

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION  
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ELECTIONS—(503) 986-1518

March 4, 2008

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#145), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #145 was filed in our office on March 3, 2008, by Gary George, Victor Vityukov and Kim Thatcher, for the General Election of November 4, 2008.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than March 25, 2008, in order for them to be considered in the review.

BILL BRADBURY  
Secretary of State

BY:

Summer Davis  
Compliance Specialist

**Senate Bill 2 enacted by the 2007 Legislative Session, as Chapter 100 Oregon Laws 2007, is hereby repealed.**

**SUMMARY**

Repeals provisions of Oregon Equality Act. Deletes sexual orientation from lists of protected classifications in laws relating to unlawful discrimination.

Applies to all conduct, whether occurring before, on or after effective date of Act.

Effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to sexual orientation; creating new provisions; amending ORS  
3 10.030, 20.107, 30.860, 93.270, 109.035, 174.100, 179.750, 192.630, 240.306,  
4 338.125, 418.648, 418.925, 430.550, 443.739, 458.505, 659.850, 659A.003,  
5 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.805,  
6 659A.815, 659A.885 and 660.139; repealing section 42, chapter 100, Oregon  
7 Laws 2007; and declaring an emergency.

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

9 **SECTION 1.** ORS 10.030, as amended by section 4, chapter 70, Oregon  
10 Laws 2007, and section 13, chapter 100, Oregon Laws 2007, is amended to  
11 read:

12 10.030. (1) Except as otherwise specifically provided by statute, the op-  
13 portunity for jury service may not be denied or limited on the basis of race,  
14 religion, sex, [*sexual orientation,*] national origin, age, income, occupation  
15 or any other factor that discriminates against a cognizable group in this  
16 state.

17 (2) Any person is eligible to act as a juror in a civil trial unless the  
18 person:

19 (a) Is not a citizen of the United States;

- 1 (b) Does not live in the county in which summoned for jury service;  
2 (c) Is less than 18 years of age; or  
3 (d) Has had rights and privileges withdrawn and not restored under ORS  
4 137.281.

5 (3)(a) Any person is eligible to act as a juror in a criminal trial, begin-  
6 ning on or after December 5, 1996, unless the person:

- 7 (A) Is not a citizen of the United States;  
8 (B) Does not live in the county in which summoned for jury service;  
9 (C) Is less than 18 years of age;  
10 (D) Has had rights and privileges withdrawn and not restored under ORS  
11 137.281; or  
12 (E) Has been convicted of a felony or served a felony sentence within the  
13 prior 15 years.

14 (b) As used in this subsection:

- 15 (A) "Felony sentence" includes any incarceration, post-prison supervision,  
16 parole or probation imposed upon conviction of a felony or served as a result  
17 of conviction of a felony.  
18 (B) "Has been convicted of a felony" has the meaning given that term in  
19 ORS 166.270.

20 (4) A person who is blind, hard of hearing or speech impaired or who has  
21 a physical disability is not ineligible to act as a juror and may not be ex-  
22 cluded from a jury list or jury service on the basis of blindness, hearing or  
23 speech impairment or physical disability alone.

24 (5) A person is ineligible to act as a juror in any circuit court of this  
25 state within 24 months after being discharged from jury service in a federal  
26 court in this state or circuit court of this state unless that person's service  
27 as a juror is required because of a need for additional jurors.

28 (6) In addition to the disqualifications listed in subsection (2) of this  
29 section, a person is ineligible to act as a juror on a grand jury if the person  
30 has been convicted of a felony, other than a felony traffic offense, or has  
31 served a felony sentence, other than a sentence for a felony traffic offense,

1 within the prior 15 years. As used in this subsection, "conviction" means an  
2 adjudication of guilt upon a verdict or finding entered in a criminal pro-  
3 ceeding in a court of competent jurisdiction.

4 **SECTION 2.** ORS 20.107, as amended by section 14, chapter 100, Oregon  
5 Laws 2007, is amended to read:

6 20.107. (1) In any civil judicial proceeding, including judicial review of  
7 an administrative proceeding based on a claim of unlawful discrimination,  
8 the court shall award to the prevailing plaintiff attorney and expert witness  
9 fees reasonably and necessarily incurred in connection with the discrimi-  
10 nation claim, at the trial court or agency level and on appeal. The court may  
11 award reasonable attorney fees and expert witness fees incurred by a de-  
12 fendant who prevails in the action if the court determines that the plaintiff  
13 had no objectively reasonable basis for asserting a claim or no reasonable  
14 basis for appealing an adverse decision of a trial court or agency.

15 (2) In making an award under this section, the court shall calculate at-  
16 torney and expert witness fees on the basis of a reasonable hourly rate at  
17 the time the award is made, multiplied by the amount of time actually and  
18 reasonably spent in connection with the discrimination claim.

19 (3) When an award under this section is made against a state agency or  
20 an officer or employee of a state agency, the award shall be paid by the  
21 agency directly from funds available to it.

22 (4) As used in this section, "unlawful discrimination" means discrimi-  
23 nation based upon personal characteristics including, but not limited to,  
24 race, religion, sex, [*sexual orientation*,] national origin, alienage, marital  
25 status or age.

26 **SECTION 3.** ORS 30.860, as amended by section 15, chapter 100, Oregon  
27 Laws 2007, is amended to read:

28 30.860. (1) A person or governmental entity may not discriminate against,  
29 boycott, blacklist or refuse to buy from, sell to or trade with any person  
30 because of foreign government imposed or sanctioned discrimination based  
31 upon the race, religion, sex[, *sexual orientation*] or national origin of the

1 person or of the person's partners, members, directors, stockholders, agents,  
2 employees, business associates, suppliers or customers.

3 (2) Any person directly injured in business or property by a violation of  
4 subsection (1) of this section may sue whoever knowingly practices, or  
5 conspires to practice, activities prohibited by subsection (1) of this section,  
6 and shall recover threefold the damages sustained. The court shall award  
7 reasonable attorney fees to the prevailing plaintiff in an action under this  
8 section. The court may award reasonable attorney fees and expert witness  
9 fees incurred by a defendant who prevails in the action if the court deter-  
10 mines that the plaintiff had no objectively reasonable basis for asserting a  
11 claim or no objectively reasonable basis for appealing an adverse decision  
12 of a trial court.

13 **SECTION 4.** ORS 93.270, as amended by section 16, chapter 100, Oregon  
14 Laws 2007, is amended to read:

15 93.270. (1) A person conveying or contracting to convey fee title to real  
16 property may not include in an instrument for that purpose a provision:

17 (a) Restricting the use of the real property by any person or group of  
18 persons by reason of race, color, religion, sex, [*sexual orientation,*] national  
19 origin or disability.

20 (b) Restricting the use of the real property by any home or facility that  
21 is licensed by or under the authority of the department under ORS 443.400  
22 to 443.455 or 443.705 to 443.825 to provide residential care alone or in con-  
23 junction with treatment or training or a combination thereof.

24 (2) Any provision in an instrument executed in violation of subsection (1)  
25 of this section is void and unenforceable.

26 (3) An instrument that contains a provision restricting the use of real  
27 property in a manner listed in subsection (1)(b) of this section does not give  
28 rise to any public or private right of action to enforce the restriction.

29 (4)(a) An instrument that contains a provision restricting the use of real  
30 property by requiring roofing materials with a lower fire rating than that  
31 required in the state building code established under ORS chapter 455 does

1 not give rise to any public or private right of action to enforce the re-  
2 striction in an area determined by a local jurisdiction as a wildfire hazard  
3 zone. Prohibitions on public or private right of action under this paragraph  
4 are limited solely to considerations of fire rating.

