.080. Should either *[the husband or wife]* **spouse in a legally recognized marriage** obtain
 38 possession or control of property belonging to the other **spouse** either before or after marriage, the
 39 owner of the property may maintain an action *[therefor]* **for possession and control of the prop-**
 40 **erty**, or for any right growing out of the *[same]* **ownership of the property**, in the same manner
 41 and to the same extent as if *[they]* **the spouses** were unmarried.

42 **SECTION 22.** ORS 108.090 is amended to read:

43 108.090. (1) A conveyance, transfer or lien executed by either *[husband or wife]* **spouse in a**
 44 **legally recognized marriage** to or in favor of the other **spouse** is valid to the same extent as be-
 45 tween other persons.

1 (2) When a *[husband or wife]* **spouse** conveys to the other **spouse** an undivided one-half of any
 2 real property and retains a like undivided half, and in such conveyance there are used words indi-
 3 cating an intention to create an estate in entirety, *[said husband and wife]* **the spouses** hold the
 4 real property described in the conveyance by the entirety.

5 (3) A conveyance from *[husband or wife]* **a spouse** to the other **spouse** of *[his or her]* **the**
 6 **spouse's** interest in an estate held by *[them]* **the spouses** by entirety is valid and dissolves the es-
 7 tate by entirety. All deeds heretofore executed by *[husband or wife]* **either spouse** to the other
 8 **spouse** for the purpose of dissolving the estate by entirety are valid.

9 **SECTION 23.** ORS 108.100 is amended to read:

10 108.100. *[One spouse may constitute]* **A spouse in a legally recognized marriage may designate**
 11 the other *[his or her]* **spouse to be the spouse's** attorney in fact to control, sell and convey,
 12 mortgage, or bar dower or curtesy for *[their]* **the spouses'** mutual benefit, and may revoke the
 13 *[same]* **designation** to the same extent and in the same manner as other persons.

14 **SECTION 24.** ORS 108.110 is amended to read:

15 108.110. (1) Any married person may apply to the circuit court of the county in which the mar-
 16 ried person resides or in which the spouse may be found for an order upon the spouse to provide
 17 for support of the married person or for the support of minor children and children attending school,
 18 or both, and, if the married person initiating the action for support is a woman who is pregnant, her
 19 unborn child, or both, if her spouse is the natural father of such children, children attending school
 20 or unborn child or if her spouse is the adoptive *[father]* **parent** of such children or children at-
 21 tending school. The married person initiating the action for support may apply for the order by filing
 22 in such county a petition setting forth the facts and circumstances upon which the married person
 23 relies for such order. If satisfied that a just cause exists, the court shall direct that the married
 24 person's spouse appear at a time set by the court to show cause why an order of support should not
 25 be entered in the matter. The provisions of ORS 107.108 apply to an order entered under this section
 26 for the support of a child attending school.

27 (2) As used in this section, "child attending school" has the meaning given that term in ORS
 28 107.108.

29 (3) The petitioner shall state in the petition, to the extent known:

30 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-
 31 ceeding involving children of the marriage, including a proceeding brought under ORS 107.085,
 32 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

33 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in
 34 ORS 110.303, involving children of the marriage.

35 (4) The petitioner shall include with the petition a certificate regarding any pending support
 36 proceeding and any existing support order. The petitioner shall use a certificate that is in a form
 37 established by court rule and include information required by court rule and subsection (3) of this
 38 section.

39 (5) The provisions of this section apply equally *[to cases where it is the husband]* **regardless of**
 40 **which spouse is** making application for a support order.

41 (6) In any proceeding under this section, the obligee, as that person is defined in ORS 110.303,
 42 is a party to the proceeding.

43 **SECTION 25.** ORS 108.510 is amended to read:

44 108.510. (1) Notwithstanding any repeal of chapter 440, Oregon Laws 1943, known as the Oregon
 45 Community Property Law of 1943, *[any husband and wife]* **spouses in a legally recognized mar-**

1 **riage** who elected to come under the terms [thereof] **of that law** may revoke [such] **the** election
2 upon filing in the office of the Secretary of State a notice of [their] **the spouses'** desire to revoke
3 [such] **the** election in the following form:

4 _____
5
6 REVOCATION OF ELECTION
7 TO COME UNDER THE
8 OREGON COMMUNITY
9 PROPERTY LAW, CHAPTER 440,
10 OREGON LAWS 1943

11 KNOW ALL PERSONS BY THESE PRESENTS, That we, _____ and _____, hereby state
12 and represent that we are [husband and wife] **spouses in a legally recognized marriage**; that we
13 reside in _____ County, Oregon, and our post-office address is No. _____ Street, City
14 of _____; that we do hereby revoke our election filed in the office of the Secretary of State of the
15 State of Oregon on the _____ day of _____, 2_____, to avail ourselves of the provisions of
16 chapter 440, Oregon Laws 1943, being the Oregon Community Property Law.

17 IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of
18 _____, 2_____.

19 _____
20 _____
21 STATE OF OREGON,)
22) ss.
23 County of _____)

24 BE IT REMEMBERED that on this _____ day of _____, 2_____, before me, the under-
25 signed, a notary public in and for said county and state, personally appeared the within named
26 _____ and _____, [his wife] **spouses in a legally recognized marriage**, who are known to me
27 to be the identical persons described in and who executed the within instrument, and acknowledged
28 to me that they executed the same.

29 _____
30 Notary Public for Oregon
31 My commission expires: _____
32 _____

33 Acknowledgments may be taken by any other officer authorized to take acknowledgments.

34 (2) Such an instrument, together with a fee of \$15, shall be presented to the Secretary of State,
35 who thereupon shall file the instrument, properly index it in a book kept for that purpose and
36 transmit to the recording officer of each county in the state the certificate of the Secretary of State,
37 setting forth the nature of such instrument, the names of the parties thereto, the date thereof, and
38 the date of the filing thereof in the office of the Secretary of State. Upon receipt of such certificate,
39 the recording officer shall file it and properly index it in a book kept for that purpose.

40 (3) Public notice of such revocation exists upon compliance with subsection (2) of this section.

41 (4) The filing of such revocation operates to restore the title to any community property of
42 persons making the revocation to the status of the property which existed on the date on which such
43 persons filed a certificate of election under the terms of the Oregon Community Property Law of
44 1943. Such revocation in nowise limits the right of such persons to execute and record such
45

1 conveyances, assignments and transfers of property, or title thereto, as may operate to effect and
 2 make a matter of record the restoration of titles to the status they occupied prior to the filing of
 3 the certificate of election.

4 **SECTION 26.** ORS 108.530 is amended to read:

5 108.530. Community property acquired during *[coverture]* **marriage** and between July 5, 1947,
 6 and April 11, 1949, may be converted into property held as tenants in common or by entirety or as
 7 the separate property of either spouse by an agreement in writing evidencing such intent, signed
 8 by both *[husband and wife]* **spouses in a legally recognized marriage**. If *[such]* **the** agreement af-
 9 fects title to real property, *[it]* **the agreement** shall describe the property affected *[thereby]* **by the**
 10 **agreement**, shall be executed and acknowledged in the same manner as deeds and shall be recorded
 11 in the deed records of each county in which any such real property is located.

12 **SECTION 27.** ORS 108.550 is amended to read:

13 108.550. Notwithstanding any provisions of chapter 525, Oregon Laws 1947, or any provision of
 14 ORS 108.520 to 108.550, any *[other]* **third** person may rely, and shall be fully protected in *[so*
 15 *doing]* **relying**, upon the right of *[the husband or the wife]* **either spouse in a legally recognized**
 16 **marriage** to receive, manage, control, dispose of or otherwise deal with property standing in *[his*
 17 *or her]* **that spouse's** name in such manner *[that, by law, but for the provisions of said statutes, he*
 18 *or she would be entitled so to deal therewith]* **as the spouse is entitled to by law**.

19 **SECTION 28.** ORS 109.070 is amended to read:

20 109.070. (1) The paternity of a person may be established as follows:

21 (a) A man is rebuttably presumed to be the father of a child born to a woman if he and the
 22 woman were married to each other at the time of the child's birth, without a judgment of separation,
 23 regardless of whether the marriage is void.

24 (b) A man is rebuttably presumed to be the father of a child born to a woman if he and the
 25 woman were married to each other and the child is born within 300 days after the marriage is ter-
 26 minated by death, annulment or dissolution or after entry of a judgment of separation.

27 (c) By the marriage of the parents of a child after the birth of the child, and the parents filing
 28 with the State Registrar of the Center for Health Statistics the voluntary acknowledgment of
 29 paternity form as provided for by ORS 432.098.

30 (d) By filiation proceedings.

31 (e) By filing with the State Registrar of the Center for Health Statistics the voluntary ac-
 32 knowledgment of paternity form as provided for by ORS 432.098. Except as otherwise provided in
 33 subsections (4) to (7) of this section, this filing establishes paternity for all purposes.

34 (f) By having established paternity through a voluntary acknowledgment of paternity process in
 35 another state.

36 (g) By paternity being established or declared by other provision of law.

37 (2) The paternity of a child established under subsection (1)(a) or (c) of this section may be
 38 challenged in an action or proceeding by *[the husband or wife]* **either spouse in a legally recog-**
 39 **nized marriage**. The paternity may not be challenged by a person other than the *[husband or*
 40 *wife]* **spouses** as long as the *[husband and wife]* **spouses** are married and cohabiting, unless the
 41 *[husband and wife]* **spouses** consent to the challenge.

42 (3) If the court finds that it is just and equitable, giving consideration to the interests of the
 43 parties and the child, the court shall admit evidence offered to rebut the presumption of paternity
 44 in subsection (1)(a) or (b) of this section.

45 (4)(a) A party to a voluntary acknowledgment of paternity may rescind the acknowledgment

1 within the earlier of:

2 (A) Sixty days after filing the acknowledgment; or

3 (B) The date of a proceeding relating to the child, including a proceeding to establish a support
4 order, in which the party wishing to rescind the acknowledgment is also a party. For the purposes
5 of this subparagraph, the date of a proceeding is the date on which an order is entered in the pro-
6 ceeding.

7 (b) To rescind the acknowledgment, the party shall sign and file with the State Registrar of the
8 Center for Health Statistics a written document declaring the rescission.

9 (5)(a) A signed voluntary acknowledgment of paternity filed in this state may be challenged and
10 set aside in circuit court at any time after the 60-day period referred to in subsection (4) of this
11 section on the basis of fraud, duress or a material mistake of fact.

12 (b) The challenge may be brought by:

13 (A) A party to the acknowledgment;

14 (B) The child named in the acknowledgment; or

15 (C) The Department of Human Services or the administrator, as defined in ORS 25.010, if the
16 child named in the acknowledgment is in the care and custody of the department under ORS chapter
17 419B and the department or the administrator reasonably believes that the acknowledgment was
18 signed because of fraud, duress or a material mistake of fact.

19 (c) The challenge shall be initiated by filing a petition with the circuit court. Unless otherwise
20 specifically provided by law, the challenge shall be conducted pursuant to the Oregon Rules of Civil
21 Procedure.

22 (d) The party bringing the challenge has the burden of proof.

23 (e) Legal responsibilities arising from the acknowledgment, including child support obligations,
24 may not be suspended during the challenge, except for good cause.

25 (f) If the court finds by a preponderance of the evidence that the acknowledgment was signed
26 because of fraud, duress or material mistake of fact, the court shall set aside the acknowledgment
27 unless, giving consideration to the interests of the parties and the child, the court finds that setting
28 aside the acknowledgment would be substantially inequitable.

29 (6) Within one year after a voluntary acknowledgment of paternity form is filed in this state and
30 if blood tests, as defined in ORS 109.251, have not been completed, a party to the acknowledgment,
31 or the department if the child named in the acknowledgment is in the care and custody of the de-
32 partment under ORS chapter 419B, may apply to the administrator for an order for blood tests in
33 accordance with ORS 416.443.

34 (7)(a) A voluntary acknowledgment of paternity is not valid if, before the party signed the ac-
35 knowledgment:

36 (A) The party signed a consent to the adoption of the child by another individual;

37 (B) The party signed a document relinquishing the child to a public or private child-caring
38 agency;

39 (C) The party's parental rights were terminated by a court; or

40 (D) In an adjudication, the party was determined not to be the biological parent of the child.

41 (b) Notwithstanding any provision of subsection (1)(c) or (e) of this section or ORS 432.098 to
42 the contrary, an acknowledgment signed by a party described in this subsection and filed with the
43 State Registrar of the Center for Health Statistics does not establish paternity and is void.

44 **SECTION 29.** ORS 109.103 is amended to read:

45 109.103. (1) If a child is born to an unmarried woman and paternity has been established under

1 ORS 109.070, or if a child is born to a married woman by a man other than her *[husband]* **spouse**
2 **in a legally recognized marriage** and the man's paternity has been established under ORS 109.070,
3 either parent may initiate a civil proceeding to determine the custody or support of, or parenting
4 time with, the child. The proceeding shall be brought in the circuit court of the county in which the
5 child resides or is found or in the circuit court of the county in which either parent resides. The
6 parents have the same rights and responsibilities regarding the custody and support of, and parent-
7 ing time with, their child that married or divorced parents would have, and the provisions of ORS
8 107.094 to 107.449 that relate to custody, support and parenting time, the provisions of ORS 107.755
9 to 107.795 that relate to mediation procedures, and the provisions of ORS 107.810, 107.820 and
10 107.830 that relate to life insurance, apply to the proceeding.

11 (2) A parent may initiate the proceeding by filing with the court a petition setting forth the facts
12 and circumstances upon which the parent relies. The parent shall state in the petition, to the extent
13 known:

14 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-
15 ceeding involving the child, including one brought under ORS 109.100, 109.165, 125.025, 416.400 to
16 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

17 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in
18 ORS 110.303, involving the child.

19 (3) The parent shall include with the petition a certificate regarding any pending support pro-
20 ceeding and any existing support order. The parent shall use a certificate that is in a form estab-
21 lished by court rule and include information required by court rule and subsection (2) of this section.

22 (4) When a parent initiates a proceeding under this section and the child support rights of one
23 of the parents or of the child have been assigned to the state, the parent initiating the proceeding
24 shall serve, by mail or personal delivery, a copy of the petition on the Administrator of the Division
25 of Child Support or on the branch office providing support services to the county in which the suit
26 is filed.

