

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3025**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 25 and
2 delete pages 2 and 3 and insert:

3 **“SECTION 1. (1) It is an unlawful employment practice for an em-**
4 **ployer to:**

5 **“(a) Use job application forms that inquire into the conviction his-**
6 **tory of an applicant for employment;**

7 **“(b) Inquire into or consider the conviction history of an applicant**
8 **for employment prior to conducting an interview with the applicant;**
9 **or**

10 **“(c) Inquire into or consider the conviction history of an applicant**
11 **for employment prior to making a conditional offer of employment to**
12 **the applicant when no interview is conducted.**

13 **“(2) Subsection (1) of this section does not apply:**

14 **“(a) If federal, state or local law requires the consideration of an**
15 **applicant’s criminal history;**

16 **“(b) To an employer that is a law enforcement agency;**

17 **“(c) To an employer in the criminal justice system; or**

18 **“(d) To an employer seeking a nonemployee volunteer.**

19 **“SECTION 2. ORS 659A.885 is amended to read:**

20 **“659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-**
21 **tice specified in subsection (2) of this section may file a civil action in cir-**
22 **cuit court. In any action under this subsection, the court may order**

1 injunctive relief and any other equitable relief that may be appropriate, in-
2 cluding but not limited to reinstatement or the hiring of employees with or
3 without back pay. A court may order back pay in an action under this sub-
4 section only for the two-year period immediately preceding the filing of a
5 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
6 bor and Industries, or if a complaint was not filed before the action was
7 commenced, the two-year period immediately preceding the filing of the
8 action. In any action under this subsection, the court may allow the pre-
9 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
10 cept as provided in subsection (3) of this section:

11 “(a) The judge shall determine the facts in an action under this sub-
12 section; and

13 “(b) Upon any appeal of a judgment in an action under this subsection,
14 the appellate court shall review the judgment pursuant to the standard es-
15 tablished by ORS 19.415 (3).

16 “(2) An action may be brought under subsection (1) of this section alleg-
17 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237
18 (2), 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063,
19 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186,
20 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,
21 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
22 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 **or section 1 of this 2015**
23 **Act.**

24 “(3) In any action under subsection (1) of this section alleging a violation
25 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
26 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to
27 659A.262, 659A.290, 659A.318 or 659A.421:

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

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

2 “(c) Upon appeal of any judgment finding a violation, the appellate court
3 shall review the judgment pursuant to the standard established by ORS
4 19.415 (1); and

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

6 “(4) In any action under subsection (1) of this section alleging a violation
7 of ORS 652.355 or 653.060, the court may award, in addition to the relief
8 authorized under subsection (1) of this section, compensatory damages or
9 \$200, whichever is greater.

10 “(5) In any action under subsection (1) of this section alleging a violation
11 of ORS 171.120, 476.574, 659A.203 or 659A.218, the court may award, in addi-
12 tion to the relief authorized under subsection (1) of this section,
13 compensatory damages or \$250, whichever is greater.

14 “(6) In any action under subsection (1) of this section alleging a violation
15 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
16 thorized under subsection (1) of this section, a civil penalty in the amount
17 of \$720.

18 “(7) Any individual against whom any distinction, discrimination or re-
19 striction on account of race, color, religion, sex, sexual orientation, national
20 origin, marital status or age, if the individual is 18 years of age or older,
21 has been made by any place of public accommodation, as defined in ORS
22 659A.400, by any employee or person acting on behalf of the place or by any
23 person aiding or abetting the place or person in violation of ORS 659A.406
24 may bring an action against the operator or manager of the place, the em-
25 ployee or person acting on behalf of the place or the aider or abettor of the
26 place or person. Notwithstanding subsection (1) of this section, in an action
27 under this subsection:

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

30 “(b) The operator or manager of the place of public accommodation, the

1 employee or person acting on behalf of the place, and any aider or abettor
2 shall be jointly and severally liable for all damages awarded in the action;

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

4 “(d) The court shall award reasonable attorney fees to a prevailing
5 plaintiff;

6 “(e) The court may award reasonable attorney fees and expert witness fees
7 incurred by a defendant who prevails only if the court determines that the
8 plaintiff had no objectively reasonable basis for asserting a claim or no
9 reasonable basis for appealing an adverse decision of a trial court; and

10 “(f) Upon any appeal of a judgment under this subsection, the appellate
11 court shall review the judgment pursuant to the standard established by ORS
12 19.415 (1).

13 “(8) When the commissioner or the Attorney General has reasonable cause
14 to believe that a person or group of persons is engaged in a pattern or
15 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
16 or federal housing law, or that a group of persons has been denied any of the
17 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
18 commissioner or the Attorney General may file a civil action on behalf of
19 the aggrieved persons in the same manner as a person or group of persons
20 may file a civil action under this section. In a civil action filed under this
21 subsection, the court may assess against the respondent, in addition to the
22 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

25 “(9) In any action under subsection (1) of this section alleging a violation
26 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
27 law, when the commissioner is pursuing the action on behalf of an aggrieved
28 complainant, the court shall award reasonable attorney fees to the commis-
29 sioner if the commissioner prevails in the action. The court may award rea-
30 sonable attorney fees and expert witness fees incurred by a defendant that

1 prevails in the action if the court determines that the commissioner had no
2 objectively reasonable basis for asserting the claim or for appealing an ad-
3 verse decision of the trial court.

4 “(10) In an action under subsection (1) or (8) of this section alleging a
5 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
6 ing law:

7 “(a) ‘Aggrieved person’ includes a person who believes that the person:

8 “(A) Has been injured by an unlawful practice or discriminatory housing
9 practice; or

10 “(B) Will be injured by an unlawful practice or discriminatory housing
11 practice that is about to occur.

12 “(b) An aggrieved person in regard to issues to be determined in an action
13 may intervene as of right in the action. The Attorney General may intervene
14 in the action if the Attorney General certifies that the case is of general
15 public importance. The court may allow an intervenor prevailing party costs
16 and reasonable attorney fees at trial and on appeal.”.

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