5 (b) As used in this subsection, “wildfire hazard zones” are areas that are  
6 legally declared by a governmental agency having jurisdiction over the area  
7 to have special hazards caused by a combination of combustible natural fu-  
8 els, topography and climatic conditions that result in a significant hazard  
9 of catastrophic fire over relatively long periods each year. Wildfire hazard  
10 zones shall be determined using criteria established by the State Forestry  
11 Department.

12 **SECTION 5.** ORS 109.035, as amended by section 17, chapter 100, Oregon  
13 Laws 2007, is amended to read:

14 109.035. (1) As used in this section:

15 (a) “Custody order” includes any order or judgment establishing or mod-  
16 ifying custody of, or parenting time or visitation with, a minor child as de-  
17 scribed in ORS 107.095, 107.105 (1), 107.135 or 109.103.

18 (b) “Foreign country” means any country that:

19 (A) Is not a signatory to the Hague Convention on the Civil Aspects of  
20 International Child Abduction;

21 (B) Does not provide for the extradition to the United States of a parental  
22 abductor and minor child;

23 (C) Has local laws or practices that would restrict the other parent of the  
24 minor child from freely traveling to or exiting from the country because of  
25 the race, religion[,] or sex [*or sexual orientation*] of the other parent;

26 (D) Has local laws or practices that would restrict the ability of the mi-  
27 nor child from legally leaving the country after the child reaches the age  
28 of majority because of the race, religion[,] or sex [*or sexual orientation*] of  
29 the child; or

30 (E) Poses a significant risk that the physical health or safety of the minor  
31 child would be endangered in the country because of war, human rights vi-

1 relations or specific circumstances related to the needs of the child.

2 (2) A court that finds by clear and convincing evidence a risk of inter-  
3 national abduction of a minor child may issue a court order requiring a  
4 parent who is subject to a custody order and who plans to travel with a  
5 minor child to a foreign country to provide security, bond or other guarantee  
6 as described in subsection (4) of this section.

7 (3) In determining whether a risk of international abduction of a minor  
8 child exists, a court shall consider the following factors involving a parent  
9 who is subject to a custody order:

10 (a) The parent has taken or retained, attempted to take or retain or  
11 threatened to take or retain a minor child in violation of state law or a valid  
12 custody order and the parent is unable to present clear and convincing evi-  
13 dence that the parent believed in good faith that the conduct was necessary  
14 to avoid imminent harm to the parent or the child;

15 (b) The parent has recently engaged in a pattern of activities that indi-  
16 cates the parent is planning to abduct the minor child from this country;

17 (c) The parent has strong familial, emotional or cultural connections to  
18 this country or another country, regardless of citizenship or residency status;  
19 and

20 (d) Any other relevant factors.

21 (4) A security, bond or other guarantee required by a court under this  
22 section may include, but is not limited to, any of the following:

23 (a) A bond or security deposit in an amount that is sufficient to offset the  
24 cost of recovering the minor child if the child is abducted;

25 (b) Supervised parenting time; or

26 (c) Passport and travel controls, including but not limited to controls  
27 that:

28 (A) Prohibit the parent from removing the minor child from this state or  
29 this country;

30 (B) Require the parent to surrender a passport or an international travel  
31 visa that is issued in the name of the minor child or jointly in the names

1 of the parent and the child;

2 (C) Prohibit the parent from applying for a new or replacement passport  
3 or international travel visa on behalf of the minor child; and

4 (D) Require the parent to provide to a relevant embassy or consulate and  
5 to the Office of Children's Issues in the United States Department of State  
6 the following documents:

7 (i) Written notice of passport and travel controls required under this  
8 paragraph; and

9 (ii) A certified copy of a court order issued under this section.

10 (5) After considering the factors under subsection (3) of this section and  
11 requiring a security, bond or other guarantee under this section, the court  
12 shall issue a written determination supported by findings of fact and con-  
13 clusions of law.

14 (6) Nothing in this section is intended to limit the inherent power of a  
15 court in matters relating to children.

16 **SECTION 6.** ORS 174.100, as amended by section 1, chapter 100, Oregon  
17 Laws 2007, is amended to read:

18 174.100. As used in the statute laws of this state, unless the context or a  
19 specially applicable definition requires otherwise:

20 (1) "Any other state" includes any state and the District of Columbia.

21 (2) "City" includes any incorporated village or town.

22 (3) "County court" includes board of county commissioners.

23 (4) "May not" and "shall not" are equivalent expressions of an absolute  
24 prohibition.

25 (5) "Person" includes individuals, corporations, associations, firms, part-  
26 nerships, limited liability companies and joint stock companies.

27 [(6) "*Sexual orientation*" means an individual's actual or perceived  
28 *heterosexuality, homosexuality, bisexuality or gender identity, regardless of*  
29 *whether the individual's gender identity, appearance, expression or behavior*  
30 *differs from that traditionally associated with the individual's sex at birth.*]

31 [(7)] (6) "State Treasury" includes those financial assets the lawful cus-

1 tody of which are vested in the State Treasurer and the office of the State  
2 Treasurer relating to the custody of those financial assets.

3 [(8)] (7) "To" means "to and including" when used in a reference to a  
4 series of statute sections, subsections or paragraphs.

5 [(9)] (8) "United States" includes territories, outlying possessions and the  
6 District of Columbia.

7 [(10)] (9) "Violate" includes failure to comply.

8 **SECTION 7.** ORS 179.750, as amended by section 20, chapter 100, Oregon  
9 Laws 2007, is amended to read:

10 179.750. (1) Discrimination may not be made in the admission, accommo-  
11 dation, care, education or treatment of any person in a state institution be-  
12 cause the person does or does not contribute to the cost of the care.

13 (2) Discrimination may not be made in the provision of or access to edu-  
14 cational facilities and services and recreational facilities and services to any  
15 person in the state institutions enumerated in ORS 420.005 or Department  
16 of Corrections institutions as defined in ORS 421.005 on the basis of race,  
17 religion, sex, [*sexual orientation*,] national origin or marital status of the  
18 person. This subsection does not require combined domiciliary facilities at  
19 the state institutions to which it applies.

20 **SECTION 8.** ORS 192.630, as amended by section 21, chapter 100, Oregon  
21 Laws 2007, is amended to read:

22 192.630. (1) All meetings of the governing body of a public body shall be  
23 open to the public and all persons shall be permitted to attend any meeting  
24 except as otherwise provided by ORS 192.610 to 192.690.

25 (2) A quorum of a governing body may not meet in private for the purpose  
26 of deciding on or deliberating toward a decision on any matter except as  
27 otherwise provided by ORS 192.610 to 192.690.

28 (3) A governing body may not hold a meeting at any place where dis-  
29 crimination on the basis of race, color, creed, sex, [*sexual orientation*,] na-  
30 tional origin, age or disability is practiced. However, the fact that  
31 organizations with restricted membership hold meetings at the place does not

1 restrict its use by a public body if use of the place by a restricted member-  
2 ship organization is not the primary purpose of the place or its predominate  
3 use.

4 (4) Meetings of the governing body of a public body shall be held within  
5 the geographic boundaries over which the public body has jurisdiction, or  
6 at the administrative headquarters of the public body or at the other nearest  
7 practical location. Training sessions may be held outside the jurisdiction as  
8 long as no deliberations toward a decision are involved. A joint meeting of  
9 two or more governing bodies or of one or more governing bodies and the  
10 elected officials of one or more federally recognized Oregon Indian tribes  
11 shall be held within the geographic boundaries over which one of the par-  
12 ticipating public bodies or one of the Oregon Indian tribes has jurisdiction  
13 or at the nearest practical location. Meetings may be held in locations other  
14 than those described in this subsection in the event of an actual emergency  
15 necessitating immediate action.