27 (5)(a) After a petition is filed under this section and upon service of summons and petition upon
28 the respondent as provided in ORCP 7, a restraining order is issued and in effect against the
29 petitioner and the respondent until a final judgment is issued, until the petition is dismissed or until
30 further order of the court, restraining the petitioner and the respondent from:

31 (A) Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any
32 policy of health insurance that one party maintains to provide coverage for the other party or a
33 minor child of the parties, or any life insurance policy that names either of the parties or a minor
34 child of the parties as a beneficiary; and

35 (B) Changing beneficiaries or covered parties under any policy of health insurance that one
36 party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

37 (b) Either party restrained under this subsection may apply to the court for further temporary
38 orders, including modification or revocation of the restraining order issued under this subsection.

39 (c) The restraining order issued under this subsection shall include a notice that either party
40 may request a hearing on the restraining order by filing a request for hearing with the court.

41 (d) A copy of the restraining order issued under this subsection must be attached to the sum-
42 mons.

43 (e) A party who violates a term of a restraining order issued under this subsection is subject
44 to imposition of remedial sanctions under ORS 33.055 based on the violation, but is not subject to:

45 (A) Criminal prosecution based on the violation; or

(B) Imposition of punitive sanctions under ORS 33.065 based on the violation.

SECTION 30. ORS 109.124 is amended to read:

109.124. As used in ORS 109.124 to 109.230, unless the context requires otherwise:

(1) “Child attending school” has the meaning given that term in ORS 107.108.

(2) “Child born out of wedlock” means a child born to an unmarried woman or to a married woman by [*a man other than her husband*] **an individual other than her spouse in a legally recognized marriage.**

(3) “Respondent” may include, but is not limited to, one or more persons who may be the [*father*] **parent** of a child born out of wedlock, the [*husband*] **spouse in a legally recognized marriage** of a woman who has or may have a child born out of wedlock, the mother of a child born out of wedlock, the woman pregnant with a child who may be born out of wedlock, or the duly appointed and acting guardian of the child or conservator of the child’s estate.

SECTION 31. ORS 109.125 is amended to read:

109.125. (1) Any of the following may initiate proceedings under this section:

(a) A mother of a child born out of wedlock or a woman pregnant with a child who may be born out of wedlock;

(b) The duly appointed and acting guardian of the child, conservator of the child’s estate or a guardian ad litem, if the guardian or conservator has the physical custody of the child or is providing support for the child;

(c) The administrator, as defined in ORS 25.010;

(d) A man claiming to be the father of a child born out of wedlock or of an unborn child who may be born out of wedlock; or

(e) The minor child by a guardian ad litem.

(2) Proceedings shall be initiated by the filing of a duly verified petition of the initiating party. The petition shall contain:

(a) If the initiating party is one of those specified in subsection (1)(a), (b), (c) or (e) of this section:

(A) The name of the mother of the child born out of wedlock or the woman pregnant with a child who may be born out of wedlock;

(B) The name of the mother’s [*husband*] **spouse in a legally recognized marriage** if the child is alleged to be a child born to a married woman by [*a man*] **an individual** other than her [*husband*] **spouse**;

(C) Facts showing the petitioner’s status to initiate proceedings;

(D) A statement that a respondent is the father;

(E) The probable time or period of time during which conception took place; and

(F) A statement of the specific relief sought.

(b) If the initiating party is a man specified in subsection (1)(d) of this section:

(A) The name of the mother of the child born out of wedlock or the woman pregnant with a child who may be born out of wedlock;

(B) The name of the mother’s [*husband*] **spouse in a legally recognized marriage** if the child is alleged to be a child born to a married woman by [*a man*] **an individual** other than her [*husband*] **spouse**;

(C) A statement that the initiating party is the father of the child and accepts the same responsibility for the support and education of the child and for all pregnancy-related expenses that he would have if the child were born to him in lawful wedlock;

1 (D) The probable time or period of time during which conception took place; and

2 (E) A statement of the specific relief sought.

3 (3) When proceedings are initiated by the administrator, as defined in ORS 25.010, the state and
4 the child's mother and putative father are parties.

5 (4) When a proceeding is initiated under this section and the child support rights of one of the
6 parties or of the child at issue have been assigned to the state, a true copy of the petition shall be
7 served by mail or personal delivery on the Administrator of the Division of Child Support of the
8 Department of Justice or on the branch office providing support services to the county in which the
9 suit is filed.

10 (5) A man whose paternity of a child has been established under ORS 109.070 is a necessary
11 party to proceedings initiated under this section unless the paternity has been disestablished before
12 the proceedings are initiated.

13 **SECTION 32.** ORS 109.239 is amended to read:

14 109.239. If the donor of semen used in artificial insemination is not the mother's *[husband]*
15 **spouse in a legally recognized marriage:**

16 (1) *[Such]* **The** donor shall have no right, obligation or interest with respect to a child born as
17 a result of the artificial insemination; and

18 (2) A child born as a result of the artificial insemination shall have no right, obligation or in-
19 terest with respect to *[such]* **the** donor.

20 **SECTION 33.** ORS 109.243 is amended to read:

21 109.243. The relationship, rights and obligation between a child born as a result of artificial
22 insemination and the mother's *[husband]* **spouse in a legally recognized marriage** shall be the
23 same to all legal intents and purposes as if the child had been naturally and legitimately conceived
24 by the mother and the mother's *[husband]* **spouse** if the *[husband]* **spouse** consented to the per-
25 formance of artificial insemination.

26 **SECTION 34.** ORS 109.326 is amended to read:

27 109.326. (1) If the mother of a child was married at the time of the conception or birth of the
28 child, and it has been determined pursuant to ORS 109.070 or judicially determined that her *[hus-*
29 *band]* **spouse in a legally recognized marriage** at such time or times was not the father of the
30 child, the *[husband's]* **spouse's** authorization or waiver is not required in adoption, juvenile court
31 or other proceedings concerning the custody of the child.

32 (2) If paternity of the child has not been determined, a determination of nonpaternity may be
33 made by any court having adoption, divorce or juvenile court jurisdiction. The testimony or affidavit
34 of the mother or the *[husband]* **spouse** or another person with knowledge of the facts filed in the
35 proceeding constitutes competent evidence before the court making the determination.

36 (3) Before making the determination of nonpaternity, the petitioner shall serve on the
37 *[husband]* **spouse** a summons and a true copy of a motion and order to show cause why a judgment
38 of nonpaternity should not be entered if:

39 (a) There has been a determination by any court of competent jurisdiction that the *[husband]*
40 **spouse** is the father of the child;

41 (b) The child resided with the *[husband]* **spouse** at any time since the child's birth; or

42 (c) The *[husband]* **spouse** repeatedly has contributed or tried to contribute to the support of the
43 child.

44 (4) When the petitioner is required to serve the *[husband]* **spouse** with a summons and a motion
45 and order to show cause under subsection (3) of this section, service must be made in the manner

1 provided in ORCP 7 D and E, except as provided in subsection (6) of this section. Service must be
2 proved as required in ORCP 7 F. The summons and the motion and order to show cause need not
3 contain the names of the adoptive parents.

4 (5) A summons under subsection (3) of this section must contain:

5 (a) A statement that if the [husband] **spouse** fails to file a written answer to the motion and
6 order to show cause within the time provided, the court, without further notice and in the
7 [husband's] **spouse's** absence, may take any action that is authorized by law, including but not
8 limited to entering a judgment of nonpaternity on the date the answer is required or on a future
9 date.

10 (b) A statement that:

11 (A) The [husband] **spouse** must file with the court a written answer to the motion and order to
12 show cause within 30 days after the date on which the [husband] **spouse** is served with the summons
13 or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date
14 of last publication or posting.

15 (B) In the answer, the [husband] **spouse** must inform the court and the petitioner of the
16 [husband's] **spouse's** telephone number or contact telephone number and the [husband's] **spouse's**
17 current residence, mailing or contact address in the same state as the [husband's] **spouse's** home.
18 The answer may be in substantially the following form:

19 _____

20
21 IN THE CIRCUIT COURT OF
22 THE STATE OF OREGON
23 FOR THE COUNTY OF _____

24 _____,)
25 Petitioner,) NO. _____
26)
27) ANSWER
28 and)
29)
30 _____,)
31 Respondent.)

32 [] I consent to the entry of a judgment of nonpaternity.

33 [] I do not consent to the entry of a judgment of nonpaternity. The court should not enter a
34 judgment of nonpaternity for the following reasons:

35 _____
36 _____
37 _____
38 _____
39 _____
40 _____
41 _____
42 _____
43 _____
44 _____
45 _____

1 Signature

2 DATE: _____

3 ADDRESS OR CONTACT ADDRESS:

4 _____

5 _____

6 TELEPHONE OR CONTACT TELEPHONE:

7 _____

8 _____

9

10 (c) A notice that, if the [husband] **spouse** answers the motion and order to show cause, the
11 court:

12 (A) Will schedule a hearing to address the motion and order to show cause and, if appropriate,
13 the adoption petition;

14 (B) Will order the [husband] **spouse** to appear personally; and

15 (C) May schedule other hearings related to the petition and may order the [husband] **spouse** to
16 appear personally.

17 (d) A notice that the [husband] **spouse** has the right to be represented by an attorney. The no-
18 tice must be in substantially the following form:

19 _____

20

21 You have a right to be represented by an attorney. If you wish to be represented by an attorney,
22 please retain one as soon as possible to represent you in this proceeding. If you meet the state's
23 financial guidelines, you are entitled to have an attorney appointed for you at state expense. To
24 request appointment of an attorney to represent you at state expense, you must contact the circuit
25 court immediately. Phone _____ for further information.

26

27

28 (e) A statement that the [husband] **spouse** has the responsibility to maintain contact with the
29 [husband's] **spouse's** attorney and to keep the attorney advised of the [husband's] **spouse's** where-
30 abouts.

31 (6) A [husband] **spouse** who is served with a summons and a motion and order to show cause
32 under this section shall file with the court a written answer to the motion and order to show cause
33 within 30 days after the date on which the [husband] **spouse** is served with the summons or, if
34 service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last
35 publication or posting. In the answer, the [husband] **spouse** shall inform the court and the petitioner
36 of the [husband's] **spouse's** telephone number or contact telephone number and current address, as
37 defined in ORS 25.011. The answer may be in substantially the form described in subsection (5) of
38 this section.

39 (7) If the [husband] **spouse** requests the assistance of appointed counsel and the court deter-
40 mines that the [husband] **spouse** is financially eligible, the court shall appoint an attorney to rep-
41 resent the [husband] **spouse** at state expense. Appointment of counsel under this subsection is
42 subject to ORS 135.055, 151.216 and 151.219. The court may not substitute one appointed counsel for
43 another except pursuant to the policies, procedures, standards and guidelines adopted under ORS
44 151.216.

45 (8) If the [husband] **spouse** files an answer as required under subsection (6) of this section, the

1 court, by oral order made on the record or by written order provided to the *[husband]* **spouse** in
 2 person or mailed to the *[husband]* **spouse** at the address provided by the *[husband]* **spouse**, shall:

3 (a) Inform the *[husband]* **spouse** of the time, place and purpose of the next hearing or hearings
 4 related to the motion and order to show cause or the adoption petition;

5 (b) Require the *[husband]* **spouse** to appear personally at the next hearing or hearings related
 6 to the motion and order to show cause or the adoption petition; and

7 (c) Inform the *[husband]* **spouse** that, if the *[husband]* **spouse** fails to appear as ordered for any
 8 hearing related to the motion and order to show cause or the adoption petition, the court, without
 9 further notice and in the *[husband's]* **spouse's** absence, may take any action that is authorized by
 10 law, including but not limited to entering a judgment of nonpaternity on the date specified in the
 11 order or on a future date, without the consent of the *[husband]* **spouse**.

12 (9) If a *[husband]* **spouse** fails to file a written answer as required in subsection (6) of this sec-
 13 tion or fails to appear for a hearing related to the motion and order to show cause or the petition
 14 as directed by court order under this section, the court, without further notice to the *[husband]*
 15 **spouse** and in the *[husband's]* **spouse's** absence, may take any action that is authorized by law,
 16 including but not limited to entering a judgment of nonpaternity.

17 (10) There shall be sufficient proof to enable the court to grant the relief sought without notice
 18 to the *[husband]* **spouse** provided that the affidavit of the mother of the child, of the *[husband]*
 19 **spouse** or of another person with knowledge of the facts filed in the proceeding states or the court
 20 finds from other competent evidence:

21 (a) That the mother of the child was not cohabiting with her *[husband]* **spouse** at the time of
 22 conception of the child and that the *[husband]* **spouse** is not the father of the child;

23 (b) That the *[husband]* **spouse** has not been judicially determined to be the father;

24 (c) That the child has not resided with the *[husband]* **spouse**; and

25 (d) That the *[husband]* **spouse** has not contributed or tried to contribute to the support of the
 26 child.

27 (11) Notwithstanding ORS 109.070 (1)(a), service of a summons and a motion and order to show
 28 cause on the *[husband]* **spouse** under subsection (3) of this section is not required and the
 29 *[husband's]* **spouse's** consent, authorization or waiver is not required in adoption proceedings con-
 30 cerning the child unless the *[husband]* **spouse** has met the requirements of subsection (3)(a), (b) or
 31 (c) of this section.

32 (12) A *[husband]* **spouse** who was not cohabiting with the mother at the time of the child's
 33 conception has the primary responsibility to protect the *[husband's]* **spouse's** rights.

34 (13) Nothing in this section shall be used to set aside an act of a permanent nature, including
 35 but not limited to adoption, unless the *[father]* **person making the claim** establishes, within one
 36 year after the entry of the order or general judgment, as defined in ORS 18.005, fraud on the part
 37 of the petitioner with respect to the matters specified in subsection (10)(a), (b), (c) or (d) of this
 38 section.

39 **SECTION 35.** ORS 109.804 is amended to read:

40 109.804. (1) Unless the court issues a temporary emergency order under ORS 109.751, upon a
 41 finding that a petitioner is entitled to immediate physical custody of the child under the controlling
 42 child custody determination, the court shall order that the petitioner may take immediate physical
 43 custody of the child unless the respondent establishes that:

44 (a) The child custody determination has not been registered and confirmed under ORS 109.787
 45 and that:

1 (A) The issuing court did not have jurisdiction under ORS 109.741 to 109.771;

2 (B) The child custody determination for which enforcement is sought has been vacated, stayed
3 or modified by a court of a state having jurisdiction to do so under ORS 109.741 to 109.771; or

4 (C) The respondent was entitled to notice, but notice was not given in accordance with the
5 standards of ORS 109.724, in the proceedings before the court that issued the order for which
6 enforcement is sought; or

7 (b) The child custody determination for which enforcement is sought was registered and con-
8 firmed under ORS 109.787, but has been vacated, stayed or modified by a court of a state having
9 jurisdiction to do so under ORS 109.741 to 109.771.

10 (2) The court shall award the fees, costs and expenses authorized under ORS 109.811, may grant
11 additional relief, including a request for the assistance of law enforcement officials, and may set
12 further hearings, if necessary, to determine whether additional relief is appropriate.

