

# House Bill 4093

Sponsored by Representative NELSON, Senators GELSER BLOUIN, MANNING JR, Representatives CHAICHI, CHOTZEN, MUNOZ, RIEKE SMITH, WISE, Senators FREDERICK, GORSEK; Representatives ISADORE, MCDONALD, WALTERS, Senator PATTERSON (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes new laws with respect to people with disabilities. (Flesch Readability Score: 64.9).

Directs the Bureau of Labor and Industries to create certain guidance and informational materials to assist employers and employees.

Prohibits employers from denying an employee's request to have an authorized representative accompany the employee in discussions concerning reasonable accommodation.

Extends prohibition against discrimination in government services, programs and activities to local governments.

Prohibits employers from using minimum physical requirements to screen out persons with disabilities.

## A BILL FOR AN ACT

Relating to protections for persons with disabilities; creating new provisions; and amending ORS 659A.112, 659A.118 and 659A.142.

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

**SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS 659A.103 to 659A.145.**

**SECTION 2. The Bureau of Labor and Industries shall create guidance and informational materials to assist employers in complying with the provisions of ORS 659A.112, 659A.118 and 659A.121 concerning reasonable accommodation and to assist employees in understanding the rights and protections provided under those sections. The bureau shall make the materials available to employers on the bureau's website.**

**SECTION 3. ORS 659A.112 is amended to read:**

659A.112. (1) It is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment on the basis of disability.

(2) An employer violates subsection (1) of this section if the employer does any of the following:

(a) The employer limits, segregates or classifies a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because the applicant or employee has a disability.

(b) The employer participates in a contractual or other arrangement or relationship that has the effect of subjecting a qualified job applicant or employee with a disability to the discrimination prohibited by ORS 659A.112 to 659A.139, including but not limited to participating in a relationship with an employment or referral agency, a labor union, an organization providing fringe benefits to an employee of the employer, or an organization providing training and apprenticeship programs.

(c) The employer utilizes standards, criteria or methods of administration that have the effect

**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 of discrimination on the basis of disability, or that perpetuate the discrimination of others who are  
2 subject to common administrative control.

3 (d) The employer excludes or otherwise denies equal jobs or benefits to a qualified individual  
4 because the individual is known to have a relationship or association with an individual with a  
5 disability.

6 (e) The employer does not make reasonable accommodation to the known physical or mental  
7 limitations of a qualified individual with a disability who is a job applicant or employee, unless the  
8 employer can demonstrate that the accommodation would impose an undue hardship on the opera-  
9 tion of the business of the employer.

10 (f) The employer denies employment opportunities to a job applicant or employee who is a  
11 qualified individual with a disability, if the denial is based on the need of the employer to make  
12 reasonable accommodation to the physical or mental impairments of the employee or applicant.

13 (g) The employer uses qualification standards, employment tests or other selection criteria, in-  
14 cluding those based on an individual's uncorrected vision or unaided hearing, that screen out or  
15 tend to screen out an individual with a disability or a class of individuals with disabilities unless  
16 the standard, test or other selection criterion, as used by the employer, is shown to be job-related  
17 for the position in question and is consistent with business necessity.

18 (h) The employer fails to select and administer tests relating to employment in the most effective  
19 manner to ensure that when the test is administered to a job applicant or employee who has a dis-  
20 ability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills,  
21 aptitude or other characteristics of the applicant or employee that the test purports to measure,  
22 rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant.  
23 The provisions of this paragraph do not limit the ability of an employer to select or administer tests  
24 designed to measure sensory, manual or speaking skills of an employee or job applicant.

25 **(i) The employer uses minimum physical requirements set forth in a job posting to screen**  
26 **out individuals with disabilities without connecting the physical requirements to the essential**  
27 **functions of the job.**

28 **SECTION 4.** ORS 659A.118 is amended to read:

29 659A.118. (1) For the purposes of ORS 659A.112, reasonable accommodation may include:

30 (a) Making existing facilities used by employees readily accessible to and usable by individuals  
31 with disabilities.

32 (b) Job restructuring, part-time or modified work schedules or reassignment to a vacant position.