16 (5)(a) It is discrimination on the basis of disability for a governing body  
17 of a public body to meet in a place inaccessible to persons with disabilities,  
18 or, upon request of a person who is deaf or hard of hearing, to fail to make  
19 a good faith effort to have an interpreter for persons who are deaf or hard  
20 of hearing provided at a regularly scheduled meeting. The sole remedy for  
21 discrimination on the basis of disability shall be as provided in ORS 192.680.

22 (b) The person requesting the interpreter shall give the governing body  
23 at least 48 hours' notice of the request for an interpreter, shall provide the  
24 name of the requester, sign language preference and any other relevant in-  
25 formation the governing body may request.

26 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort  
27 shall be made to have an interpreter present, but the requirement for an in-  
28 terpreter does not apply to emergency meetings.

29 (d) If certification of interpreters occurs under state or federal law, the  
30 Department of Human Services or other state or local agency shall try to  
31 refer only certified interpreters to governing bodies for purposes of this

1 subsection.

2 (e) As used in this subsection, "good faith effort" includes, but is not  
3 limited to, contacting the department or other state or local agency that  
4 maintains a list of qualified interpreters and arranging for the referral of  
5 one or more qualified interpreters to provide interpreter services.

6 **SECTION 9.** ORS 240.306, as amended by section 22, chapter 100, Oregon  
7 Laws 2007, is amended to read:

8 240.306. (1) Recruiting, selecting and promoting employees shall be on the  
9 basis of their relative ability, knowledge, experience and skills, determined  
10 by open competition and consideration of qualified applicants, without re-  
11 gard to an individual's race, color, religion, sex, [*sexual orientation,*] national  
12 origin, marital status, age, disability, political affiliation or other nonjob  
13 related factors, with proper regard for an individual's privacy. Nothing in  
14 this subsection shall be construed to enlarge or diminish the obligation of  
15 the state or the rights of employees concerning claims of employment dis-  
16 crimination as prescribed by applicable state and federal employment dis-  
17 crimination laws.

18 (2) The Oregon Department of Administrative Services shall establish  
19 procedures to provide for statewide open recruitment and selection for clas-  
20 sifications that are common to state agencies. The procedures shall include  
21 adequate public notice, affirmative action to seek out underutilized members  
22 of protected minorities, and job related testing. The department may delegate  
23 to individual operating agencies the responsibility for recruitment and se-  
24 lection of classifications where appropriate.

25 (3) Competition for appropriate positions may be limited to facilitate em-  
26 ployment of those with a substantial disability or who are economically dis-  
27 advantaged, or for purposes of implementing a specified affirmative action  
28 program.

29 (4) Appointments to positions in state service shall be made on the basis  
30 of qualifications and merit by selection from eligible lists established by the  
31 department or a delegated operating agency.

1 (5)(a) Noncompetitive selection and appointment procedures may be used  
2 for unskilled or semiskilled positions, or where job related ranking measures  
3 are not practical or appropriate.

4 (b) Noncompetitive selection and appointment or direct appointment also  
5 may be used by agency appointing authorities to fill positions that:

6 (A) Require special or unique skills such as expert professional level or  
7 executive positions; or

8 (B) Have critical timing requirements affecting recruitment.

9 (6) Minimum qualifications and performance requirements and duties of  
10 a classification may be appropriately modified to permit the appointment and  
11 promotion of trainees to positions normally filled at full proficiency level.

12 (7) The department or delegated agencies shall establish systems to pro-  
13 vide opportunities for promotion through meritorious service, training, edu-  
14 cation and career development assignments. The department shall certify to  
15 the eligibility of persons selected for promotion or delegate that responsi-  
16 bility to operating agencies in appropriate situations. Provision shall be  
17 made to bring persons into state service through open competition at higher  
18 levels when the competition provides abilities not available among existing  
19 employees, enrich state service or contribute to improved employment op-  
20 portunity for underrepresented groups.

21 **SECTION 10.** ORS 338.125, as amended by section 23, chapter 100, Oregon  
22 Laws 2007, is amended to read:

23 338.125. (1) Student enrollment in a public charter school shall be volun-  
24 tary. All students who reside within the school district where the public  
25 charter school is located are eligible for enrollment at a public charter  
26 school. If the number of applications from students who reside within the  
27 school district exceeds the capacity of a program, class, grade level or  
28 building, the public charter school shall select students through an equitable  
29 lottery selection process. However, after a public charter school has been in  
30 operation for one or more years, the public charter school may give priority  
31 for admission to students:

1 (a) Who were enrolled in the school in the prior year; or

2 (b) Who have siblings who are presently enrolled in the school and who  
3 were enrolled in the school in the prior year.

4 (2)(a) If space is available a public charter school may admit students who  
5 do not reside in the school district in which the public charter school is lo-  
6 cated.

7 (b) Notwithstanding paragraph (a) of this subsection, if a public charter  
8 school offers any online courses as part of the curriculum of the school, then  
9 50 percent or more of the students who attend the public charter school must  
10 reside in the school district in which the public charter school is located.

11 (3) A public charter school may not limit student admission based on race,  
12 religion, sex, [*sexual orientation*,] ethnicity, national origin, disability, in-  
13 come level, proficiency in the English language or athletic ability, but may  
14 limit admission to students within a given age group or grade level.

15 (4) A public charter school may conduct fund-raising activities. However,  
16 a public charter school may not require a student to participate in fund-  
17 raising activities as a condition of admission to the public charter school.

18 **SECTION 11.** ORS 418.648, as amended by section 24, chapter 100, Oregon  
19 Laws 2007, is amended to read:

20 418.648. A foster parent has the right to:

21 (1) Be treated with dignity, respect and trust as a member of a team, in-  
22 cluding respect for the family values and routines of the foster parent.

23 (2) Be included as a valued member of a team that provides care and  
24 planning for a foster child placed in the home of the foster parent.

25 (3) Receive support services, as resources permit, from the Department of  
26 Human Services that are designed to assist in the care of the foster child  
27 placed in the home of the foster parent.

28 (4) Be informed of any condition that relates solely to a foster child  
29 placed in the home of the foster parent that may jeopardize the health or  
30 safety of the foster parent or other members of the home or alter the manner  
31 in which foster care should be provided to the foster child. The information

1 shall include complete access to written reports, psychological evaluations  
2 and diagnoses that relate solely to a foster child placed in the home of the  
3 foster parent provided that confidential information given to a foster parent  
4 must be kept confidential by the foster parent, except as necessary to pro-  
5 mote or to protect the health and welfare of the foster child and the com-  
6 munity.

7 (5) Have input into a permanency plan for a foster child placed in the  
8 home of the foster parent.

9 (6) Receive assistance from the department in dealing with family loss and  
10 separation when the foster child leaves the home of the foster parent.

11 (7) Be informed of all policies and procedures of the department that re-  
12 late to the role of the foster parent.

13 (8) Be informed of how to receive services and to have access to depart-  
14 ment personnel or service providers 24 hours a day, seven days a week.

15 (9) Initiate an inactive referral status for a reasonable period of time, not  
16 to exceed 12 months, to allow a foster parent relief from caring for foster  
17 children.

18 (10) Not be discriminated against on the basis of race, color, religion, sex,  
19 [*sexual orientation*,] national origin, age or disability.

20 (11) Be notified of the foster parent's right to limited participation in  
21 proceedings in the juvenile court and provided with an explanation of that  
22 right.