13 (3) A privilege against disclosure of communications between spouses and a defense of immunity
14 based on the relationship of [*husband and wife*] **spouses in a legally recognized marriage** or of
15 parent and child may not be invoked in a proceeding under ORS 109.774 to 109.827.

16 **SECTION 36.** ORS 110.384 is amended to read:

17 110.384. (1) The physical presence of the petitioner in a responding tribunal of this state is not
18 required for the establishment, enforcement or modification of a support order or the rendition of
19 a judgment determining parentage.

20 (2) A verified petition, affidavit, document substantially complying with federally mandated
21 forms and a document incorporated by reference in any of them, not excluded under the hearsay rule
22 if given in person, are admissible in evidence if given under oath by a party or witness residing in
23 another state.

24 (3) A copy of the record of child support payments certified as a true copy of the original by the
25 custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts
26 asserted in it, and is admissible to show whether payments were made.

27 (4) Copies of bills for testing for parentage and for prenatal and postnatal health care of the
28 mother and child furnished to the adverse party at least 20 days before trial are admissible in evi-
29 dence to prove the amount of the charges billed and that the charges were reasonable, necessary
30 and customary.

31 (5) Documentary evidence transmitted from another state to a tribunal of this state by tele-
32 phone, telecopier or other means that does not provide an original writing may not be excluded from
33 evidence on an objection based on the means of transmission.

34 (6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness
35 residing in another state to be deposed or to testify by telephone, audiovisual means or other elec-
36 tronic means at a designated tribunal or other location in that state. A tribunal of this state shall
37 cooperate with tribunals of other states in designating an appropriate location for the deposition
38 or testimony.

39 (7) A privilege against disclosure of communications between spouses does not apply in a pro-
40 ceeding under this chapter.

41 (8) The defense of immunity based on the relationship of [*husband and wife*] **spouses in a legally**
42 **recognized marriage** or of parent and child does not apply in a proceeding under this chapter.

43 **SECTION 37.** ORS 136.655 is amended to read:

44 136.655. (1) Except as provided in subsection (2) of this section, in all criminal actions in which
45 [*the husband*] **a spouse in a legally recognized marriage** is the party accused, the [*wife*] **other**

1 **spouse** is a competent witness, **but neither spouse** [*and when the wife is the party accused, the*
 2 *husband is a competent witness; but neither husband nor wife in such cases*] shall be compelled or
 3 allowed to testify [*in such cases*] **in a criminal action**, except as provided in ORS 40.255.

4 (2) There is no privilege under this section, or under ORS 40.255 in all criminal actions in which
 5 [*one*] a spouse is charged with bigamy or with an offense or attempted offense against the person
 6 or property of the other spouse or of a child of either, or with an offense against the person or
 7 property of a third person committed in the course of committing or attempting to commit an offense
 8 against the other spouse.

9 **SECTION 38.** ORS 163.565 is amended to read:

10 163.565. (1) Proof that a child was born to a woman during the time a man lived and cohabited
 11 with her, or held her out as his [*wife*] **spouse in a legally recognized marriage**, is prima facie
 12 evidence that he is the father of the child. This subsection does not exclude any other legal evidence
 13 tending to establish the parental relationship.

14 (2) No provision of law prohibiting the disclosure of confidential communications between [*hus-*
 15 *band and wife*] **spouses in a legally recognized marriage** apply to prosecutions for criminal non-
 16 support. A [*husband or wife*] **spouse** is a competent and compellable witness for or against either
 17 party.

18 **SECTION 39.** ORS 164.035 is amended to read:

19 164.035. (1) In a prosecution for theft it is a defense that the defendant acted under an honest
 20 claim of right, in that:

21 (a) The defendant was unaware that the property was that of another; or

22 (b) The defendant reasonably believed that the defendant was entitled to the property involved
 23 or had a right to acquire or dispose of it as the defendant did.

24 (2) In a prosecution for theft by extortion committed by instilling in the victim a fear that the
 25 victim or another person would be charged with a crime, it is a defense that the defendant reason-
 26 ably believed the threatened charge to be true and that the sole purpose of the defendant was to
 27 compel or induce the victim to take reasonable action to make good the wrong which was the sub-
 28 ject of the threatened charge.

29 (3) In a prosecution for theft by receiving, it is a defense that the defendant received, retained,
 30 concealed or disposed of the property with the intent of restoring it to the owner.

31 (4) It is a defense that the property involved was that of the defendant's spouse, unless the
 32 parties were not living together as [*husband and wife*] **spouses in a legally recognized marriage**
 33 and were living in separate abodes at the time of the alleged theft.

34 **SECTION 40.** ORS 164.164 is amended to read:

35 164.164. (1) In a prosecution under ORS 164.162, it is a defense that the defendant acted under
 36 an honest claim of right in that:

37 (a) The defendant was unaware that the property was that of another person;

38 (b) The defendant reasonably believed that the defendant was entitled to the property involved
 39 or had a right to acquire or dispose of it as the defendant did; or

40 (c) The property involved was that of the defendant's spouse, unless the parties were not living
 41 together as [*husband and wife*] **spouses in a legally recognized marriage** and were living in sep-
 42 arate abodes at the time of the alleged offense.

43 (2)(a) ORS 164.162 does not apply to employees charged with the operation of facilities listed in
 44 paragraph (b) of this subsection when the employees are carrying out their official duties to protect
 45 the safety and security of the facilities.

1 (b) The facilities to which paragraph (a) of this subsection applies are juvenile detention facili-
 2 ties and local correctional facilities as defined in ORS 169.005, detention facilities as defined in ORS
 3 419A.004, youth correction facilities as defined in ORS 420.005 and Department of Corrections in-
 4 stitutions as defined in ORS 421.005.

5 **SECTION 41.** ORS 215.705 is amended to read:

6 215.705. (1) A governing body of a county or its designate may allow the establishment of a
 7 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this
 8 section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the
 9 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

10 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired
 11 by the present owner:

12 (A) Prior to January 1, 1985; or

13 (B) By devise or by intestate succession from a person who acquired the lot or parcel prior to
 14 January 1, 1985.

15 (b) The tract on which the dwelling will be sited does not include a dwelling.

16 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the
 17 acknowledged comprehensive plan and land use regulations and other provisions of law.

18 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that
 19 high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this
 20 section.

21 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in
 22 ORS 215.720, 215.740 or 215.750.

23 (f) When the lot or parcel on which the dwelling will be sited lies within an area designated in
 24 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent
 25 with the limitations on density upon which the acknowledged comprehensive plan and land use
 26 regulations intended to protect the habitat are based.

27 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining
 28 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

29 (2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family
 30 dwelling not in conjunction with farm use may be sited on high-value farmland if:

31 (A) It meets the other requirements of ORS 215.705 to 215.750;

32 (B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1);
 33 and

34 (C) A hearings officer of a county determines that:

35 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with
 36 other land, due to extraordinary circumstances inherent in the land or its physical setting that do
 37 not apply generally to other land in the vicinity.

38 (ii) The dwelling will comply with the provisions of ORS 215.296 (1).

39 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the
 40 area.

41 (b) A local government shall provide notice of all applications for dwellings allowed under this
 42 subsection to the State Department of Agriculture. Notice shall be provided in accordance with the
 43 governing body's land use regulations but shall be mailed at least 20 calendar days prior to the
 44 public hearing before the hearings officer under paragraph (a) of this subsection.

45 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling

1 not in conjunction with farm use may be sited on high-value farmland if:

2 (a) It meets the other requirements of ORS 215.705 to 215.750.

3 (b) The tract on which the dwelling will be sited is:

4 (A) Identified in ORS 215.710 (3) or (4);

5 (B) Not protected under ORS 215.710 (1); and

6 (C) Twenty-one acres or less in size.

7 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller
8 than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;

9 (B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts
10 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-
11 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the
12 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

13 (C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that
14 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter
15 mile of the center of the subject tract and on the same side of the public road that provides access
16 to the subject tract. The governing body of a county must interpret the center of the subject tract
17 as the geographic center of the flaglot if the applicant makes a written request for that interpreta-
18 tion and that interpretation does not cause the center to be located outside the flaglot. Up to two
19 of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts
20 an urban growth boundary. As used in this subparagraph:

21 (i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from
22 the public road to the rest of the tract.

23 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines
24 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to
25 that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

26 (4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compli-
27 ance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use
28 zone under this chapter, the county may apply the standards for siting a dwelling under either
29 subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predom-
30 inant use of the tract on January 1, 1993.

31 (5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling
32 allowed under this section in any area where the county determines that approval of the dwelling
33 would:

34 (a) Exceed the facilities and service capabilities of the area;

35 (b) Materially alter the stability of the overall land use pattern in the area; or

36 (c) Create conditions or circumstances that the county determines would be contrary to the
37 purposes or intent of its acknowledged comprehensive plan or land use regulations.

38 (6) For purposes of subsection (1)(a) of this section, "owner" includes the [*wife, husband*]
39 **spouses in a legally recognized marriage**, son, daughter, [*mother, father,*] **parent**, brother,
40 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, [*mother-in-law, father-in-law,*] **parent-**
41 **in-law**, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner
42 or a business entity owned by any one or combination of these family members.

43 (7) When a local government approves an application for a single-family dwelling under the
44 provisions of this section, the application may be transferred by a person who has qualified under
45 this section to any other person after the effective date of the land use decision.

SECTION 42. ORS 314.105 is amended to read:

314.105. For purposes of ORS 314.105 to 314.135:

(1) “Determination” means:

(a) A decision by the Oregon Tax Court that has become final;

(b) A closing agreement made under ORS 305.150;

(c) A final disposition by the Department of Revenue of a claim for refund. For purposes of this paragraph, a claim for refund shall be deemed finally disposed of by the department as to items with respect to which the claim was allowed, on the date of allowance of refund or credit or on the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the department in reduction of the refund or credit, on expiration of the time for instituting suit with respect thereto (unless suit is instituted before the expiration of such time); or

(d) Under regulations prescribed by the department, an agreement for purposes of ORS 314.105 to 314.135 signed by the department and by any person, relating to the liability of such person (or the person for whom the person acts) in respect of a tax for any taxable period.

(2) “Related taxpayer” means a taxpayer who, with the taxpayer with respect to whom a determination is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance was made, in one of the following relationships:

(a) [*Husband and wife*] **Spouses in a legally recognized marriage;**

(b) Grantor and fiduciary;

(c) Grantor and beneficiary;

(d) Fiduciary and beneficiary, legatee, or heir;

(e) Decedent and decedent’s estate;

(f) Partner;

(g) Member of an affiliated group of corporations as defined in section 1504 of the Internal Revenue Code; or

(h) Shareholder of an S corporation, as defined in section 1361 of the Internal Revenue Code.

(3) “Taxpayer” means any person or entity subject to tax under an applicable revenue law.

SECTION 43. ORS 315.465 is amended to read:

315.465. (1) As used in this section and ORS 315.469:

(a) “Alternative fuel vehicle” means a motor vehicle that can operate on a fuel blend.

(b) “Biodiesel” has the meaning given that term in ORS 646.905.

(c) “Biomass” has the meaning given that term in ORS 315.141.

(d) “Bone dry ton” means matter that is dried to less than one percent moisture content and that weighs 2,000 pounds.

(e) “Fuel blend” means diesel fuel of blends equal to or exceeding 99 percent biodiesel or gasoline of a blend equal to or exceeding 85 percent methanol or ethanol.

(2)(a) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase fuel blends for use in an alternative fuel vehicle.

(b) A resident individual shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for costs paid or incurred to purchase forest, rangeland or agriculture waste or residue densified and dried prepared solid biofuel that contains 100 percent biomass.

(3) The amount of the credit shall be calculated as follows:

(a) Determine the quantity of fuel blend or solid biofuel purchased by the taxpayer during the tax year;

1 (b) Categorize the fuel blend or solid biofuel as prescribed in rules adopted under ORS 469B.400;
 2 and

3 (c) Multiply the quantity of fuel blend or solid biofuel in a particular category by the appropri-
 4 ate credit rate for that category, expressed in dollars and cents.

5 (4) Notwithstanding subsection (3) of this section:

6 (a) The credit allowed under this section for diesel blended fuel is equal to \$0.50 per gallon and
 7 in any one tax year may not exceed \$200 per Oregon registered motor vehicle that is owned or
 8 leased by the taxpayer under a lease of greater than 30 days' duration and that is capable of using
 9 a fuel blend.

10 (b) The credit allowed for gasoline blended fuel is equal to \$0.50 per gallon and in any one tax
 11 year may not exceed \$200 per Oregon registered motor vehicle that is owned or leased by the tax-
 12 payer under a lease of greater than 30 days' duration and that is capable of using a fuel blend.

13 (c) The credit allowed for forest, rangeland or agriculture waste or residue densified and dried
 14 prepared solid biofuel is equal to \$10 per bone dry ton of solid biofuel and in any one tax year may
 15 not exceed \$200 per taxpayer.

16 (d) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and
 17 may not be carried forward to a subsequent tax year.

18 (5) For each tax year for which a credit is claimed under this section, the taxpayer shall main-
 19 tain records sufficient to determine the taxpayer's purchase of qualifying fuel blends. A taxpayer
 20 shall maintain the records required under this subsection for at least five years.

21 (6) A nonresident shall be allowed the credit under this section in the proportion provided in
 22 ORS 316.117.

23 (7) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 24 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 25 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

26 (8) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 27 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 28 ORS 316.117.

29 (9) *[A husband and wife]* **Spouses in a legally recognized marriage** who file separate returns
 30 for a taxable year may each claim a share of the tax credit that would have been allowed on a joint
 31 return in proportion to the contribution of each.

32 **SECTION 44.** ORS 315.469 is amended to read:

33 315.469. (1) A resident individual shall be allowed a tax credit against the taxes otherwise due
 34 under ORS chapter 316 for costs paid or incurred to purchase fuel for primary home space heating
 35 that is at least 20 percent biodiesel. The credit allowed under this section is the lesser of five cents
 36 per gallon or \$200.

37 (2) The credit allowed in any one tax year may not exceed the tax liability of the taxpayer and
 38 may not be carried forward to a subsequent tax year.

39 (3) For each tax year for which a credit is claimed under this section, the taxpayer shall main-
 40 tain records sufficient to determine the taxpayer's purchase of qualifying fuel for primary home
 41 space heating. A taxpayer shall maintain the records required under this subsection for at least five
 42 years.

43 (4) A nonresident shall be allowed the credit under this section in the proportion provided in
 44 ORS 316.117.