33 (c) Acquisition or modification of equipment or devices.

34 (d) Appropriate adjustment or modification of examinations, training materials or policies.

35 (e) The provision of qualified readers or interpreters.

36 (2) An employer is not required to provide a reasonable accommodation to an individual who  
37 satisfies the criteria for being an individual with a disability for the purposes of ORS 659A.103 to  
38 659A.145 solely because the individual meets the criterion described in ORS 659A.104 (1)(c).

39 **(3)(a) An employer may not deny a request by an employee to have an authorized repre-**  
40 **sentative accompany the employee in any discussion over matters concerning reasonable**  
41 **accommodation.**

42 **(b) The authorized representative accompanying the employee shall keep confidential any**  
43 **of the employee's personal health information that is revealed during the course of the dis-**  
44 **cussion unless disclosure is required by state or federal law or by court order.**

45 **(c) As used in this subsection, "authorized representative" means any of the following:**

(A) The labor organization that is the employee's exclusive collective bargaining representative.

(B) The employee's authorized legal representative.

(C) The social worker assigned to the employee who is authorized under ORS 675.510 to 675.600 to practice regulated social work.

(D) An organization or individual, chosen by the employee, who advocates on behalf of persons with disabilities.

**SECTION 5.** ORS 659A.142 is amended to read:

659A.142. (1) As used in this section:

(a) "Health care facility" has the meaning given that term in ORS 442.015.

(b) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(c) **"Local government" means any city, county, school district or other special district in this state.**

[(c)] (d) "Medical resources" includes but is not limited to:

(A) Medical devices or equipment.

(B) Prescription drugs.

(C) Laboratory testing.

[(d)] (e) "Provider" means:

(A) An individual licensed or certified by a health professional regulatory board.

(B) A health care facility.

[(e)] (f) "State government" has the meaning given that term in ORS 174.111.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual has a disability, or to classify or refer for employment any individual because that individual has a disability.

(3) It is an unlawful employment practice for a labor organization, because an individual has a disability, to exclude or to expel from its membership such individual or to discriminate in any way against such individual.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 659A.400, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is an individual with a disability.

(5)(a) It is an unlawful practice for state **or local** government to exclude an individual from participation in or deny an individual the benefits of the services, programs or activities of state **or local** government or to make any distinction, discrimination or restriction because the individual has a disability.

(b) Paragraph (a) of this subsection is intended to ensure equal access to available services, programs and activities of state **and local** government.

(c) Paragraph (a) of this subsection is not intended to:

(A) Create an independent entitlement to any service, program or activity of state **or local** government; or

(B) Require state **or local** government to take any action that state **or local** government can demonstrate would result in a fundamental alteration in the nature of a service, program or activity of state **or local** government or would result in undue financial or administrative burdens on state **or local** government.

(6)(a) It is an unlawful practice for a provider or any person acting on behalf of a provider to discriminate by doing any of the following based on the patient's race, color, national origin, sex,

1 sexual orientation, gender identity, age or disability:

2 (A) Deny medical treatment to the patient that is likely to benefit the patient based on an in-  
3 dividualized assessment of the patient using objective medical evidence; or

4 (B) Limit or restrict in any manner the allocation of medical resources to the patient.

5 (b) In determining whether medical treatment is likely to benefit a patient under paragraph  
6 (a)(A) of this subsection, a provider shall consult with the patient and others legally authorized to  
7 act on behalf of the patient, if available.

8 (c) This subsection does not:

9 (A) Restrict the authority of a patient, or an individual legally authorized to act on behalf of a  
10 patient, to consent to or decline medical treatment;

11 (B) Require the provision of medical treatment that is prohibited by state or federal law; or

12 (C) Restrict a provider, after completing the individualized assessment described in paragraph  
13 (a)(A) of this subsection and the consultation described in paragraph (b) of this subsection, from  
14 providing objective information to the patient about the risks and benefits of treatment.

15 (7) Receipt or alleged receipt of treatment for a mental disorder does not constitute evidence  
16 of an individual's inability to acquire, rent or maintain property.

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