23 **SECTION 12.** ORS 418.925, as amended by section 25, chapter 100, Oregon  
24 Laws 2007, is amended to read:

25 418.925. As used in ORS 418.925 to 418.945, "refugee child" is a person  
26 under 18 years of age who has entered the United States and is unwilling  
27 or unable to return to the person's country because of persecution or a  
28 well-founded fear of persecution on account of race, religion, sex, [*sexual*  
29 *orientation*,] nationality, membership in a particular group or political opin-  
30 ion, or whose parents entered the United States within the preceding 10  
31 years and are or were unwilling or unable to return to their country because

1 of persecution or a well-founded fear of persecution on account of race, re-  
2 ligion, sex, [*sexual orientation*,] nationality, membership in a particular group  
3 or political opinion.

4 **SECTION 13.** ORS 430.550, as amended by section 26, chapter 100, Oregon  
5 Laws 2007, is amended to read:

6 430.550. A person, otherwise eligible, may not be denied evaluation or  
7 treatment under ORS 430.450 to 430.555 on account of the person's race, re-  
8 ligion, sex, [*sexual orientation*,] nationality, age or ability to pay.

9 **SECTION 14.** ORS 443.739, as amended by section 27, chapter 100, Oregon  
10 Laws 2007, is amended to read:

11 443.739. Residents of adult foster homes have the following rights. Pro-  
12 viders shall guarantee these rights and help residents exercise them. The  
13 provider shall post a copy of the Residents' Bill of Rights in the entry or  
14 other equally prominent place in the adult foster home. The Residents' Bill  
15 of Rights states that each resident of an adult foster home has the right to:

16 (1) Be treated as an adult, with respect and dignity.

17 (2) Be informed of all resident rights and all house rules.

18 (3) Be encouraged and assisted to exercise legal rights, including the right  
19 to vote.

20 (4) Be informed of the resident's medical condition and the right to con-  
21 sent to or refuse treatment.

22 (5) Receive appropriate care and services, and prompt medical care as  
23 needed.

24 (6) A safe and secure environment.

25 (7) Be free from mental and physical abuse.

26 (8) Be free from chemical or physical restraints except as ordered by a  
27 physician or other qualified practitioner.

28 (9) Complete privacy when receiving treatment or personal care.

29 (10) Associate and communicate privately with any person the resident  
30 chooses.

31 (11) Send and receive personal mail unopened.

1 (12) Participate in activities of social, religious and community groups.

2 (13) Have medical and personal information kept confidential.

3 (14) Keep and use a reasonable amount of personal clothing and be-  
4 longings, and to have a reasonable amount of private, secure storage space.

5 (15) Manage the resident's own money and financial affairs unless legally  
6 restricted.

7 (16) Be free from financial exploitation. The provider may not charge or  
8 ask for application fees or nonrefundable deposits and may not solicit, accept  
9 or receive money or property from a resident other than the amount agreed  
10 to for services.

11 (17) A written agreement regarding the services to be provided and the  
12 rate schedule to be charged. The provider must give 30 days' written notice  
13 before any change in the rates or the ownership of the home.

14 (18) Not to be transferred or moved out of the adult foster home without  
15 30 days' advance written notice and an opportunity for a hearing. A provider  
16 may transfer or discharge a resident only for medical reasons including a  
17 medical emergency described in ORS 443.738 (11)(b), or for the welfare of the  
18 resident or other residents, or for nonpayment.

19 (19) Be free of discrimination in regard to race, color, religion, sex[, *sex-*  
20 *ual orientation*] or national origin.

21 (20) Make suggestions and complaints without fear of retaliation.

22 **SECTION 15.** ORS 458.505, as amended by section 28, chapter 100, Oregon  
23 Laws 2007, is amended to read:

24 458.505. (1) The community action agency network, established initially  
25 under the federal Economic Opportunity Act of 1964, shall be the delivery  
26 system for federal antipoverty programs in Oregon, including the Community  
27 Services Block Grant, Low Income Energy Assistance Program, State De-  
28 partment of Energy Weatherization Program and such others as may become  
29 available.

30 (2) Funds for such programs shall be distributed to the community action  
31 agencies by the Housing and Community Services Department with the ad-

1 vice of the Community Action Directors of Oregon.

2 (3) In areas not served by a community action agency, funds other than  
3 federal community services funds may be distributed to and administered by  
4 organizations that are found by the Housing and Community Services De-  
5 partment to serve the antipoverty purpose of the community action agency  
6 network.

7 (4) In addition to complying with all applicable requirements of federal  
8 law, a community action agency shall:

9 (a) Be an office, division or agency of the designating political subdivision  
10 or a not for profit organization in compliance with ORS chapter 65.

11 (b) Have a community action board of at least nine but no more than 33  
12 members, constituted so that:

13 (A) One-third of the members of the board are elected public officials  
14 currently serving or their designees. If the number of elected officials rea-  
15 sonably available and willing to serve is less than one-third of the member-  
16 ship, membership of appointed public officials may be counted as meeting the  
17 one-third requirement;

18 (B) At least one-third of the members are persons chosen through demo-  
19 cratic selection procedures adequate to assure that they are representatives  
20 of the poor in the area served; and

21 (C) The remainder of the members are officials or members of business,  
22 industry, labor, religious, welfare, education or other major groups and in-  
23 terests in the community.

24 (c) If the agency is a private not for profit organization, be governed by  
25 the Community Action Board. The board shall have all duties, responsibil-  
26 ities and powers normally associated with such boards, including, but not  
27 limited to:

28 (A) Selection, appointment and dismissal of the executive director of the  
29 agency;

30 (B) Approval of all contracts, grant applications and budgets and opera-  
31 tional policies of the agency;

1 (C) Evaluation of programs; and

2 (D) Securing an annual audit of the agency.

3 (d) If the organization is an office, division or agency of a political sub-  
4 division, be administered by the board that shall provide for the operation  
5 of the agency and be directly responsible to the governing board of the pol-  
6 itical subdivision. The administering board at a minimum, shall:

7 (A) Review and approve program policy;

8 (B) Be involved in and consulted on the hiring and firing of the agency  
9 director;

10 (C) Monitor and evaluate program effectiveness;

11 (D) Ensure the effectiveness of community involvement in the planning  
12 process; and

13 (E) Assume all duties delegated to it by the governing board.

14 (e) Have a clearly defined, specified service area. Community action ser-  
15 vice areas may not overlap.

16 (f) Have an accounting system that meets generally accepted accounting  
17 principles and be so certified by an independent certified accountant.

18 (g) Provide assurances against the use of government funds for political  
19 activity by the community action agency.

20 (h) Provide assurances that no person shall, on the grounds of race, color,  
21 sex[, *sexual orientation*] or national origin be excluded from participation in,  
22 be denied the benefits of or be subjected to discrimination under any program  
23 or activity funded in whole or in part with funds made available through the  
24 community action program.

25 (i) Provide assurances the community action agency shall comply with  
26 any prohibition against discrimination on the basis of age under the Age  
27 Discrimination Act of 1975 or with respect to an otherwise qualified indi-  
28 vidual with disabilities as provided in section 504 of the Rehabilitation Act  
29 of 1973.

30 (5) For the purposes of this section, the Oregon Human Development  
31 Corporation is eligible to receive federal community service funds and low-

1 income energy assistance funds.

2 (6) The Housing and Community Services Department shall:

3 (a) Administer federal and state antipoverty programs.

4 (b) Apply for all available antipoverty funds on behalf of eligible entities  
5 as defined in this section.

6 (c) In conjunction with the Community Action Directors of Oregon, de-  
7 velop a collaborative role in advocating for, and addressing the needs of, all  
8 low income Oregonians.