45 (5) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the

1 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 2 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

3 (6) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 4 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 5 ORS 316.117.

6 (7) [A *husband and wife*] **Spouses in a legally recognized marriage** who file separate returns
 7 for a taxable year may each claim a share of the tax credit that would have been allowed on a joint
 8 return in proportion to the contribution of each.

9 **SECTION 45.** ORS 315.610 is amended to read:

10 315.610. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS
 11 chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) for premium costs
 12 actually paid or incurred during the tax year for a long term care insurance policy:

- 13 (a) For long term care coverage of the taxpayer or a dependent or parent of the taxpayer; or
- 14 (b) That is offered by the taxpayer to employees of the taxpayer that are employed in this state.

15 (2) The amount of the credit allowed under this section shall equal the lesser of:

16 (a) Fifteen percent of the total amount of long term care insurance premiums paid or incurred
 17 by the taxpayer during the tax year; or

18 (b)(A) If the long term care insurance coverage is for the taxpayer and the dependents or par-
 19 ents of the taxpayer, \$500; or

20 (B) If the long term care insurance coverage is for Oregon-based employees of the taxpayer and
 21 their dependents or parents, \$500 multiplied by the number of employees covered.

22 (3) A credit may not be allowed under this section if the policy was first issued prior to January
 23 1, 2000.

24 (4) The credit allowed under this section may not exceed the tax liability of the taxpayer and
 25 may not be carried forward to another tax year.

26 (5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

27 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
 28 ORS 316.117.

29 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 30 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 31 ORS 316.117.

32 (c) [A *husband and wife*] **Spouses in a legally recognized marriage** who file separate returns
 33 for a taxable year may each claim a share of the tax credit that would have been allowed on a joint
 34 return in proportion to the contribution of each.

35 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 36 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 37 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

38 (6) As used in this section, "long term care insurance" has the meaning given that term in ORS
 39 743.652.

40 **SECTION 46.** ORS 315.675 is amended to read:

41 315.675. (1) As used in this section, "cultural organization" means an entity that is:

- 42 (a) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and
- 43 (b) Organized primarily for the purpose of producing, promoting or presenting the arts, heritage,
 44 programs and humanities to the public or organized primarily for identifying, documenting, inter-
 45 preting and preserving cultural resources.

1 (2) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316
2 for amounts contributed during the tax year to the Trust for Cultural Development Account estab-
3 lished under ORS 359.405.

4 (3) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due
5 under ORS chapter 317 or 318 for amounts contributed during the tax year to the Trust for Cultural
6 Development Account established under ORS 359.405.

7 (4) The credit is allowable under this section only to the extent the taxpayer has contributed
8 an equal amount to an Oregon cultural organization during the tax year.

9 (5) The amount of the credit shall equal 100 percent of the amount contributed to the Trust for
10 Cultural Development Account, but may not exceed the lesser of the tax liability of the:

11 (a) Taxpayer under ORS chapter 316 for the tax year or \$500.

12 (b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or \$2,500.

13 (6) The credit allowed under this section may not be carried over to another tax year.

14 (7) The credit allowed under this section is in addition to any charitable contribution deduction
15 allowable to the taxpayer.

16 (8) In the case of a credit allowed under this section for purposes of ORS chapter 316:

17 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
18 ORS 316.117.

19 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
20 resident occurs, the credit allowed under this section shall be determined in a manner consistent
21 with ORS 316.117.

22 (c) [A *husband and wife*] **Spouses in a legally recognized marriage** who file separate returns
23 for a taxable year may each claim a share of the tax credit that would have been allowed on a joint
24 return in proportion to the contribution of each.

25 (d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
26 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
27 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

28 **SECTION 47.** ORS 316.042 is amended to read:

29 316.042. In the case of a joint return of [*husband and wife*] **spouses in a legally recognized**
30 **marriage**, pursuant to ORS 316.122 or pursuant to ORS 316.367, the tax imposed by ORS 316.037
31 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes
32 of this section, a return of a head of household or a surviving spouse, as defined in subsections (a)
33 and (b) of section 2 of the Internal Revenue Code, shall be treated as a joint return of [*husband and*
34 *wife*] **spouses in a legally recognized marriage**.

35 **SECTION 48.** ORS 316.116 is amended to read:

36 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
37 under this chapter for costs paid or incurred for construction or installation of each of one or more
38 alternative energy devices in a dwelling.

39 (b) A resident individual shall be allowed a credit against the taxes otherwise due under this
40 chapter for costs paid or incurred to modify or purchase an alternative fuel vehicle or related
41 equipment.

42 (c) A credit against the taxes otherwise due under this chapter is not allowed for an alternative
43 energy device that does not meet or exceed all applicable federal, state and local requirements for
44 energy efficiency, including equipment codes, the state building code, specialty codes and any other
45 standards.

1 (2)(a) In the case of a category one alternative energy device that is not an alternative fuel
2 device, the credit shall be based upon the first year energy yield of the alternative energy device
3 that qualifies under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether
4 for collective or noncollective investment.

5 (b) The credit allowed under this section for each category one alternative energy device for
6 each dwelling may not exceed the lesser of \$1,500 or the first year energy yield in kilowatt hours
7 per year multiplied by 60 cents per dwelling utilizing the alternative energy device used for space
8 heating, cooling, electrical energy or domestic water heating for tax years beginning on or after
9 January 1, 1998.

10 (c) For each category one alternative energy device used for swimming pool, spa or hot tub
11 heating, the credit allowed under this section shall be based upon 50 percent of the cost of the de-
12 vice or the first year's energy yield in kilowatt hours per year multiplied by 15 cents, whichever is
13 lower, up to \$1,500 for tax years beginning on or after January 1, 1998.

14 (d) For each alternative fuel device, the credit allowed under this section is 25 percent of the
15 cost of the alternative fuel device but the total credit shall not exceed \$750 if the device is placed
16 in service on or after January 1, 1998.

17 (e)(A) For each category two alternative energy device that is a solar electric system or fuel
18 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-
19 stalled output or \$6,000. The State Department of Energy may by rule provide for a lesser amount
20 of incentive as market conditions warrant, taking into consideration factors including the availabil-
21 ity of bulk purchasing of alternative energy devices.

22 (B) For each category two alternative energy device that is a wind electric system, the credit
23 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in
24 kilowatt hours per year multiplied by \$2.

25 (C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credits
26 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
27 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
28 vided in subsection (6) of this section, but may not be carried forward to a tax year that is more
29 than five tax years following the first tax year for which any credit was allowed with respect to the
30 category two alternative energy device that is the basis for the credit.

31 (D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total amount of the credit
32 for each device allowed under this paragraph may not exceed 50 percent of the total installed cost
33 of the category two alternative energy device.

34 (3) To qualify for a credit under this section, all of the following are required:

35 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
36 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

37 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the
38 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the
39 contract purchaser and must:

40 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
41 secondary residence; or

42 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
43 who uses the dwelling or dwellings as a principal or secondary residence.

44 (c) In the case of an alternative fuel device, unless the verification form and certificate are
45 transferred as authorized under ORS 469B.106 (9), the taxpayer who is allowed the credit must be

1 the contractor who constructs the dwelling that incorporates the alternative fuel device into the
2 dwelling or installs the fueling station in the dwelling.

3 (d) The credit must be claimed for the tax year in which the alternative energy device was
4 purchased if the device is operational by April 1 of the next following tax year.

5 (e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not designed for electric
6 plug-in charging, it must be purchased before January 1, 2010.

7 (4) The credit provided by this section does not affect the computation of basis under this
8 chapter.

9 (5) The total credits allowed under this section in any one year may not exceed the tax liability
10 of the taxpayer.

11 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
12 particular year may be carried forward and offset against the taxpayer's tax liability for the next
13 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
14 forward and used in the second succeeding tax year, and likewise any credit not used in that second
15 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
16 credit not used in that third succeeding tax year may be carried forward and used in the fourth
17 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
18 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
19 thereafter.

20 (7) A nonresident shall be allowed the credit under this section in the proportion provided in
21 ORS 316.117.

22 (8) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
23 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
24 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

25 (9) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
26 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
27 ORS 316.117.

28 (10) *[A husband and wife]* **Spouses in a legally recognized marriage** who file separate returns
29 for a taxable year may each claim a share of the tax credit that would have been allowed on a joint
30 return in proportion to the contribution of each. However, a *[husband or wife]* **spouse** living in a
31 separate principal residence may claim the tax credit in the same amount as permitted a single
32 person.

33 (11) As used in this section, unless the context requires otherwise:

34 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
35 construction and installation of an alternative energy device for one or more dwellings.

36 (b) "Noncollective investment" means an investment by an individual taxpayer for the acquisi-
37 tion, construction and installation of an alternative energy device for one or more dwellings.

38 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (9).

39 (12) Notwithstanding any provision of subsection (1) or (2) of this section, the sum of the credit
40 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax
41 purposes may not exceed the cost for the acquisition, construction and installation of the alternative
42 energy device.

43 **SECTION 49.** ORS 316.122 is amended to read:

44 316.122. (1) If the federal taxable income of *[husband and wife]* **spouses in a legally recognized**
45 **marriage** (one being a part-year resident and the other a nonresident) is determined on a joint

1 federal return, their taxable income in this state shall be separately determined, unless they elect
 2 to file a joint return, in which case their tax on their joint income shall be determined in this state
 3 pursuant to ORS 316.037 (3).

4 (2) If the federal taxable income of [*husband and wife*] **spouses in a legally recognized mar-**
 5 **riage** (one being a full-year resident and the other a part-year resident) is determined on a joint
 6 federal return, their taxable income in this state shall be separately determined, unless they elect
 7 to file a joint return, in which case their tax on their joint income shall be determined in this state
 8 pursuant to ORS 316.037 (2).

9 (3) If the federal taxable income of [*husband and wife*] **spouses in a legally recognized mar-**
 10 **riage** (one being a full-year resident and the other a nonresident) is determined on a joint federal
 11 return, their taxable income in the state shall be separately determined, unless they elect to file a
 12 joint return, in which case their tax on their joint income shall be determined in this state pursuant
 13 to ORS 316.037 (3).

14 (4) For purposes of computing the tax of [*a husband and wife*] **spouses** under this section, if one
 15 of the spouses is a full-year resident individual, then as used in ORS 316.037 (2) or (3), that spouse's
 16 taxable income derived from Oregon sources is that spouse's entire federal taxable income, defined
 17 in the laws of the United States, with the modifications, additions and subtractions provided in this
 18 chapter and other laws of this state applicable to personal income taxation.

19 (5) The provisions of ORS 316.367 with respect to joint returns apply if both [*husband and*
 20 *wife*] **spouses** are part-year residents or full-year nonresidents.

21 **SECTION 50.** ORS 316.367 is amended to read:

22 316.367. [*A husband and wife*] **Spouses in a legally recognized marriage** may make a joint
 23 return with respect to the tax imposed by this chapter even though one of the spouses has neither
 24 gross income nor deductions, except that:

25 (1) No joint return shall be made under this chapter if the spouses are not permitted to file a
 26 joint federal income tax return;

27 (2) If the federal income tax liability of either spouse is determined on a separate federal return,
 28 their income tax liabilities under this chapter shall be determined on separate returns;

29 (3) If the federal income tax liabilities of [*husband and wife*] **the spouses** are determined on a
 30 joint federal return, they shall file a joint return under this chapter and their tax liabilities shall
 31 be joint and several; and

32 (4) If neither spouse is required to file a federal income tax return and either or both are re-
 33 quired to file an income tax return under this chapter, they may elect to file separate or joint re-
 34 turns and pursuant to such election their liabilities shall be separate or joint and several.

35 **SECTION 51.** ORS 316.567 is amended to read:

36 316.567. (1) Except as provided in subsection (2) of this section, [*a husband and wife*] **spouses**
 37 **in a legally recognized marriage** may make a single declaration jointly under ORS 316.557 to
 38 316.589. The liability of the [*husband and wife*] **spouses** making such a declaration shall be joint and
 39 several.

40 (2) [*A husband and wife*] **Spouses** may not make a joint declaration:

41 (a) If either [*the husband or the wife*] **spouse** is a nonresident alien;

42 (b) If [*they*] **the spouses** are separated under a judgment of divorce or of separate maintenance;

43 or

44 (c) If [*they*] **the spouses** have different taxable years.

45 (3) If [*a husband and wife*] **spouses** make a joint declaration but not a joint return for the tax-

1 able year, the [*husband and wife*] **spouses** may, in such manner as they may agree, and after giving
2 notice of the agreement to the Department of Revenue:

3 (a) Treat the estimated tax for the year as the estimated tax of either [*the husband or of the*
4 *wife*] **spouse**; or

5 (b) Divide the estimated tax between them.

6 (4) If [*a husband and wife*] **the spouses** fail to agree, or fail to notify the department of the
7 manner in which they agree, to the treatment of estimated tax for a taxable year for which they
8 make a joint declaration but not a joint return, the payments shall be allocated between them ac-
9 cording to rules adopted by the department. Notwithstanding ORS 314.835, 314.840 or 314.991, the
10 department may disclose to either [*the husband or the wife*] **spouse** the information upon which an
11 allocation of estimated tax was made under this section.

12 **SECTION 52.** ORS 316.690 is amended to read:

13 316.690. (1) Subject to subsection (2) of this section, in addition to other modifications provided
14 in this chapter, and if a taxpayer elects to take foreign income taxes imposed for the taxable year
15 by a foreign country as a credit on the federal income tax return or does not itemize personal de-
16 ductions on the federal income tax return, there shall be subtracted from federal taxable income in
17 the computation of state taxable income the amount of foreign income taxes imposed for the taxable
18 year by a foreign country.

19 (2) The deduction for foreign country income taxes provided by this section shall be limited as
20 follows:

21 (a) Except as provided in paragraph (b) of this subsection, the sum of foreign country income
22 taxes deducted in computing state taxable income and the modification for federal income taxes
23 authorized by ORS 316.680 (1)(b) as limited by ORS 316.695 (3) shall not exceed \$3,000.

24 (b) In the case of [*a husband and wife*] **spouses in a legally recognized marriage** filing sepa-
25 rate tax returns, the sum described in paragraph (a) of this subsection shall be limited to \$1,500.

26 **SECTION 53.** ORS 316.695 is amended to read:

27 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,
28 there shall be added to or subtracted from federal taxable income:

29 (a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions,
30 as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of
31 itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized
32 deductions are reduced under section 68 of the Internal Revenue Code).

33 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-
34 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount
35 of the standard deduction deducted.

36 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's
37 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,
38 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-
39 duction and the additional standard deduction.

