

House Bill 4088

Sponsored by Representative PILUSO; Representatives GORSEK, HOLVEY, KENY-GUYER, NOSSE, REARDON, WILLIAMSON, WITT, Senators MONNES ANDERSON, ROSENBAUM (Pre-session 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**.

Prohibits discrimination in employment on basis of familial status of employee.

A BILL FOR AN ACT

1
2 Relating to discrimination on basis of familial status; amending ORS 659A.001, 659A.029 and
3 659A.030.

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

5 **SECTION 1.** ORS 659A.029 is amended to read:

6 659A.029. For purposes of ORS 659A.030[,]:

7 (1) [*The phrase*] "Because of sex" includes, but is not limited to, because of pregnancy,
8 childbirth and related medical conditions or occurrences. Women affected by pregnancy, childbirth
9 or related medical conditions or occurrences shall be treated the same for all employment-related
10 purposes, including receipt of benefits under fringe benefit programs, as other persons not so af-
11 fected but similar in their ability or inability to work by reason of physical condition, and nothing
12 in this section shall be interpreted to permit otherwise.

13 (2) **"Familial status" means the state of being, or having the potential to become, a pro-**
14 **vider of care or support to a family member.**

15 (3) **"Family member" means:**

16 (a) **A family member as defined in ORS 659A.150.**

17 (b) **An individual who is dependent on an employee for their support or care.**

18 **SECTION 2.** ORS 659A.030 is amended to read:

19 659A.030. (1) It is an unlawful employment practice:

20 (a) For an employer, because of an individual's race, color, religion, sex, sexual orientation, na-
21 tional origin, marital status, **familial status** or age if the individual is 18 years of age or older, or
22 because of the race, color, religion, sex, sexual orientation, national origin, marital status, **familial**
23 **status** or age of any other person with whom the individual associates, or because of an individual's
24 juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, to refuse to hire
25 or employ the individual or to bar or discharge the individual from employment. However, discrim-
26 ination is not an unlawful employment practice if the discrimination results from a bona fide occu-
27 pational qualification reasonably necessary to the normal operation of the employer's business.

28 (b) For an employer, because of an individual's race, color, religion, sex, sexual orientation, na-
29 tional origin, marital status, **familial status** or age if the individual is 18 years of age or older, or
30 because of the race, color, religion, sex, sexual orientation, national origin, marital status, **familial**
31 **status** or age of any other person with whom the individual associates, or because of an individual's

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 juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, to discriminate
 2 against the individual in compensation or in terms, conditions or privileges of employment.

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

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

21 (e) For an employment agency, because of an individual's race, color, religion, sex, sexual ori-
 22 entation, national origin, marital status, **familial status** or age if the individual is 18 years of age
 23 or older, or because of the race, color, religion, sex, sexual orientation, national origin, marital
 24 status, **familial status** or age of any other person with whom the individual associates, or because
 25 of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262,
 26 to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to
 27 discriminate against the individual. However, it is not an unlawful employment practice for an
 28 employment agency to classify or refer for employment an individual when the classification or re-
 29 ferral results from a bona fide occupational qualification reasonably necessary to the normal oper-
 30 ation of the employer's business.

31 (f) For any person to discharge, expel or otherwise discriminate against any other person be-
 32 cause that other person has opposed any unlawful practice, or because that other person has filed
 33 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

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

36 (2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210, but the
 37 selection of an apprentice on the basis of the ability to complete the required apprenticeship train-
 38 ing before attaining the age of 70 years is not an unlawful employment practice. The commissioner
 39 shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with
 40 regard to all employees and labor organizations.

41 (3) The compulsory retirement of employees required by law at any age is not an unlawful em-
 42 ployment practice if lawful under federal law.

43 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide
 44 or make financial provision for child care services of a custodial or other nature to its employees
 45 or members who are responsible for a minor child.

1 (b) As used in this subsection, “responsible for a minor child” means having custody or legal
2 guardianship of a minor child or acting in loco parentis to the child.

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

6 **SECTION 3.** ORS 659A.001 is amended to read:

7 659A.001. As used in this chapter, **unless the context requires otherwise:**

8 (1) “Bureau” means the Bureau of Labor and Industries.

9 (2) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

10 (3) “Employee” does not include any individual employed by the individual’s parents, spouse or
11 child or in the domestic service of any person.

12 (4)(a) “Employer” means any person who in this state, directly or through an agent, engages or
13 uses the personal service of one or more employees, reserving the right to control the means by
14 which such service is or will be performed.

15 (b) For the purposes of employee protections described in ORS 659A.350, “employer” means any
16 person who, in this state, is in an employment relationship with an intern as described in ORS
17 659A.350.

18 (5) “Employment agency” includes any person undertaking to procure employees or opportu-
19 nities to work.

20 (6)(a) “Familial status” means the relationship between one or more individuals who have not
21 attained 18 years of age and who are domiciled with:

22 (A) A parent or another person having legal custody of the individual; or

23 (B) The designee of the parent or other person having such custody, with the written permission
24 of the parent or other person.

25 (b) “Familial status” includes any individual, regardless of age or domicile, who is pregnant or
26 is in the process of securing legal custody of an individual who has not attained 18 years of age.

27 (7) “Labor organization” includes any organization which is constituted for the purpose, in
28 whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms
29 or conditions of employment or of other mutual aid or protection in connection with employees.

30 (8) “National origin” includes ancestry.

31 (9) “Person” includes:

32 (a) One or more individuals, partnerships, associations, labor organizations, limited liability
33 companies, joint stock companies, corporations, legal representatives, trustees, trustees in bank-
34 ruptcy or receivers.

35 (b) A public body as defined in ORS 30.260.

36 (c) For purposes of ORS 659A.145 and 659A.421 and the application of any federal housing law,
37 a fiduciary, mutual company, trust or unincorporated organization.

38 (10) “Respondent” means any person against whom a complaint or charge of an unlawful prac-
39 tice is filed with the commissioner or whose name has been added to such complaint or charge
40 pursuant to ORS 659A.835.

41 (11) “Unlawful employment practice” means a practice specifically denominated as an unlawful
42 employment practice in this chapter. “Unlawful employment practice” includes a practice that is
43 specifically denominated in another statute of this state as an unlawful employment practice and
44 that is specifically made subject to enforcement under this chapter.

45 (12) “Unlawful practice” means any unlawful employment practice or any other practice specif-

1 ically denominated as an unlawful practice in this chapter. "Unlawful practice" includes a practice
2 that is specifically denominated in another statute of this state as an unlawful practice and that is
3 specifically made subject to enforcement under this chapter, or a practice that violates a rule
4 adopted by the commissioner for the enforcement of the provisions of this chapter.

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