9 (d) Biennially produce and make available to the public a status report  
10 on efforts by it and state agencies to reduce the incidence of poverty in  
11 Oregon. This report shall contain figures regarding the numbers and types  
12 of persons living in poverty in Oregon.

13 (e) On a regular basis provide information to the Community Action Di-  
14 rectors of Oregon on the activities and expenditures of the Housing and  
15 Community Services Department.

16 (f) As resources are available, provide resources for technical assistance,  
17 training and program assistance to eligible entities.

18 (g) As resources are available, provide resources for the training and  
19 technical assistance needs of the Community Action Directors of Oregon.

20 (h) Conduct a planning process to meet the needs of low income people  
21 in Oregon. That process shall fully integrate the Oregon Human Develop-  
22 ment Corporation into the antipoverty delivery system. The planning process  
23 shall include development of a plan for minimum level of services and fund-  
24 ing for low income migrant and seasonal farmworkers from the antipoverty  
25 programs administered by the agency.

26 (i) Limit its administrative budget in an effort to maximize the avail-  
27 ability of antipoverty federal and state funds for expenditures by local eli-  
28 gible entities.

29 **SECTION 16.** ORS 659.850, as amended by section 29, chapter 100, Oregon  
30 Laws 2007, is amended to read:

31 659.850. (1) As used in this section, "discrimination" means any act that

1 unreasonably differentiates treatment, intended or unintended, or any act  
2 that is fair in form but discriminatory in operation, either of which is based  
3 on race, color, religion, sex, [*sexual orientation*,] national origin, marital  
4 status, age or disability. [*“Discrimination” does not include enforcement of an*  
5 *otherwise valid dress code or policy, as long as the code or policy provides, on*  
6 *a case-by-case basis, for reasonable accommodation of an individual based on*  
7 *the health and safety needs of the individual.*]

8 (2) A person may not be subjected to discrimination in any public ele-  
9 mentary, secondary or community college education program or service,  
10 school or interschool activity or in any higher education program or service,  
11 school or interschool activity where the program, service, school or activity  
12 is financed in whole or in part by moneys appropriated by the Legislative  
13 Assembly.

14 (3) The State Board of Education and the State Board of Higher Educa-  
15 tion shall establish rules necessary to ensure compliance with subsection (2)  
16 of this section in the manner required by ORS chapter 183.

17 **SECTION 17.** ORS 659A.003, as amended by section 2, chapter 100,  
18 Oregon Laws 2007, and section 1a, chapter 903, Oregon Laws 2007, is  
19 amended to read:

20 659A.003. The purpose of this chapter is to encourage the fullest utiliza-  
21 tion of the available workforce by removing arbitrary standards of race,  
22 color, religion, sex, [*sexual orientation*,] national origin, marital status, age  
23 or disability as a barrier to employment of the inhabitants of this state, and  
24 to ensure the human dignity of all people within this state and protect their  
25 health, safety and morals from the consequences of intergroup hostility,  
26 tensions and practices of unlawful discrimination of any kind based on race,  
27 color, religion, sex, [*sexual orientation*,] national origin, marital status, age,  
28 disability or familial status. To accomplish this purpose, the Legislative As-  
29 sembly intends by this chapter to provide:

30 (1) A program of public education calculated to eliminate attitudes upon  
31 which practices of unlawful discrimination because of race, color, religion,

1 sex, [*sexual orientation*,] national origin, marital status, age, disability or  
2 familial status are based.

3 (2) An adequate remedy for persons aggrieved by certain acts of unlawful  
4 discrimination because of race, color, religion, sex, [*sexual orientation*,] na-  
5 tional origin, marital status, disability or familial status, or unreasonable  
6 acts of discrimination in employment based upon age.

7 (3) An adequate administrative machinery for the orderly resolution of  
8 complaints of unlawful discrimination through a procedure involving inves-  
9 tigation, conference, conciliation and persuasion, to encourage the use in  
10 good faith of the machinery by all parties to a complaint of unlawful dis-  
11 crimination and to discourage unilateral action that makes moot the outcome  
12 of final administrative or judicial determination on the merits of the com-  
13 plaint.

14 **SECTION 18.** ORS 659A.006, as amended by section 3, chapter 100,  
15 Oregon Laws 2007, and section 2, chapter 903, Oregon Laws 2007, is amended  
16 to read:

17 659A.006. (1) It is declared to be the public policy of Oregon that practices  
18 of unlawful discrimination against any of its inhabitants because of race,  
19 color, religion, sex, [*sexual orientation*,] national origin, marital status, age,  
20 disability or familial status are a matter of state concern and that this dis-  
21 crimination not only threatens the rights and privileges of its inhabitants  
22 but menaces the institutions and foundation of a free democratic state.

23 (2) The opportunity to obtain employment or housing or to use and enjoy  
24 places of public accommodation without unlawful discrimination because of  
25 race, color, religion, sex, [*sexual orientation*,] national origin, marital status,  
26 age or disability hereby is recognized as and declared to be a civil right.

27 *[(3) It is not an unlawful practice for a bona fide church or other religious*  
28 *institution to take any action with respect to housing or the use of facilities*  
29 *based on a bona fide religious belief about sexual orientation as long as the*  
30 *housing or the use of facilities is closely connected with or related to the pri-*  
31 *mary purposes of the church or institution and is not connected with a com-*

1 *mercial or business activity that has no necessary relationship to the church*  
2 *or institution.]*

3 *[(4) It is not an unlawful employment practice for a bona fide church or*  
4 *other religious institution, including but not limited to a school, hospital or*  
5 *church camp, to prefer an employee, or an applicant for employment, of one*  
6 *religious sect or persuasion over another if:]*

7 *[(a) The religious sect or persuasion to which the employee or applicant*  
8 *belongs is the same as that of the church or institution;]*

9 *[(b) In the opinion of the church or institution, the preference will best serve*  
10 *the purposes of the church or institution; and]*

11 *[(c) The employment involved is closely connected with or related to the*  
12 *primary purposes of the church or institution and is not connected with a*  
13 *commercial or business activity that has no necessary relationship to the*  
14 *church or institution.]*

15 *[(5) It is not an unlawful employment practice for a bona fide church or*  
16 *other religious institution to take any employment action based on a bona fide*  
17 *religious belief about sexual orientation:]*

18 *[(a) In employment positions directly related to the operation of a church*  
19 *or other place of worship, such as clergy, religious instructors and support*  
20 *staff;]*

21 *[(b) In employment positions in a nonprofit religious school, nonprofit reli-*  
22 *gious camp, nonprofit religious day care center, nonprofit religious thrift store,*  
23 *nonprofit religious bookstore, nonprofit religious radio station or nonprofit re-*  
24 *ligious shelter; or]*

25 *[(c) In other employment positions that involve religious activities, as long*  
26 *as the employment involved is closely connected with or related to the primary*  
27 *purposes of the church or institution and is not connected with a commercial*  
28 *or business activity that has no necessary relationship to the church or insti-*  
29 *tution.]*

30 **(3) It is not an unlawful practice for a bona fide church or sectarian**  
31 **religious institution, including but not limited to a school, hospital or**

1 church camp, to prefer for employment an employee or applicant of  
2 one religious sect or persuasion if:

3 (a) The religious sect or persuasion to which the employee or ap-  
4 plicant belongs is the same as that of the church or institution;

5 (b) The church or institution finds that preferring the employee or  
6 applicant will best serve the purposes of the church or institution; and

7 (c) The employment is closely connected with or related to the pri-  
8 mary purposes of the church or institution and is not connected with  
9 a commercial or business activity that has no necessary relationship  
10 to, or to the primary purposes of, the church or institution.