40 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

41 (i) \$3,280, in the case of joint return filers or a surviving spouse;

42 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving
43 spouse;

44 (iii) \$1,640, in the case of a married individual who files a separate return; or

45 (iv) \$2,640, in the case of a head of household.

1 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after
2 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction
3 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard
4 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price
5 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average
6 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-
7 tient by the amount listed under subparagraph (B) of this paragraph for each category of return
8 filer.

9 (ii) If any change in the maximum household income determined under this subparagraph is not
10 a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

11 (iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S.
12 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau
13 of Labor Statistics of the United States Department of Labor.

14 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the
15 sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

16 (E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household"
17 have the *[meaning]* **meanings** given those terms in section 2 of the Internal Revenue Code.

18 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this
19 paragraph shall be zero:

20 (i) *[A husband or wife]* **One of the spouses in a legally recognized marriage** filing a separate
21 return where the other spouse has claimed itemized deductions under subparagraph (A) of this par-
22 agraph;

23 (ii) A nonresident alien individual;

24 (iii) An individual making a return for a period of less than 12 months on account of a change
25 in the individual's annual accounting period;

26 (iv) An estate or trust;

27 (v) A common trust fund; or

28 (vi) A partnership.

29 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions
30 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-
31 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
32 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-
33 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears
34 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal
35 Revenue Code).

36 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of
37 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-
38 butions which were taxed by the State of Oregon but not taxed by the federal government under
39 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which
40 the amount that was contributed to the plan under the Internal Revenue Code was greater than the
41 amount allowed under this chapter.

42 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock
43 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection
44 may not be added to federal taxable income in the year earned by the plan and may not be sub-
45 tracted from federal taxable income in the year received by the taxpayer.

1 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable
2 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)
3 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,
4 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-
5 ceived.

6 (b) The limits applicable to this subsection are:

7 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
8 \$125,000, or, if reported on a joint return, less than \$250,000.

9 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
10 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
11 \$260,000.

12 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
13 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
14 \$270,000.

15 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
16 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
17 \$280,000.

18 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
19 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
20 \$290,000.

21 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or,
22 if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a
23 subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

24 (d) In the case of [*a husband and wife*] **spouses in a legally recognized marriage** filing sepa-
25 rate tax returns, the amount added shall be in the amount of any federal income taxes in excess of
26 50 percent of the amount provided for individual taxpayers under paragraphs (a) to (c) of this sub-
27 section, less the amount of any refund of federal taxes previously accrued for which a tax benefit
28 was received.

29 (e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head
30 of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

31 (f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue
32 shall make a cost-of-living adjustment to the federal income tax threshold amounts described in
33 paragraphs (b) and (d) of this subsection.

34 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
35 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
36 of the prior calendar year exceeds the monthly averaged index for the period beginning September
37 1, 2005, and ending August 31, 2006.

38 (C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City
39 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
40 Labor Statistics of the United States Department of Labor.

41 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
42 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

43 (E) The adjustment shall apply to all tax years beginning in the calendar year for which the
44 adjustment is made.

45 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual

1 shall add to taxable income a proportion of any accrued federal income taxes as computed under
2 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion
3 provided in ORS 316.117.

4 (b) In the case of [*a husband and wife*] **spouses in a legally recognized marriage** filing separate tax returns, the amount added under this subsection shall be computed in a manner consistent
5 with the computation of the amount to be added in the case of [*a husband and wife*] **spouses in a**
6 **legally recognized marriage** filing separate returns under subsection (3) of this section. The
7 method of computation shall be determined by the Department of Revenue by rule.
8

9 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart
10 as defined in section 7703(b) of the Internal Revenue Code.

11 (6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income
12 or loss taken into account in determining federal taxable income by a shareholder of an S corpo-
13 ration pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes
14 of determining Oregon taxable income, to the extent that as income or loss of the S corporation,
15 they were required to be adjusted under the provisions of ORS chapter 317.

16 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken
17 into account in determining federal taxable income by a shareholder of an S corporation pursuant
18 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining
19 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder
20 the items are required to be adjusted under the provisions of this chapter.

21 (c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S
22 corporation.

23 (d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small
24 business corporation.

25 (7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection
26 (1)(c)(A) and (D) of this section, of \$1,000:

27 (A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax
28 year; and

29 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax
30 year and an additional exemption is allowable to the taxpayer for such spouse for federal income
31 tax purposes under section 151(b) of the Internal Revenue Code.

32 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)
33 and (D) of this section, of \$1,000:

34 (A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

35 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an
36 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes
37 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse
38 dies during the tax year, the determination of whether such spouse is blind shall be made imme-
39 diately prior to death.

40 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)
41 and (b) of this subsection shall be applied by substituting "\$1,200" for "\$1,000."

42 (d) For purposes of this subsection, an individual is blind only if the individual's central visual
43 acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual
44 acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the
45 widest diameter of the visual field subtends an angle no greater than 20 degrees.

1 (8) In the case of an individual with respect to whom a deduction under section 151 of the
 2 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax
 3 year beginning in the calendar year in which the individual's tax year begins, the basic standard
 4 deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such
 5 individual's tax year shall equal the lesser of:

6 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for
 7 federal income tax purposes for the tax year for which the deduction is being claimed; or

8 (b) The amount determined under subsection (1)(c)(B) of this section.

9 **SECTION 54.** ORS 408.730 is amended to read:

10 408.730. (1) The commander or executive head of any veterans organization organized under a
 11 charter issued by an Act of Congress, proposing to undertake the relief provided for in ORS 408.720,
 12 shall file with the county clerk of the county in which the veterans organization may be situated,
 13 the names of its commander or executive head and its relief committee, if any. The commander or
 14 executive head shall also file a notice in writing that such veterans organization will undertake the
 15 relief of the indigent persons provided for in ORS 408.720, and by the fourth Monday in January of
 16 each year shall file with the county clerk a similar notice, and render and file a detailed statement
 17 of the relief furnished during the preceding year, including the amount thereof, the names of the
 18 persons to whom furnished and on whose recommendation, and such other facts and suggestions as
 19 are deemed material.

20 (2) The commander or executive head shall also file a bond, with one or more sureties, to be
 21 approved by the county court or judge thereof, or board of county commissioners, in a sum not less
 22 than \$100 and not more than \$1,000. The amount of the bond shall be fixed by the court, judge or
 23 board. It shall run to the county, and be conditioned by stating that if said commander or executive
 24 head faithfully applies all funds that come into the hands of the commander or executive head for
 25 that purpose, to the relief of the indigent persons named in ORS 408.720, it is void. If the bond is
 26 enforced there shall be recovered from the principal and sureties thereon the amount which is found
 27 to be misappropriated, which shall be paid into the county treasury.

28 (3) If the county operates on a fiscal year ending on June 30, the notice, statement and bond
 29 required by this section may be filed on the fourth Monday in July of each year rather than on the
 30 fourth Monday of January. If the statement required by subsection (1) of this section is filed at the
 31 time provided in this subsection, this statement shall cover the preceding fiscal year.

32 (4) On the approval and filing of the bond, and on the recommendation of the relief committee
 33 of any such veterans organization, orders shall be drawn in favor of the commander or executive
 34 head in the same manner as orders are now drawn for the relief of the poor. The orders shall des-
 35 ignate thereon the names of the persons for whom the relief is intended and, in like manner, a sum
 36 not exceeding \$100 may be drawn to pay the funeral expenses of an indigent veteran, and the indi-
 37 gent [*wives, widows and the*] **spouses and surviving spouses in legally recognized marriages and**
 38 minor children of such veterans.

39 **SECTION 55.** ORS 418.210 is amended to read:

40 418.210. ORS 418.205 to 418.325 shall not apply to:

41 (1) Homes established and maintained by fraternal organizations wherein only members, their
 42 [*wives, widows*] **spouses and surviving spouses in legally recognized marriages** and children are
 43 admitted as residents;

44 (2) Any family foster home that is subject to ORS 418.625 to 418.645;

45 (3) Any child care facility that is subject to ORS 329A.030 and 329A.250 to 329A.450;

1 (4) Any individual, or home of an individual, providing respite services, as defined in ORS
 2 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;

3 (5) Any private agency or organization facilitating the provision of respite services, as defined
 4 in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056;
 5 or

6 (6) A private residential boarding school as defined in ORS 418.205 (5)(b).

7 **SECTION 56.** ORS 419B.040 is amended to read:

8 419B.040. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, in-
 9 cluding the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended
 10 to nurses, to staff members of schools and to regulated social workers and the [*husband-wife*]
 11 **spousal** privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the
 12 cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to
 13 419B.050.

14 (2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to
 15 419B.050, either spouse shall be a competent and compellable witness against the other.

16 **SECTION 57.** ORS 432.088, as amended by section 51, chapter 45, Oregon Laws 2014, is
 17 amended to read:

18 432.088. (1) A report of live birth for each live birth that occurs in this state shall be submitted
 19 to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for
 20 Health Statistics, within five calendar days after the live birth and shall be registered if the report
 21 has been completed and filed in accordance with this section.

22 (2) The physician, institution or other person providing prenatal care related to a live birth shall
 23 provide prenatal care information as required by the state registrar by rule to the institution where
 24 the delivery is expected to occur not less than 30 calendar days prior to the expected delivery date.

25 (3) When a live birth occurs in an institution or en route to an institution, the person in charge
 26 of the institution or an authorized designee shall obtain all data required by the state registrar,
 27 prepare the report of live birth, certify either by signature or electronic signature that the child
 28 was born alive at the place and time and on the date stated and submit the report as described in
 29 subsection (1) of this section.

30 (4) In obtaining the information required for the report of live birth, an institution shall use
 31 information gathering procedures provided or approved by the state registrar. Institutions may es-
 32 tablish procedures to transfer, electronically or otherwise, information required for the report from
 33 other sources, provided that the procedures are reviewed and approved by the state registrar prior
 34 to the implementation of the procedures to ensure that the information being transferred is the same
 35 as the information being requested.

36 (5)(a) When a live birth occurs outside an institution, the information for the report of live birth
 37 shall be submitted within five calendar days of the live birth in a format adopted by the state
 38 registrar by rule in the following order of priority:

39 (A) By an institution where the mother and child are examined, if examination occurs within
 40 24 hours of the live birth;

41 (B) By a physician in attendance at the live birth;

42 (C) By a direct entry midwife licensed under ORS 687.405 to 687.495 in attendance at the live
 43 birth;

44 (D) By a person not described in subparagraphs (A) to (C) of this paragraph and not required
 45 by law to be licensed to practice midwifery who is registered with the Center for Health Statistics

1 to submit reports of live birth and who was in attendance at the live birth; or

2 (E) By the father, the mother or, in the absence of the father and the inability of the mother,
3 the person in charge of the premises where the live birth occurred.

4 (b) The state registrar may establish by rule the manner of submitting the information for the
5 report of live birth by a person described in paragraph (a)(D) of this subsection or a physician or
6 licensed direct entry midwife who attends the birth of his or her own child, grandchild, niece or
7 nephew.

8 (6) When a report of live birth is submitted that does not include the minimum acceptable doc-
9 umentation required by this section or any rules adopted under this section, or when the state
10 registrar has cause to question the validity or adequacy of the documentation, the state registrar,
11 in the state registrar's discretion, may refuse to register the live birth and shall enter an order to
12 that effect stating the reasons for the action. The state registrar shall advise the applicant of the
13 right to appeal under ORS 183.484.

14 (7) When a live birth occurs on a moving conveyance:

15 (a) Within the United States and the child is first removed from the conveyance in this state,
16 the live birth shall be registered in this state and the place where it is first removed shall be con-
17 sidered the place of live birth.

18 (b) While in international waters or air space or in a foreign country or its air space and the
19 child is first removed from the conveyance in this state, the birth shall be registered in this state
20 but the report of live birth shall show the actual place of birth insofar as can be determined.

21 (8) For purposes of making a report of live birth and live birth registration, the woman who
22 gives live birth is the live birth mother. If a court of competent jurisdiction determines that a
23 woman other than the live birth mother is the biological or genetic mother, the court may order the
24 state registrar to amend the record of live birth. The record of live birth shall then be placed under
25 seal.

26 (9)(a) If the mother is married at the time of either conception or live birth, or within 300 days
27 before the live birth, the name of the [*husband*] **mother's spouse in a legally recognized marriage**
28 shall be entered on the report of live birth as the [*father*] **parent** of **the** child unless parentage has
29 been determined otherwise by a court of competent jurisdiction.

30 (b) If the mother is not married at the time of either conception or live birth, or within 300 days
31 before the live birth, the name of the [*father*] **parent** shall not be entered on the report of live birth
32 unless a voluntary acknowledgment of paternity form or other form prescribed under ORS 432.098
33 is:

34 (A) Signed by the mother and the person to be named as the [*father*] **parent**; and

35 (B) Filed with the state registrar.

36 (c) If the mother is a partner in a domestic partnership registered by the state at the time of
37 either conception or live birth, or between conception and live birth, the name of the mother's
38 partner shall be entered on the report of live birth as a parent of the child, unless parentage has
39 been determined otherwise by a court of competent jurisdiction.

40 (d) In any case in which paternity of a child is determined by a court of competent jurisdiction,
41 or by an administrative determination of paternity, the Center for Health Statistics shall enter the
42 name of the [*father*] **parent** on the new record of live birth. The Center for Health Statistics shall
43 change the surname of the child if so ordered by the court or, in a proceeding under ORS 416.430,
44 by the administrator as defined in ORS 25.010.

45 (e) If a biological parent is not named on the report of live birth, information other than the

1 identity of the biological parent may be entered on the report.

2 (10) A parent of the child, or other informant as determined by the state registrar by rule, shall
3 verify the accuracy of the personal data to be entered on a report of live birth in time to permit
4 submission of the report within the five calendar days of the live birth.

5 (11) A report of live birth submitted after five calendar days, but within one year after the date
6 of live birth, shall be registered in the manner prescribed in this section. The record shall not be
7 marked "Delayed."

8 (12) The state registrar may require additional evidence in support of the facts of live birth.

9 **SECTION 58.** ORS 496.146 is amended to read:

10 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife
11 Commission:

12 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property
13 for the purposes of wildlife management, and use such money or property for wildlife management
14 purposes.

15 (2) May sell or exchange property owned by the state and used for wildlife management pur-
16 poses when the commission determines that such sale or exchange would be advantageous to the
17 state wildlife policy and management programs.

18 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-
19 mission determines will carry out the state wildlife policy and management programs.