11 **SECTION 19.** ORS 659A.030, as amended by section 4, chapter 100,  
12 Oregon Laws 2007, is amended to read:

13 659A.030. (1) It is an unlawful employment practice:

14 (a) For an employer, because of an individual's race, color, religion, sex,  
15 [*sexual orientation*,] national origin, marital status or age if the individual  
16 is 18 years of age or older, or because of the race, color, religion, sex, [*sexual*  
17 *orientation*,] national origin, marital status or age of any other person with  
18 whom the individual associates, or because of an individual's juvenile record  
19 that has been expunged pursuant to ORS 419A.260 and 419A.262, to refuse to  
20 hire or employ the individual or to bar or discharge the individual from  
21 employment. However, discrimination is not an unlawful employment prac-  
22 tice if the discrimination results from a bona fide occupational qualification  
23 reasonably necessary to the normal operation of the employer's business.

24 (b) For an employer, because of an individual's race, color, religion, sex,  
25 [*sexual orientation*,] national origin, marital status or age if the individual  
26 is 18 years of age or older, or because of the race, color, religion, sex, [*sexual*  
27 *orientation*,] national origin, marital status or age of any other person with  
28 whom the individual associates, or because of an individual's juvenile record  
29 that has been expunged pursuant to ORS 419A.260 and 419A.262, to discrim-  
30 inate against the individual in compensation or in terms, conditions or  
31 privileges of employment.

1 (c) For a labor organization, because of an individual's race, color, reli-  
2 gion, sex, [*sexual orientation*,] national origin, marital status or age if the  
3 individual is 18 years of age or older, or because of an individual's juvenile  
4 record that has been expunged pursuant to ORS 419A.260 and 419A.262, to  
5 exclude or to expel from its membership the individual or to discriminate in  
6 any way against the individual or any other person.

7 (d) For any employer or employment agency to print or circulate or cause  
8 to be printed or circulated any statement, advertisement or publication, or  
9 to use any form of application for employment or to make any inquiry in  
10 connection with prospective employment that expresses directly or indirectly  
11 any limitation, specification or discrimination as to an individual's race,  
12 color, religion, sex, [*sexual orientation*,] national origin, marital status or age  
13 if the individual is 18 years of age or older, or on the basis of an expunged  
14 juvenile record, or any intent to make any such limitation, specification or  
15 discrimination, unless based upon a bona fide occupational qualification.  
16 Identification of prospective employees according to race, color, religion, sex,  
17 [*sexual orientation*,] national origin, marital status or age does not violate  
18 this section unless the Commissioner of the Bureau of Labor and Industries,  
19 after a hearing conducted pursuant to ORS 659A.805, determines that the  
20 designation expresses an intent to limit, specify or discriminate on the basis  
21 of race, color, religion, sex, [*sexual orientation*,] national origin, marital  
22 status or age.

23 (e) For an employment agency, because of an individual's race, color, re-  
24 ligion, sex, [*sexual orientation*,] national origin, marital status or age if the  
25 individual is 18 years of age or older, or because of the race, color, religion,  
26 sex, [*sexual orientation*,] national origin, marital status or age of any other  
27 person with whom the individual associates, or because of an individual's  
28 juvenile record that has been expunged pursuant to ORS 419A.260 and  
29 419A.262, to classify or refer for employment, or to fail or refuse to refer for  
30 employment, or otherwise to discriminate against the individual. However,  
31 it is not an unlawful employment practice for an employment agency to

1 classify or refer for employment an individual when the classification or re-  
2 ferral results from a bona fide occupational qualification reasonably neces-  
3 sary to the normal operation of the employer's business.

4 (f) For any person to discharge, expel or otherwise discriminate against  
5 any other person because that other person has opposed any unlawful prac-  
6 tice, or because that other person has filed a complaint, testified or assisted  
7 in any proceeding under this chapter or has attempted to do so.

8 (g) For any person, whether an employer or an employee, to aid, abet,  
9 incite, compel or coerce the doing of any of the acts forbidden under this  
10 chapter or to attempt to do so.

11 (2) The provisions of this section apply to an apprentice under ORS  
12 660.002 to 660.210, but the selection of an apprentice on the basis of the  
13 ability to complete the required apprenticeship training before attaining the  
14 age of 70 years is not an unlawful employment practice. The commissioner  
15 shall administer this section with respect to apprentices under ORS 660.002  
16 to 660.210 equally with regard to all employees and labor organizations.

17 (3) The compulsory retirement of employees required by law at any age  
18 is not an unlawful employment practice if lawful under federal law.

19 (4)(a) It is not an unlawful employment practice for an employer or labor  
20 organization to provide or make financial provision for child care services  
21 of a custodial or other nature to its employees or members who are respon-  
22 sible for a minor child.

23 (b) As used in this subsection, "responsible for a minor child" means  
24 having custody or legal guardianship of a minor child or acting in loco  
25 parentis to the child.

26 *[(5) This section does not prohibit an employer from enforcing an otherwise*  
27 *valid dress code or policy, as long as the employer provides, on a case-by-case*  
28 *basis, for reasonable accommodation of an individual based on the health and*  
29 *safety needs of the individual.]*

30 **SECTION 20.** ORS 659A.403, as amended by section 5, chapter 100,  
31 Oregon Laws 2007, is amended to read:

1       659A.403. (1) Except as provided in subsection (2) of this section, all per-  
2 sons within the jurisdiction of this state are entitled to the full and equal  
3 accommodations, advantages, facilities and privileges of any place of public  
4 accommodation, without any distinction, discrimination or restriction on  
5 account of race, color, religion, sex, [*sexual orientation*,] national origin,  
6 marital status or age if the individual is 18 years of age or older.

7       (2) Subsection (1) of this section does not prohibit:

8       (a) The enforcement of laws governing the consumption of alcoholic  
9 beverages by minors and the frequenting by minors of places of public ac-  
10 commodation where alcoholic beverages are served; or

11       (b) The offering of special rates or services to persons 50 years of age or  
12 older.

13       (3) It is an unlawful practice for any person to deny full and equal ac-  
14 commodations, advantages, facilities and privileges of any place of public  
15 accommodation in violation of this section.

16       **SECTION 21.** ORS 659A.406, as amended by section 6, chapter 100,  
17 Oregon Laws 2007, is amended to read:

18       659A.406. Except as otherwise authorized by ORS 659A.403, it is an un-  
19 lawful practice for any person to aid or abet any place of public accommo-  
20 dation, as defined in ORS 659A.400, or any employee or person acting on  
21 behalf of the place of public accommodation to make any distinction, dis-  
22 crimination or restriction on account of race, color, religion, sex, [*sexual*  
23 *orientation*,] national origin, marital status or age if the individual is 18  
24 years of age or older.

25       **SECTION 22.** ORS 659A.409, as amended by section 7, chapter 100,  
26 Oregon Laws 2007, is amended to read:

27       659A.409. Except as provided by laws governing the consumption of alco-  
28 holic beverages by minors and the frequenting by minors of places of public  
29 accommodation where alcoholic beverages are served, and except for special  
30 rates or services offered to persons 50 years of age or older, it is an unlawful  
31 practice for any person acting on behalf of any place of public accommo-

1 dation as defined in ORS 659A.400 to publish, circulate, issue or display, or  
2 cause to be published, circulated, issued or displayed, any communication,  
3 notice, advertisement or sign of any kind to the effect that any of the ac-  
4 commodations, advantages, facilities, services or privileges of the place of  
5 public accommodation will be refused, withheld from or denied to, or that  
6 any discrimination will be made against, any person on account of race,  
7 color, religion, sex, [*sexual orientation*,] national origin, marital status or age  
8 if the individual is 18 years of age or older.

9 **SECTION 23.** ORS 659A.421, as amended by section 8, chapter 100,  
10 Oregon Laws 2007, and section 4a, chapter 903, Oregon Laws 2007, is  
11 amended to read:

12 659A.421. (1) A person may not, because of the race, color, religion, sex,  
13 [*sexual orientation*,] national origin, marital status, familial status or source  
14 of income of any person:

15 (a) Refuse to sell, lease or rent any real property to a purchaser.

16 (b) Expel a purchaser from any real property.

17 (c) Make any distinction, discrimination or restriction against a pur-  
18 chaser in the price, terms, conditions or privileges relating to the sale,  
19 rental, lease or occupancy of real property or in the furnishing of any facil-  
20 ities or services in connection therewith.

21 (d) Attempt to discourage the sale, rental or lease of any real property  
22 to a purchaser.

23 (e) Publish, circulate, issue or display, or cause to be published, circu-  
24 lated, issued or displayed, any communication, notice, advertisement or sign  
25 of any kind relating to the sale, rental or leasing of real property that indi-  
26 cates any preference, limitation, specification or unlawful discrimination  
27 based on race, color, religion, sex, [*sexual orientation*,] national origin, mar-  
28 ital status, familial status or source of income.

29 (f) Assist, induce, incite or coerce another person to commit an act or  
30 engage in a practice that violates this section.

31 (g) Coerce, intimidate, threaten or interfere with any person in the exer-

1 cise or enjoyment of, or on account of having aided or encouraged any other  
2 person in the exercise of, any right granted or protected by this section.

3 (h) Deny access to, or membership or participation in, any multiple listing  
4 service, real estate brokers' organization or other service, organization or  
5 facility relating to the business of selling or renting dwellings, or discrimi-  
6 nate against any person in the terms or conditions of the access, membership  
7 or participation.

8 (i) Represent to a person that a dwelling is not available for inspection,  
9 sale or rental when the dwelling in fact is available for inspection, sale or  
10 rental.

11 (j) Otherwise make unavailable or deny a dwelling to a person.

12 (2)(a) A person whose business includes engaging in residential real estate  
13 related transactions may not discriminate against any person in making a  
14 transaction available, or in the terms or conditions of the transaction, be-  
15 cause of race, color, religion, sex, [*sexual orientation*,] national origin, mari-  
16 tal status, familial status or source of income.

17 (b) As used in this subsection, "residential real estate related  
18 transaction" means any of the following:

19 (A) The making or purchasing of loans or providing other financial as-  
20 sistance:

21 (i) For purchasing, constructing, improving, repairing or maintaining a  
22 dwelling; or

23 (ii) For securing residential real estate; or

24 (B) The selling, brokering or appraising of residential real property.

25 (3) A real estate licensee may not accept or retain a listing of real prop-  
26 erty for sale, lease or rental with an understanding that a purchaser may  
27 be discriminated against with respect to the sale, rental or lease thereof be-  
28 cause of race, color, religion, sex, [*sexual orientation*,] national origin, mari-  
29 tal status, familial status or source of income.

30 (4) A person may not, for profit, induce or attempt to induce any other  
31 person to sell or rent any dwelling by representations regarding the entry

1 or prospective entry into the neighborhood of a person or persons of a par-  
2 ticular race, color, religion, sex, [*sexual orientation*,] national origin, marital  
3 status, familial status or source of income.

4 (5) For purposes of this section, "source of income" does not include fed-  
5 eral rent subsidy payments under 42 U.S.C. 1437f, income from specific oc-  
6 cupations or income derived in an illegal manner.

7 (6) This section does not apply with respect to sex distinction, discrimi-  
8 nation or restriction if the real property involved is such that the application  
9 of this section would necessarily result in common use of bath or bedroom  
10 facilities by unrelated persons of opposite sex.

11 (7)(a) This section does not apply to familial status distinction, discrimi-  
12 nation or restriction with respect to housing for older persons.

13 (b) As used in this subsection, "housing for older persons" means housing:

14 (A) Provided under any state or federal program that is specifically de-  
15 signed and operated to assist elderly persons, as defined by the state or fed-  
16 eral program;

17 (B) Intended for, and solely occupied by, persons 62 years of age or older;  
18 or

19 (C) Intended and operated for occupancy by at least one person 55 years  
20 of age or older per unit. Housing qualifies as housing for older persons under  
21 this subparagraph if:

22 (i) At least 80 percent of the dwellings are occupied by at least one person  
23 55 years of age or older per unit; and

24 (ii) Policies and procedures that demonstrate an intent by the owner or  
25 manager to provide housing for persons 55 years of age or older are pub-  
26 lished and adhered to.

27 (c) Housing does not fail to meet the requirements for housing for older  
28 persons if:

29 (A) Persons residing in the housing as of September 13, 1988, do not meet  
30 the requirements of paragraph (b)(B) or (C) of this subsection. However, new  
31 occupants of the housing shall meet the age requirements of paragraph (b)(B)

1 or (C) of this subsection; or

2 (B) The housing includes unoccupied units that are reserved for occu-  
3 pancy by persons who meet the age requirements of paragraph (b)(B) or (C)  
4 of this subsection.

5 (d) Nothing in this section limits the applicability of any reasonable local,  
6 state or federal restrictions regarding the maximum number of occupants  
7 permitted to occupy a dwelling.

8 (8) The provisions of subsection (1)(a) to (d) and (f) of this section that  
9 prohibit actions based upon sex[, *sexual orientation*] or familial status do not  
10 apply to the renting of space within a single-family residence if the owner  
11 actually maintains and occupies the residence as the owner's primary resi-  
12 dence and all occupants share some common space within the residence.

13 (9) Any violation of this section is an unlawful practice.

14 **SECTION 24.** ORS 659A.805, as amended by section 10, chapter 100,  
15 Oregon Laws 2007, and section 5a, chapter 903, Oregon Laws 2007, is  
16 amended to read:

17 659A.805. (1) In accordance with any applicable provision of ORS chapter  
18 183, the Commissioner of the Bureau of Labor and Industries may adopt  
19 reasonable rules:

20 (a) Establishing what acts and communications constitute a notice, sign  
21 or advertisement that public accommodation or real property will be refused,  
22 withheld from, or denied to any person or that the person will be unlawfully  
23 discriminated against because of race, color, religion, sex, [*sexual*  
24 *orientation*,] national origin, marital status, disability or:

25 (A) With respect to public accommodation, age.

26 (B) With respect to real property transactions, familial status or source  
27 of income.

28 (b) Establishing what inquiries in connection with employment and pro-  
29 spective employment express a limitation, specification or unlawful discrim-  
30 ination as to race, color, religion, sex, [*sexual orientation*,] national origin,  
31 marital status, age or disability.

1 (c) Establishing what inquiries in connection with employment and pro-  
2 spective employment soliciting information as to race, color, religion, sex,  
3 [*sexual orientation*,] national origin, marital status, age or disability are  
4 based on bona fide occupational qualifications.

5 (d) For internal operation and practice and procedure before the commis-  
6 sioner under this chapter.

7 (e) Covering any other matter required to carry out the purposes of this  
8 chapter.

9 (2) In adopting rules under this section the commissioner shall consider  
10 the following factors, among others:

11 (a) The relevance of information requested to job performance in con-  
12 nection with which it is requested.

13 (b) Available reasonable alternative ways of obtaining requested infor-  
14 mation without soliciting responses as to race, color, religion, sex, [*sexual*  
15 *orientation*,] national origin, marital status, age, disability, source of income  
16 or, with respect to real property transactions, familial status.