20 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,
21 hunting and trapping and may prescribe such tagging and sealing procedures as the commission
22 determines necessary to carry out the provisions of the wildlife laws or to obtain information for
23 use in wildlife management. Permits issued pursuant to this subsection may include special hunting
24 permits for a person and immediate family members of the person to hunt on land owned by that
25 person in areas where permits for deer or elk are limited by quota. As used in this subsection,
26 "immediate family members" means [*husband, wife, father, mother,*] **spouses in a legally recognized**
27 **marriage, parents,** brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters, stepchildren
28 and grandchildren. A landowner who is qualified to receive landowner preference tags from the
29 commission may request two additional tags for providing public access and two additional tags for
30 wildlife habitat programs. This request shall be made to the Access and Habitat Board with sup-
31 porting evidence that the access is significant and the habitat programs benefit wildlife. The board
32 may recommend that the commission grant the request. When a landowner is qualified under land-
33 owner preference rules adopted by the commission and receives a controlled hunt tag for that unit
34 or a landowner preference tag for the landowner's property and does not use the tag during the
35 regular season, the landowner may use that tag to take an antlerless animal, when approved by the
36 State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the
37 landowner's property.

38 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued
39 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and
40 place of taking wildlife, the quantities taken and such other information as the commission deter-
41 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in
42 wildlife management.

43 (6) May establish special hunting and angling areas or seasons in which only persons less than
44 18 years of age or over 65 years of age are permitted to hunt or angle.

45 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests

1 therein for wildlife management and wildlife-oriented recreation purposes.

2 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise
3 real property and all interests therein and establish, operate and maintain thereon public hunting
4 areas.

5 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-
6 erning the use of such areas and the use of wildlife refuge and management areas established and
7 developed pursuant to any other provision of law.

8 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required
9 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of
10 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-
11 scribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user
12 charge prescribed by the commission pursuant to this subsection shall exceed \$100.

13 (11) May enter into contracts with any person or governmental agency for the development and
14 encouragement of wildlife research and management programs and projects.

15 (12) May perform such acts as may be necessary for the establishment and implementation of
16 cooperative wildlife management programs with agencies of the federal government.

17 (13) May offer and pay rewards for the arrest and conviction of any person who has violated
18 any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

19 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless
20 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-
21 section shall be based on actual or projected costs of administering falconry regulations and shall
22 not exceed \$250.

23 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons
24 with disabilities.

25 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-
26 lation levels shall be reviewed at least once every five years.

27 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled
28 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those
29 drawings in subsequent years. In establishing the preference system, the commission shall consider
30 giving additional preference points to persons who have been issued a resident pioneer hunting li-
31 cense pursuant to ORS 497.102.

32 (18) May sell advertising in State Department of Fish and Wildlife publications, including annual
33 hunting and angling regulation publications.

34 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an
35 organization that sponsors hunting trips for terminally ill children.

36 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting
37 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to
38 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or
39 other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the
40 department from the prohibition.

41 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-
42 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the
43 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-
44 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS
45 496.300.

1 (22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on
 2 any person who fails to comply with mandatory hunting reporting requirements. Amounts collected
 3 as surcharges under this subsection must be deposited in the State Wildlife Fund established under
 4 ORS 496.300.

5 (23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon
 6 recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day
 7 per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in the
 8 Columbia Basin and is in addition to and not in lieu of angling licenses and tags required under the
 9 wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia
 10 River Fisheries Enhancement Fund established under section 7, chapter 672, Oregon Laws 2013.

11 (24) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees
 12 prescribed by the commission for multiyear licenses may provide for a discount from the annual li-
 13 cense fees that would otherwise be payable for the period of time covered by the multiyear license.

14 **SECTION 59.** ORS 496.146, as amended by section 10, chapter 672, Oregon Laws 2013, is
 15 amended to read:

16 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife
 17 Commission:

18 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property
 19 for the purposes of wildlife management, and use such money or property for wildlife management
 20 purposes.

21 (2) May sell or exchange property owned by the state and used for wildlife management pur-
 22 poses when the commission determines that such sale or exchange would be advantageous to the
 23 state wildlife policy and management programs.

24 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-
 25 mission determines will carry out the state wildlife policy and management programs.

26 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,
 27 hunting and trapping and may prescribe such tagging and sealing procedures as the commission
 28 determines necessary to carry out the provisions of the wildlife laws or to obtain information for
 29 use in wildlife management. Permits issued pursuant to this subsection may include special hunting
 30 permits for a person and immediate family members of the person to hunt on land owned by that
 31 person in areas where permits for deer or elk are limited by quota. As used in this subsection,
 32 “immediate family members” means [*husband, wife, father, mother,*] **spouses in a legally recognized**
 33 **marriage, parents,** brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters, stepchildren
 34 and grandchildren. A landowner who is qualified to receive landowner preference tags from the
 35 commission may request two additional tags for providing public access and two additional tags for
 36 wildlife habitat programs. This request shall be made to the Access and Habitat Board with sup-
 37 porting evidence that the access is significant and the habitat programs benefit wildlife. The board
 38 may recommend that the commission grant the request. When a landowner is qualified under land-
 39 owner preference rules adopted by the commission and receives a controlled hunt tag for that unit
 40 or a landowner preference tag for the landowner’s property and does not use the tag during the
 41 regular season, the landowner may use that tag to take an antlerless animal, when approved by the
 42 State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the
 43 landowner’s property.

44 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued
 45 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and

1 place of taking wildlife, the quantities taken and such other information as the commission deter-
2 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in
3 wildlife management.

4 (6) May establish special hunting and angling areas or seasons in which only persons less than
5 18 years of age or over 65 years of age are permitted to hunt or angle.

6 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests
7 therein for wildlife management and wildlife-oriented recreation purposes.

8 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise
9 real property and all interests therein and establish, operate and maintain thereon public hunting
10 areas.

11 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-
12 erning the use of such areas and the use of wildlife refuge and management areas established and
13 developed pursuant to any other provision of law.

14 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required
15 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of
16 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-
17 scribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user
18 charge prescribed by the commission pursuant to this subsection shall exceed \$100.

19 (11) May enter into contracts with any person or governmental agency for the development and
20 encouragement of wildlife research and management programs and projects.

21 (12) May perform such acts as may be necessary for the establishment and implementation of
22 cooperative wildlife management programs with agencies of the federal government.

23 (13) May offer and pay rewards for the arrest and conviction of any person who has violated
24 any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

25 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless
26 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-
27 section shall be based on actual or projected costs of administering falconry regulations and shall
28 not exceed \$250.

29 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons
30 with disabilities.

31 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-
32 lation levels shall be reviewed at least once every five years.

33 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled
34 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those
35 drawings in subsequent years. In establishing the preference system, the commission shall consider
36 giving additional preference points to persons who have been issued a resident pioneer hunting li-
37 cense pursuant to ORS 497.102.

38 (18) May sell advertising in State Department of Fish and Wildlife publications, including annual
39 hunting and angling regulation publications.

40 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an
41 organization that sponsors hunting trips for terminally ill children.

42 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting
43 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to
44 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or
45 other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the

1 department from the prohibition.

2 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-
 3 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the
 4 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-
 5 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS
 6 496.300.

7 (22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on
 8 any person who fails to comply with mandatory hunting reporting requirements. Amounts collected
 9 as surcharges under this subsection must be deposited in the State Wildlife Fund established under
 10 ORS 496.300.

11 (23) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees
 12 prescribed by the commission for multiyear licenses may provide for a discount from the annual li-
 13 cense fees that would otherwise be payable for the period of time covered by the multiyear license.

14 **SECTION 60.** ORS 656.005 is amended to read:

15 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-
 16 ployment, as determined by the Employment Department, for the last quarter of the calendar year
 17 preceding the fiscal year in which the injury occurred.

18 (2) "Beneficiary" means an injured worker, and the [*husband, wife*] **spouse in a legally recog-**
 19 **nized marriage**, child or dependent of a worker, who is entitled to receive payments under this
 20 chapter. "Beneficiary" does not include:

21 (a) A spouse of an injured worker living in a state of abandonment for more than one year at
 22 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker
 23 for a period of two years and who has not during that time received or attempted by process of law
 24 to collect funds for support or maintenance is considered living in a state of abandonment.

25 (b) A person who intentionally causes the compensable injury to or death of an injured worker.

26 (3) "Board" means the Workers' Compensation Board.

27 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-
 28 age with the State Accident Insurance Fund Corporation or an insurer authorized under ORS
 29 chapter 731 to transact workers' compensation insurance in this state.

30 (5) "Child" includes a posthumous child, a child legally adopted prior to the injury, a child to-
 31 ward whom the worker stands in loco parentis, a child born out of wedlock and a stepchild, if such
 32 stepchild was, at the time of the injury, a member of the worker's family and substantially dependent
 33 upon the worker for support. A dependent child who is an invalid is a child, for purposes of benefits,
 34 regardless of age, so long as the child was an invalid at the time of the accident and thereafter re-
 35 mains an invalid substantially dependent on the worker for support. For purposes of this chapter,
 36 a dependent child who is an invalid is considered to be a child under 18 years of age.

37 (6) "Claim" means a written request for compensation from a subject worker or someone on the
 38 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

39 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-
 40 ances, arising out of and in the course of employment requiring medical services or resulting in
 41 disability or death; an injury is accidental if the result is an accident, whether or not due to acci-
 42 dental means, if it is established by medical evidence supported by objective findings, subject to the
 43 following limitations:

44 (A) No injury or disease is compensable as a consequence of a compensable injury unless the
 45 compensable injury is the major contributing cause of the consequential condition.

1 (B) If an otherwise compensable injury combines at any time with a preexisting condition to
 2 cause or prolong disability or a need for treatment, the combined condition is compensable only if,
 3 so long as and to the extent that the otherwise compensable injury is the major contributing cause
 4 of the disability of the combined condition or the major contributing cause of the need for treatment
 5 of the combined condition.

6 (b) “Compensable injury” does not include:

7 (A) Injury to any active participant in assaults or combats which are not connected to the job
 8 assignment and which amount to a deviation from customary duties;

9 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-
 10 forming, any recreational or social activities primarily for the worker’s personal pleasure; or

11 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of
 12 the evidence the injured worker’s consumption of alcoholic beverages or the unlawful consumption
 13 of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of
 14 such consumption.

15 (c) A “disabling compensable injury” is an injury which entitles the worker to compensation for
 16 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless
 17 there is a reasonable expectation that permanent disability will result from the injury.

18 (d) A “nondisabling compensable injury” is any injury which requires medical services only.

19 (8) “Compensation” includes all benefits, including medical services, provided for a compensable
 20 injury to a subject worker or the worker’s beneficiaries by an insurer or self-insured employer pur-
 21 suant to this chapter.

22 (9) “Department” means the Department of Consumer and Business Services.

23 (10) “Dependent” means any of the following-named relatives of a worker whose death results
 24 from any injury: [*Father, mother, grandfather, grandmother, stepfather, stepmother*] **Parent,**
 25 **grandparent, stepparent,** grandson, granddaughter, brother, sister, half sister, half brother, niece
 26 or nephew, who at the time of the accident, are dependent in whole or in part for their support upon
 27 the earnings of the worker. Unless otherwise provided by treaty, aliens not residing within the
 28 United States at the time of the accident other than [*father, mother, husband, wife*] **parent, spouse**
 29 **in a legally recognized marriage** or children are not included within the term “dependent.”

30 (11) “Director” means the Director of the Department of Consumer and Business Services.

31 (12)(a) “Doctor” or “physician” means a person duly licensed to practice one or more of the
 32 healing arts in any country or in any state, territory or possession of the United States within the
 33 limits of the license of the licentiate.

34 (b) Except as otherwise provided for workers subject to a managed care contract, “attending
 35 physician” means a doctor, physician or physician assistant who is primarily responsible for the
 36 treatment of a worker’s compensable injury and who is:

37 (A) A medical doctor or doctor of osteopathy licensed under ORS 677.100 to 677.228 by the
 38 Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840
 39 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of
 40 Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the
 41 United States; or

42 (B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative
 43 total of 18 visits, whichever occurs first, to any of the medical service providers listed in this sub-
 44 paragraph, a:

45 (i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of

1 Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any
 2 state, territory or possession of the United States;

3 (ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505
 4 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or
 5 possession of the United States; or

6 (iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of
 7 Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any
 8 country or in any state, territory or possession of the United States.

9 (c) Except as otherwise provided for workers subject to a managed care contract, “attending
 10 physician” does not include a physician who provides care in a hospital emergency room and refers
 11 the injured worker to a primary care physician for follow-up care and treatment.

12 (d) “Consulting physician” means a doctor or physician who examines a worker or the worker’s
 13 medical record to advise the attending physician or nurse practitioner authorized to provide
 14 compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable
 15 injury.

16 (13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and
 17 the state, state agencies, counties, municipal corporations, school districts and other public corpo-
 18 rations or political subdivisions, who contracts to pay a remuneration for and secures the right to
 19 direct and control the services of any person.

20 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of
 21 a temporary service provider is not the employer of temporary workers provided by the temporary
 22 service provider.

23 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning
 24 for that term provided in ORS 656.850.

25 (14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized
 26 under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned
 27 claims agent selected by the director under ORS 656.054.

28 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

29 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

30 (17) “Medically stationary” means that no further material improvement would reasonably be
 31 expected from medical treatment, or the passage of time.

32 (18) “Noncomplying employer” means a subject employer who has failed to comply with ORS
 33 656.017.

34 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or
 35 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and
 36 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-
 37 sponses to physical examinations that are not reproducible, measurable or observable.

38 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the
 39 intensity of an otherwise stable medical condition, but does not include those medical services ren-
 40 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

41 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time
 42 of injury and the insurer, if any, of such employer.

43 (22) “Payroll” means a record of wages payable to workers for their services and includes
 44 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or
 45 similar advantage received from the employer. However, “payroll” does not include overtime pay,

1 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments
2 to reward workers for safe working practices. Bonus pay is limited to payments which are not an-
3 ticipated under the contract of employment and which are paid at the sole discretion of the em-
4 ployer. The exclusion from payroll of bonus payments to reward workers for safe working practices
5 is only for the purpose of calculations based on payroll to determine premium for workers' com-
6 pensation insurance, and does not affect any other calculation or determination based on payroll for
7 the purposes of this chapter.

8 (23) "Person" includes partnership, joint venture, association, limited liability company and
9 corporation.

10 (24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, con-
11 genital abnormality, personality disorder or similar condition that contributes to disability or need
12 for treatment, provided that:

13 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the
14 worker has been diagnosed with such condition, or has obtained medical services for the symptoms
15 of the condition regardless of diagnosis; and

16 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes
17 the initial injury;

18 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the
19 new medical condition; or

20 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment
21 precedes the onset of the worsened condition.

22 (b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, con-
23 genital abnormality, personality disorder or similar condition that contributes to disability or need
24 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim
25 for worsening in such claims pursuant to ORS 656.273 or 656.278.

26 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or
27 need for treatment if the condition merely renders the worker more susceptible to the injury.

28 (25) "Self-insured employer" means an employer or group of employers certified under ORS
29 656.430 as meeting the qualifications set out by ORS 656.407.

30 (26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident
31 Insurance Fund Corporation created under ORS 656.752.

32 (27) "Subject employer" means an employer who is subject to this chapter as provided by ORS
33 656.023.

34 (28) "Subject worker" means a worker who is subject to this chapter as provided by ORS
35 656.027.

36 (29) "Wages" means the money rate at which the service rendered is recompensed under the
37 contract of hiring in force at the time of the accident, including reasonable value of board, rent,
38 housing, lodging or similar advantage received from the employer, and includes the amount of tips
39 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of
40 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips
41 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-
42 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at
43 which any worker shall be carried upon the payroll of the employer for the purpose of determining
44 the premium of the employer.

45 (30) "Worker" means any person, including a minor whether lawfully or unlawfully employed,

1 who engages to furnish services for a remuneration, subject to the direction and control of an em-
 2 ployer and includes salaried, elected and appointed officials of the state, state agencies, counties,
 3 cities, school districts and other public corporations, but does not include any person whose services
 4 are performed as an inmate or ward of a state institution or as part of the eligibility requirements
 5 for a general or public assistance grant. For the purpose of determining entitlement to temporary
 6 disability benefits or permanent total disability benefits under this chapter, “worker” does not in-
 7 clude a person who has withdrawn from the workforce during the period for which such benefits are
 8 sought.

9 (31) “Independent contractor” has the meaning for that term provided in ORS 670.600.

10 **SECTION 61.** ORS 656.204 is amended to read:

11 656.204. If death results from the accidental injury, payments shall be made as follows:

12 (1)(a) The cost of final disposition of the body and funeral expenses, including but not limited
 13 to transportation of the body, shall be paid, not to exceed 20 times the average weekly wage in any
 14 case.

15 (b) The insurer or self-insured employer shall pay bills submitted for disposition and funeral
 16 expenses up to the benefit limit established in paragraph (a) of this subsection. If any part of the
 17 benefit remains unpaid 60 days after claim acceptance, the insurer or self-insured employer shall pay
 18 the unpaid amount to the estate of the worker.

19 (2)(a) If the worker is survived by a spouse, monthly benefits shall be paid in an amount equal
 20 to 4.35 times 66-2/3 percent of the average weekly wage to the surviving spouse until remarriage.
 21 The payment shall cease at the end of the month in which the remarriage occurs.

22 (b) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal
 23 to 4.35 times 10 percent of the average weekly wage for each child of the deceased who is sub-
 24 stantially dependent on the spouse for support, until such child becomes 18 years of age.

25 (c) If the worker is survived by a spouse, monthly benefits also shall be paid in an amount equal
 26 to 4.35 times 25 percent of the average weekly wage for each child of the deceased who is not sub-
 27 stantially dependent on the spouse for support, until such child becomes 18 years of age.

28 (d) If a surviving spouse receiving monthly payments dies, leaving a child who is entitled to
 29 compensation on account of the death of the worker, a monthly benefit equal to 4.35 times 25 per-
 30 cent of the average weekly wage shall be paid to each such child until the child becomes 18 years
 31 of age or the child’s entitlement to benefits under subsection (8) of this section ceases, whichever
 32 is later.

33 (e) If a child who has become 18 years of age is a full-time high school student, benefits shall
 34 be paid as provided in subsection (8) of this section.

35 (f) In no event shall the total monthly benefits provided for in this subsection exceed 4.35 times
 36 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this max-
 37 imum, the benefit for each child will be reduced proportionally.

38 (3)(a) Upon remarriage, a surviving spouse shall be paid 36 times the monthly benefit in a lump
 39 sum as final payment of the claim, but the monthly payments for each child shall continue as before.

40 (b) If, after the date of the subject worker’s death, the surviving spouse cohabits with another
 41 person for an aggregate period of more than one year and a child has resulted from the relationship,
 42 the surviving spouse shall be paid 36 times the monthly benefit in a lump sum as final payment of
 43 the claim, but the monthly payment for any child who is entitled to compensation on account of the
 44 death of the worker shall continue as before.

45 (4)(a) If the worker [*leaves neither wife nor husband,*] **does not leave a spouse in a legally re-**

1 **cognized marriage** but **leaves** a child under 18 years of age, a monthly benefit equal to 4.35 times
2 25 percent of the average weekly wage shall be paid to each such child until the child becomes 18
3 years of age.

4 (b) If a child who has become 18 years of age is a full-time high school student, benefits shall
5 be paid as provided in subsection (8) of this section.

6 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 133-1/3
7 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the
8 benefit for each child will be reduced proportionally.

9 (5)(a) If the worker leaves a dependent other than a surviving spouse or a child, a monthly
10 payment shall be made to each dependent equal to 50 percent of the average monthly support actu-
11 ally received by such dependent from the worker during the 12 months next preceding the occur-
12 rence of the accidental injury. If a dependent is under the age of 18 years at the time of the
13 accidental injury, the payment to the dependent shall cease when such dependent becomes 18 years
14 of age. The payment to any dependent shall cease under the same circumstances that would have
15 terminated the dependency had the injury not happened.

16 (b) If the dependent who has become 18 years of age is a full-time high school student, benefits
17 shall be paid as provided in subsection (8) of this section.

18 (c) In no event shall the total benefits provided for in this subsection exceed 4.35 times 10 per-
19 cent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the
20 benefit for each dependent will be reduced proportionally.

21 (6) If a child is an invalid at the time the child otherwise becomes ineligible for benefits under
22 this section, the payment to the child shall continue while the child remains an invalid. If a person
23 is entitled to payment because the person is an invalid, payment shall terminate when the person
24 ceases to be an invalid.

25 (7) If, at the time of the death of a worker, the child of the worker or dependent has become
26 17 years of age but is under 18 years of age, the child or dependent shall receive the payment pro-
27 vided in this section for a period of one year from the date of the death. However, if after such
28 period the child is a full-time high school student, benefits shall be paid as provided in subsection
29 (8) of this section.

30 (8)(a) Benefits under this section which are to be paid as provided in this subsection shall be
31 paid for the child or dependent until the child or dependent becomes 19 years of age. If, however,
32 the child or dependent is attending higher education or begins attending higher education within six
33 months of the date the child or dependent leaves high school, benefits shall be paid until the child
34 or dependent becomes 23 years of age, ceases attending higher education or graduates from an ap-
35 proved institute or program, whichever is earlier.

36 (b) If a child or dependent who is eligible for benefits under this subsection has no surviving
37 parent, the child or dependent shall receive 4.35 times 66-2/3 percent of the average weekly wage
38 until the child or dependent becomes 23 years of age, ceases attending higher education or gradu-
39 ates from an approved institute or program, whichever is earlier.

40 (c) As used in this subsection, "attending higher education" means regularly attending commu-
41 nity college, college or university, or regularly attending a course of vocational or technical training
42 designed to prepare the participant for gainful employment. A child or dependent enrolled in an
43 educational course load of less than one-half of that determined by the educational facility to con-
44 stitute "full-time" enrollment is not "attending higher education."

45 (9) As used in this section, "average weekly wage" has the meaning for that term provided in

1 ORS 656.211.

2 **SECTION 62.** ORS 656.226 is amended to read:

3 656.226. In case [*an unmarried man and an unmarried woman*] **two unmarried individuals** have
4 cohabited in this state [*as husband and wife*] for over one year prior to the date of an accidental
5 injury received by one or the other as a subject worker, and children are living as a result of that
6 relation, the surviving cohabitant and the children are entitled to compensation under this chapter
7 the same as if the [*man and woman*] **individuals** had been legally married.

8 **SECTION 63.** ORS 659A.309 is amended to read:

9 659A.309. (1) Except as provided in subsection (2) of this section, it is an unlawful employment
10 practice for an employer solely because another member of an individual's family works or has
11 worked for that employer to:

12 (a) Refuse to hire or employ an individual;

13 (b) Bar or discharge from employment an individual; or

14 (c) Discriminate against an individual in compensation or in terms, conditions or privileges of
15 employment.

16 (2) An employer is not required to hire or employ and is not prohibited from barring or dis-
17 charging an individual if such action:

18 (a) Would constitute a violation of any law of this state or of the United States, or any rule
19 promulgated pursuant thereto, with which the employer is required to comply;

20 (b) Would constitute a violation of the conditions of eligibility for receipt by the employer of
21 financial assistance from the government of this state or the United States;

22 (c) Would place the individual in a position of exercising supervisory, appointment or grievance
23 adjustment authority over a member of the individual's family or in a position of being subject to
24 such authority which a member of the individual's family exercises; or

25 (d) Would cause the employer to disregard a bona fide occupational requirement reasonably
26 necessary to the normal operation of the employer's business.

27 (3) As used in this section, "member of an individual's family" means the [*wife, husband*] **spouse**
28 **in a legally recognized marriage**, son, daughter, [*mother, father,*] **parent**, brother, brother-in-law,
29 sister, sister-in-law, son-in-law, daughter-in-law, [*mother-in-law, father-in-law,*] **parent-in-law**, aunt,
30 uncle, niece, nephew, stepparent or stepchild of the individual.

31 **SECTION 64.** ORS 677.365 is amended to read:

32 677.365. (1) Artificial insemination shall not be performed upon a woman without her prior
33 written request and consent and, if she is married, the prior written request and consent of her
34 [*husband*] **spouse**.

35 (2) Whenever a child is born who may have been conceived by the use of semen of a donor who
36 is not the woman's [*husband*] **spouse**, a copy of the request and consent required under subsection
37 (1) of this section shall be filed by the physician who performs the artificial insemination with the
38 State Registrar of the Center for Health Statistics. The state registrar shall prescribe the form of
39 reporting.

40 (3) The information filed under subsection (2) of this section shall be sealed by the state
41 registrar and may be opened only upon an order of a court of competent jurisdiction.

42 (4) If the physician who performs the artificial insemination does not deliver the child conceived
43 as a result of the use of semen of a donor who is not the woman's [*husband*] **spouse**, it is the duty
44 of the woman and the [*husband*] **spouse** who consented pursuant to subsection (1) of this section to
45 give that physician notice of the child's birth. The physician who performs the artificial insemination

1 shall be relieved of all liability for noncompliance with subsection (2) of this section if the noncom-
 2 pliance results from lack of notice to the physician about the birth.

3 **SECTION 65.** ORS 726.990 is amended to read:

4 726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any
 5 pawnbroker or any agent, member, officer or employee thereof, or any other person is a Class B
 6 misdemeanor.

7 (2) Upon conviction under subsection (1) of this section, no license shall be granted to such
 8 person, nor to the [*husband or wife*] **spouse in a legally recognized marriage** of such person, nor
 9 to any partnership, association or corporation of which the person is an agent or member, until two
 10 years after the date of the conviction.

11 **SECTION 66.** ORS 742.504, as amended by section 76, chapter 45, Oregon Laws 2014, is
 12 amended to read:

13 742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide
 14 uninsured motorist coverage that in each instance is no less favorable in any respect to the insured
 15 or the beneficiary than if the following provisions were set forth in the policy. However, nothing
 16 contained in this section requires the insurer to reproduce in the policy the particular language of
 17 any of the following provisions:

18 (1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all sums that the insured, the
 19 heirs or the legal representative of the insured is legally entitled to recover as general and special
 20 damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by
 21 the insured caused by accident and arising out of the ownership, maintenance or use of the
 22 uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal
 23 representative is legally entitled to recover such damages, and if so, the amount thereof, shall be
 24 made by agreement between the insured and the insurer, or, in the event of disagreement, may be
 25 determined by arbitration as provided in subsection (10) of this section.

26 (b) No judgment against any person or organization alleged to be legally responsible for bodily
 27 injury, except for proceedings instituted against the insurer as provided in this policy, shall be
 28 conclusive, as between the insured and the insurer, on the issues of liability of the person or or-
 29 ganization or of the amount of damages to which the insured is legally entitled.

30 (2) As used in this policy:

31 (a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

32 (b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of
 33 physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the
 34 time of the accident, provided:

35 (A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascer-
 36 tained;

37 (B) The insured or someone on behalf of the insured reported the accident within 72 hours to
 38 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
 39 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
 40 a statement under oath that the insured or the legal representative of the insured has a cause or
 41 causes of action arising out of the accident for damages against a person or persons whose identities
 42 are unascertainable, and setting forth the facts in support thereof; and

43 (C) At the insurer's request, the insured or the legal representative of the insured makes avail-
 44 able for inspection the vehicle the insured was occupying at the time of the accident.

45 (c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:

1 (A) The named insured as stated in the policy and any person designated as named insured in
 2 the schedule and, while residents of the same household, the spouse of any named insured and rel-
 3 atives of either, provided that neither the relative nor the spouse is the owner of a vehicle not de-
 4 scribed in the policy and that, if the named insured as stated in the policy is other than an
 5 individual or [*husband and wife*] **spouses in a legally recognized marriage** who are residents of
 6 the same household, the named insured shall be only a person so designated in the schedule;

7 (B) Any child residing in the household of the named insured if the insured has performed the
 8 duties of a parent to the child by rearing the child as the insured's own although the child is not
 9 related to the insured by blood, marriage or adoption; and

10 (C) Any other person while occupying an insured vehicle, provided the actual use thereof is with
 11 the permission of the named insured.

12 (d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:

13 (A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of
 14 those terms is defined in the public liability coverage of the policy, insured under the public liability
 15 provisions of the policy; or

16 (B) A nonowned vehicle operated by the named insured or spouse if a resident of the same
 17 household, provided that the actual use thereof is with the permission of the owner of the vehicle
 18 and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any
 19 member of the same household.

20 (e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described ve-
 21 hicle in the policy.

22 (f) "Occupying" means in or upon or entering into or alighting from.

23 (g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a
 24 motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or
 25 the vehicle the insured is occupying at the time of the accident, provided:

26 (A) The identity of either the operator or the owner of the phantom vehicle cannot be ascer-
 27 tained;

28 (B) The facts of the accident can be corroborated by competent evidence other than the testi-
 29 mony of the insured or any person having an uninsured motorist claim resulting from the accident;
 30 and

31 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
 32 a police, peace or judicial officer, to the Department of Transportation or to the equivalent depart-
 33 ment in the state where the accident occurred, and filed with the insurer within 30 days thereafter
 34 a statement under oath that the insured or the legal representative of the insured has a cause or
 35 causes of action arising out of the accident for damages against a person or persons whose identities
 36 are unascertainable, and setting forth the facts in support thereof.