17 (c) Whether a statement or inquiry soliciting information as to race,  
18 color, religion, sex, [*sexual orientation*,] national origin, marital status, age,  
19 disability, source of income or, with respect to real property transactions,  
20 familial status, communicates an idea independent of an intention to limit,  
21 specify or unlawfully discriminate as to race, color, religion, sex, [*sexual*  
22 *orientation*,] national origin, marital status, age, disability, source of income  
23 or, with respect to real property transactions, familial status.

24 (d) Whether the independent idea communicated is relevant to a legiti-  
25 mate objective of the kind of transaction that it contemplates.

26 (e) The ease with which the independent idea relating to a legitimate  
27 objective of the kind of transaction contemplated could be communicated  
28 without connoting an intention to unlawfully discriminate as to race, color,  
29 religion, sex, [*sexual orientation*,] national origin, marital status, age, disa-  
30 bility, source of income or, with respect to real property transactions, fami-  
31 lial status.

1        **SECTION 25.** ORS 659A.815, as amended by section 11, chapter 100,  
2 Oregon Laws 2007, is amended to read:

3        659A.815. (1) The Commissioner of the Bureau of Labor and Industries  
4 shall create such advisory agencies and intergroup-relations councils as the  
5 commissioner believes necessary to aid in effectuating the purposes of this  
6 chapter. The commissioner may empower advisory agencies and councils:

7        (a) To study the problems of discrimination in all or specific fields of  
8 human relationships or in specific instances of discrimination because of  
9 race, color, religion, sex, [*sexual orientation*,] national origin, marital status,  
10 age, disability, familial status or source of income.

11        (b) To foster, through community effort or otherwise, goodwill, cooper-  
12 ation and conciliation among the groups and elements of the population of  
13 the state.

14        (c) To make recommendations to the commissioner for the development  
15 of policies and procedures in general and in specific instances, and for pro-  
16 grams of formal and informal education.

17        (2) The advisory agencies and councils shall be composed of represen-  
18 tative citizens, serving without pay, but with reimbursement for actual and  
19 necessary expenses in accordance with laws and regulations governing state  
20 officers.

21        (3) The commissioner may make provision for technical and clerical as-  
22 sistance to the advisory agencies and councils and for the expenses of the  
23 assistance.

24        **SECTION 26.** ORS 659A.885, as amended by section 12, chapter 100,  
25 Oregon Laws 2007, section 8, chapter 180, Oregon Laws 2007, section 3,  
26 chapter 278, Oregon Laws 2007, section 1, chapter 280, Oregon Laws 2007,  
27 section 4, chapter 525, Oregon Laws 2007, and section 13, chapter 903, Oregon  
28 Laws 2007, is amended to read:

29        659A.885. (1) Any individual claiming to be aggrieved by an unlawful  
30 practice specified in subsection (2) of this section may file a civil action in  
31 circuit 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 subsection;  
12 and

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

16 (2) An action may be brought under subsection (1) of this section alleging  
17 a violation of ORS 25.337, 25.424, 171.120, 399.235, 408.230, 476.574, 652.355,  
18 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.100  
19 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230,  
20 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.300, 659A.306,  
21 659A.309, 659A.315, 659A.318 or 659A.421.

22 (3) In any action under subsection (1) of this section alleging a violation  
23 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,  
24 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262, 659A.318 or 659A.421:

25 (a) The court may award, in addition to the relief authorized under sub-  
26 section (1) of this section, compensatory damages or \$200, whichever is  
27 greater, and punitive damages;

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

29 (c) Upon appeal of any judgment finding a violation, the appellate court  
30 shall review the judgment pursuant to the standard established by ORS  
31 19.415 (1); and

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

2 (4) In any action under subsection (1) of this section alleging a violation  
3 of ORS 652.355 or 653.060, the court may award, in addition to the relief  
4 authorized under subsection (1) of this section, compensatory damages or  
5 \$200, whichever is greater.

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

10 (6) Any individual against whom any distinction, discrimination or re-  
11 striction on account of race, color, religion, sex, [*sexual orientation*,] national  
12 origin, marital status or age, if the individual is 18 years of age or older,  
13 has been made by any place of public accommodation, as defined in ORS  
14 659A.400, by any employee or person acting on behalf of the place or by any  
15 person aiding or abetting the place or person in violation of ORS 659A.406  
16 may bring an action against the operator or manager of the place, the em-  
17 ployee or person acting on behalf of the place or the aider or abettor of the  
18 place or person. Notwithstanding subsection (1) of this section, in an action  
19 under this subsection:

20 (a) The court may award, in addition to the relief authorized under sub-  
21 section (1) of this section, compensatory and punitive damages;

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

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

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

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

1 (f) Upon any appeal of a judgment under this subsection, the appellate  
2 court shall review the judgment pursuant to the standard established by ORS  
3 19.415 (1).

4 (7) When the commissioner or the Attorney General has reasonable cause  
5 to believe that a person or group of persons is engaged in a pattern or  
6 practice of resistance to the rights protected by ORS 659A.145 or 659A.421  
7 or federal housing law, or that a group of individuals has been denied any  
8 of the rights protected by ORS 659A.145 or 659A.421 or federal housing law,  
9 the commissioner or the Attorney General may file a civil action on behalf  
10 of the aggrieved individuals in the same manner as an individual or group  
11 of individuals may file a civil action under this section. In a civil action filed  
12 under this subsection, the court may assess against the respondent, in addi-  
13 tion to the relief authorized under subsections (1) and (3) of this section, a  
14 civil penalty:

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

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

17 (8) In any action under subsection (1) of this section alleging a violation  
18 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing  
19 law, when the commissioner is pursuing the action on behalf of an aggrieved  
20 complainant, the court shall award reasonable attorney fees to the commis-  
21 sioner if the commissioner prevails in the action. The court may award rea-  
22 sonable attorney fees and expert witness fees incurred by a defendant that  
23 prevails in the action if the court determines that the commissioner had no  
24 objectively reasonable basis for asserting the claim or for appealing an ad-  
25 verse decision of the trial court.

26 **SECTION 27.** ORS 660.139, as amended by section 30, chapter 100, Oregon  
27 Laws 2007, is amended to read:

28 660.139. (1) Unless the State Apprenticeship and Training Council deter-  
29 mines there is an adverse impact on apprenticeship opportunities based on  
30 an individual's race, sex[, *sexual orientation*] or ethnic group, an applicant  
31 who is otherwise eligible for selection as an apprentice under the selection

1 method used by the local joint committee may, with the consent of the ap-  
2 plicant, be indentured to a family business or the applicant's current em-  
3 ployer without regard to whether another employer would otherwise be  
4 entitled to indenture the apprentice under the selection method used by the  
5 local joint committee.

6 (2) As used in this section:

7 (a) "Current employer" means the employer with whom the applicant has  
8 been a full-time, regular employee for at least six months before the appli-  
9 cant is selected into the apprenticeship program.

10 (b) "Family business" means a business owned in whole or in part by a  
11 parent or grandparent of the applicant.

12 **SECTION 28.** Section 42, chapter 100, Oregon Laws 2007, is repealed.

13 **SECTION 29.** The amendments to ORS 10.030, 20.107, 30.860, 93.270,  
14 109.035, 174.100, 179.750, 192.630, 240.306, 338.125, 418.648, 418.925, 430.550,  
15 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406,  
16 659A.409, 659A.421, 659A.805, 659A.815, 659A.885 and 660.139 by sections  
17 1 to 27 of this 2008 Act are applicable to all conduct, whether occurring  
18 before, on or after the effective date of this 2008 Act.

19 **SECTION 30.** This 2008 Act takes effect on its passage.

20

SECRETARY OF THE STATE  
BILL BRIDGEMAN  
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