37 (h) "State" includes the District of Columbia, a territory or possession of the United States and
 38 a province of Canada.

39 (i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising
 40 out of a motor vehicle accident if:

41 (A) The vehicle is operated without the consent of the insured;

42 (B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability
 43 insurance;

44 (C) The insured or someone on behalf of the insured reported the accident within 72 hours to
 45 a police, peace or judicial officer or to the equivalent department in the state where the accident

1 occurred; and

2 (D) The insured or someone on behalf of the insured cooperates with the appropriate law
3 enforcement agency in the prosecution of the theft of the vehicle.

4 (j) "Sums that the insured, the heirs or the legal representative of the insured is legally entitled
5 to recover as general and special damages from the owner or operator of an uninsured vehicle"
6 means the amount of damages that:

7 (A) A claimant could have recovered in a civil action from the owner or operator at the time
8 of the injury after determination of fault or comparative fault and resolution of any applicable de-
9 fenses;

10 (B) Are calculated without regard to the tort claims limitations of ORS 30.260 to 30.300; and

11 (C) Are no larger than benefits payable under the terms of the policy as provided in subsection
12 (7) of this section.

13 (k) "Uninsured vehicle," except as provided in paragraph (L) of this provision, means:

14 (A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible
15 motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily
16 injury or death under ORS 806.070 applicable at the time of the accident with respect to any person
17 or organization legally responsible for the use of the vehicle, or with respect to which there is
18 collectible bodily injury liability insurance applicable at the time of the accident but the insurance
19 company writing the insurance denies coverage or the company writing the insurance becomes vol-
20 untarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insol-
21 vent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and
22 the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident,
23 the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at
24 the time of the accident.

25 (B) A hit-and-run vehicle.

26 (C) A phantom vehicle.

27 (D) A stolen vehicle.

28 (E) A vehicle that is owned or operated by a self-insurer:

29 (i) That is not in compliance with ORS 806.130 (1)(c); or

30 (ii) That provides recovery to an insured in an amount that is less than the limits for uninsured
31 motorist coverage of the insured.

32 (L) "Uninsured vehicle" does not include:

33 (A) An insured vehicle, unless the vehicle is a stolen vehicle;

34 (B) Except as provided in paragraph (k)(E) of this subsection, a vehicle that is owned or oper-
35 ated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor
36 carrier law or any similar law;

37 (C) A vehicle that is owned by the United States of America, Canada, a state, a political sub-
38 division of any such government or an agency of any such government;

39 (D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for
40 use as a residence or premises and not as a vehicle;

41 (E) A farm-type tractor or equipment designed for use principally off public roads, except while
42 actually upon public roads; or

43 (F) A vehicle owned by or furnished for the regular or frequent use of the insured or any
44 member of the household of the insured.

45 (m) "Vehicle" means every device in, upon or by which any person or property is or may be

1 transported or drawn upon a public highway, but does not include devices moved by human power
2 or used exclusively upon stationary rails or tracks.

3 (3) This coverage applies only to accidents that occur on and after the effective date of the
4 policy, during the policy period and within the United States of America, its territories or pos-
5 sessions, or Canada.

6 (4)(a) This coverage does not apply to bodily injury of an insured with respect to which the in-
7 sured or the legal representative of the insured shall, without the written consent of the insurer,
8 make any settlement with or prosecute to judgment any action against any person or organization
9 who may be legally liable therefor.

10 (b) This coverage does not apply to bodily injury to an insured while occupying a vehicle, other
11 than an insured vehicle, owned by, or furnished for the regular use of, the named insured or any
12 relative resident in the same household, or through being struck by the vehicle.

13 (c) This coverage does not apply so as to inure directly or indirectly to the benefit of any
14 workers' compensation carrier, any person or organization qualifying as a self-insurer under any
15 workers' compensation or disability benefits law or any similar law or the State Accident Insurance
16 Fund Corporation.

17 (d) This coverage does not apply with respect to underinsured motorist benefits unless:

18 (A) The limits of liability under any bodily injury liability insurance applicable at the time of
19 the accident regarding the injured person have been exhausted by payment of judgments or settle-
20 ments to the injured person or other injured persons;

21 (B) The described limits have been offered in settlement, the insurer has refused consent under
22 paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the
23 claim against the tortfeasor;

24 (C) The insured gives credit to the insurer for the unrealized portion of the described liability
25 limits as if the full limits had been received if less than the described limits have been offered in
26 settlement, and the insurer has consented under paragraph (a) of this subsection; or

27 (D) The insured gives credit to the insurer for the unrealized portion of the described liability
28 limits as if the full limits had been received if less than the described limits have been offered in
29 settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured
30 protects the insurer's right of subrogation to the claim against the tortfeasor.

31 (e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow
32 the insurer a reasonable time in which to collect and evaluate information related to consent to the
33 proposed offer of settlement. The insured shall provide promptly to the insurer any information that
34 is reasonably requested by the insurer and that is within the custody and control of the insured.
35 Consent will be presumed to be given if the insurer does not respond within a reasonable time. For
36 purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt
37 of a written request for consent, unless the insured and the insurer agree otherwise.

38 (5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer
39 written proof of claim, under oath if required, including full particulars of the nature and extent of
40 the injuries, treatment and other details entering into the determination of the amount payable
41 hereunder. The insured and every other person making claim hereunder shall submit to examinations
42 under oath by any person named by the insurer and subscribe the same, as often as may reasonably
43 be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer fails
44 to furnish the forms within 15 days after receiving notice of claim.

45 (b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit

1 to physical examinations by physicians, physician assistants or nurse practitioners selected by the
2 insurer and shall, upon each request from the insurer, execute authorization to enable the insurer
3 to obtain medical reports and copies of records.

4 (6) If, before the insurer makes payment of loss hereunder, the insured or the legal represen-
5 tative of the insured institutes any legal action for bodily injury against any person or organization
6 legally responsible for the use of a vehicle involved in the accident, a copy of the summons and
7 complaint or other process served in connection with the legal action shall be forwarded imme-
8 diately to the insurer by the insured or the legal representative of the insured.

9 (7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit
10 of the insurer's liability for all damages because of bodily injury sustained by one person as the
11 result of any one accident and, subject to the above provision respecting each person, the limit of
12 liability stated in the declarations as applicable to "each accident" is the total limit of the
13 company's liability for all damages because of bodily injury sustained by two or more persons as the
14 result of any one accident.

15 (b) Any payment made under this coverage to or for an insured shall be applied in reduction
16 of any amount that the insured may be entitled to recover from any person who is an insured under
17 the bodily injury liability coverage of this policy.

18 (c) Any amount payable under the terms of this coverage because of bodily injury sustained in
19 an accident by a person who is an insured under this coverage shall be reduced by:

20 (A) All sums paid on account of the bodily injury by or on behalf of the owner or operator of
21 the uninsured vehicle and by or on behalf of any other person or organization jointly or severally
22 liable together with the owner or operator for the bodily injury, including all sums paid under the
23 bodily injury liability coverage of the policy; and

24 (B) The amount paid and the present value of all amounts payable on account of the bodily in-
25 jury under any workers' compensation law, disability benefits law or any similar law.

26 (d) Any amount payable under the terms of this coverage because of bodily injury sustained in
27 an accident by a person who is an insured under this coverage shall be reduced by the credit given
28 to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

29 (e) The amount payable under the terms of this coverage may not be reduced by the amount of
30 liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has not been
31 paid to the injured person. If liability proceeds have been offered and not paid, the amount payable
32 under the terms of the coverage shall include the amount of liability limits offered but not accepted
33 due to the insurer's refusal to consent. The insured shall cooperate so as to permit the insurer to
34 proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.

35 (8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured
36 or the legal representative of the insured has fully complied with all the terms of this policy.

37 (9)(a) With respect to bodily injury to an insured:

38 (A) While occupying a vehicle owned by a named insured under this coverage, the insurance
39 under this coverage is primary.

40 (B) While occupying a vehicle not owned by a named insured under this coverage, the insurance
41 under this coverage shall apply only as excess insurance over any primary insurance available to
42 the occupant that is similar to this coverage, and this excess insurance shall then apply only in the
43 amount by which the applicable limit of liability of this excess coverage exceeds the sum of the
44 applicable limits of liability of all primary insurance available to the occupant.

45 (b) If an insured is an insured under other primary or excess insurance available to the insured

1 that is similar to this coverage, then the insured's damages are deemed not to exceed the higher of
 2 the applicable limits of liability of this insurance or the additional primary or excess insurance
 3 available to the insured, and the insurer is not liable under this coverage for a greater proportion
 4 of the insured's damages than the applicable limit of liability of this coverage bears to the sum of
 5 the applicable limits of liability of this insurance and other primary or excess insurance available
 6 to the insured.

7 (c) With respect to bodily injury to an insured while occupying any motor vehicle used as a
 8 public or livery conveyance, the insurance under this coverage shall apply only as excess insurance
 9 over any other insurance available to the insured that is similar to this coverage, and this insurance
 10 shall then apply only in the amount by which the applicable limit of liability of this coverage ex-
 11 ceeds the sum of the applicable limits of liability of all other insurance.

12 (10) If any person making claim hereunder and the insurer do not agree that the person is le-
 13 gally entitled to recover damages from the owner or operator of an uninsured vehicle because of
 14 bodily injury to the insured, or do not agree as to the amount of payment that may be owing under
 15 this coverage, then, in the event the insured and the insurer elect by mutual agreement at the time
 16 of the dispute to settle the matter by arbitration, the arbitration shall take place as described in
 17 ORS 742.505. Any judgment upon the award rendered by the arbitrators may be entered in any court
 18 having jurisdiction thereof, provided, however, that the costs to the insured of the arbitration pro-
 19 ceeding do not exceed \$100 and that all other costs of arbitration are borne by the insurer.
 20 "Costs" as used in this provision does not include attorney fees or expenses incurred in the pro-
 21 duction of evidence or witnesses or the making of transcripts of the arbitration proceedings. The
 22 person and the insurer each agree to consider themselves bound and to be bound by any award made
 23 by the arbitrators pursuant to this coverage in the event of such election. At the election of the
 24 insured, the arbitration shall be held:

25 (a) In the county and state of residence of the insured;

26 (b) In the county and state where the insured's cause of action against the uninsured motorist
 27 arose; or

28 (c) At any other place mutually agreed upon by the insured and the insurer.

29 (11) In the event of payment to any person under this coverage:

30 (a) The insurer shall be entitled to the extent of the payment to the proceeds of any settlement
 31 or judgment that may result from the exercise of any rights of recovery of the person against any
 32 uninsured motorist legally responsible for the bodily injury because of which payment is made;

33 (b) The person shall hold in trust for the benefit of the insurer all rights of recovery that the
 34 person shall have against such other uninsured person or organization because of the damages that
 35 are the subject of claim made under this coverage, but only to the extent that the claim is made or
 36 paid herein;

37 (c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one
 38 or more of whom is uninsured, the insured shall have the election to receive from the insurer any
 39 payment to which the insured would be entitled under this coverage by reason of the act or acts
 40 of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with
 41 legal action against any or all persons claimed to be liable to the insured for the injuries. If the
 42 insured elects to receive payment from the insurer under this coverage, then the insured shall hold
 43 in trust for the benefit of the insurer all rights of recovery the insured shall have against any other
 44 person, firm or organization because of the damages that are the subject of claim made under this
 45 coverage, but only to the extent of the actual payment made by the insurer;

1 (d) The person shall do whatever is proper to secure and shall do nothing after loss to prejudice
 2 such rights;

3 (e) If requested in writing by the insurer, the person shall take, through any representative not
 4 in conflict in interest with the person, designated by the insurer, such action as may be necessary
 5 or appropriate to recover payment as damages from such other uninsured person or organization,
 6 such action to be taken in the name of the person, but only to the extent of the payment made
 7 hereunder. In the event of a recovery, the insurer shall be reimbursed out of the recovery for ex-
 8 penses, costs and attorney fees incurred by the insurer in connection therewith; and

9 (f) The person shall execute and deliver to the insurer any instruments and papers as may be
 10 appropriate to secure the rights and obligations of the person and the insurer established by this
 11 provision.

12 (12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured
 13 under this coverage unless within two years from the date of the accident:

14 (A) Agreement as to the amount due under the policy has been concluded;

15 (B) The insured or the insurer has formally instituted arbitration proceedings;

16 (C) The insured has filed an action against the insurer; or

17 (D) Suit for bodily injury has been filed against the uninsured motorist and, within two years
 18 from the date of settlement or final judgment against the uninsured motorist, the insured has
 19 formally instituted arbitration proceedings or filed an action against the insurer.

20 (b) For purposes of this subsection:

21 (A) "Date of settlement" means the date on which a written settlement agreement or release is
 22 signed by an insured or, in the absence of these documents, the date on which the insured or the
 23 attorney for the insured receives payment of any sum required by the settlement agreement. An
 24 advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for pur-
 25 poses of the time limitation in this subsection.

26 (B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by
 27 entry in an appellate court of an appellate judgment.

28 **SECTION 67.** ORS 743.027 is amended to read:

29 743.027. A life or health insurance policy upon an individual, except a policy of group life in-
 30 surance or of group or blanket health insurance, may not be made or effectuated unless at the time
 31 of the making of the policy the individual insured, being of competent legal capacity to contract,
 32 applies therefor or has consented thereto in writing, except in the following cases:

33 (1) A spouse may effectuate such insurance upon the other spouse.

34 (2) Any person having an insurable interest in the life of a minor, or any person upon whom a
 35 minor is dependent for support and maintenance, may effectuate insurance upon the life of or per-
 36 taining to such minor.

37 (3) Family policies may be issued insuring any two or more members of a family on an applica-
 38 tion signed by either parent, a stepparent[, or by a husband or wife] **or a spouse in a legally re-**
 39 **cognized marriage.**

40 (4) A person may effectuate insurance that provides for the funeral expenses of an adult who is
 41 dependent upon the person for support and maintenance.

42 (5) A person may effectuate insurance that provides for the funeral expenses of an adult if the
 43 person:

44 (a) Is closely related to the adult by blood or by law or has a substantial interest in the adult
 45 engendered by love and affection; and

1 (b) Has a lawful and substantial interest in having the life, health and bodily safety of the adult
2 continue.

3 **SECTION 68.** ORS 743A.084 is amended to read:

4 743A.084. Each policy of health insurance shall provide:

5 (1) The same payments for costs of maternity to unmarried women that it provides to married
6 women, including the [*wives*] **spouses in legally recognized marriages** of insured persons choosing
7 family coverage; and

8 (2) The same coverage for the child of an unmarried woman that the child of an insured married
9 person choosing family coverage receives.

10