

Enrolled House Bill 3443

Sponsored by Representative PHAM K, Senators MANNING JR, JAMA; Representatives ANDERSEN, BOWMAN, BYNUM, CHAICHI, DEXTER, FAHEY, GAMBA, GRAYBER, HARTMAN, HELM, KROPF, MARSH, MCLAIN, NELSON, NGUYEN D, NGUYEN H, NOSSE, REYNOLDS, SOSA, Senators CAMPOS, DEMBROW, PROZANSKI, STEINER (at the request of Attorney General Ellen F. Rosenblum)

CHAPTER

AN ACT

Relating to occurrences of bias; creating new provisions; and amending ORS 90.100, 90.325, 90.445, 90.449, 90.453, 90.456, 90.459, 90.555, 90.634, 90.767, 105.137, 135.247, 147.380, 147.512, 192.820, 192.822, 192.826, 659A.270, 659A.272, 659A.280, 659A.283, 659A.290 and 802.250.

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

BIAS CRIME VICTIMS AND TENANCY

SECTION 1. ORS 90.100 is amended to read:

90.100. As used in this chapter, unless the context otherwise requires:

(1) "Accessory building or structure" means any portable, demountable or permanent structure, including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks, steps, ramps, piers and pilings, that is:

- (a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or
- (b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a tenant of a manufactured dwelling or floating home.

(2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding in which rights are determined, including an action for possession.

(3) "Applicant screening charge" means any payment of money required by a landlord of an applicant prior to entering into a rental agreement with that applicant for a residential dwelling unit, the purpose of which is to pay the cost of processing an application for a rental agreement for a residential dwelling unit.

(4) "Bias crime" has the meaning given that term in ORS 147.380.

[(4)] **(5)** "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

[(5)] **(6)** "Carbon monoxide alarm" has the meaning given that term in ORS 105.836.

[(6)] **(7)** "Carbon monoxide source" has the meaning given that term in ORS 105.836.

[(7)] **(8)** "Conduct" means the commission of an act or the failure to act.

[(8)] **(9)** "DBH" means the diameter at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.

[(9)] (10) “Dealer” means any person in the business of selling, leasing or distributing new or used manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling or floating home for use as a residence.

[(10)] (11) “Domestic violence” means:

- (a) Abuse between family or household members, as those terms are defined in ORS 107.705; or
- (b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.

[(11)] (12) “Drug and alcohol free housing” means a dwelling unit described in ORS 90.243.

[(12)] (13) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. “Dwelling unit” regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.

[(13)] (14) “Essential service” means:

(a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.850:

(A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior doors, latches for windows and any cooking appliance or refrigerator supplied or required to be supplied by the landlord; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320, the lack or violation of which creates a serious threat to the tenant’s health, safety or property or makes the dwelling unit unfit for occupancy.

(b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.850:

(A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730, the lack or violation of which creates a serious threat to the tenant’s health, safety or property or makes the rented space unfit for occupancy.

[(14)] (15) “Facility” means a manufactured dwelling park or a marina.

[(15)] (16) “Fee” means a nonrefundable payment of money.

[(16)] (17) “First class mail” does not include certified or registered mail, or any other form of mail that may delay or hinder actual delivery of mail to the recipient.

[(17)] (18) “Fixed term tenancy” means a tenancy that has a fixed term of existence, continuing to a specific ending date and terminating on that date without requiring further notice to effect the termination.

[(18)] (19) “Floating home” has the meaning given that term in ORS 830.700. “Floating home” includes an accessory building or structure.

[(19)] (20) “Good faith” means honesty in fact in the conduct of the transaction concerned.

[(20)] (21) “Hazard tree” means a tree that:

(a) Is located on a rented space in a manufactured dwelling park;

(b) Measures at least eight inches DBH; and

(c) Is considered, by an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture, to pose an unreasonable risk of causing serious physical harm or damage to individuals or property in the near future.

[(21)] (22) “Hotel or motel” means “hotel” as that term is defined in ORS 699.005.

[(22)] (23) “Informal dispute resolution” includes voluntary consultation between the landlord or landlord’s agent and one or more tenants or voluntary mediation utilizing the services of a third party, but does not include mandatory mediation or arbitration.

[(23)] (24) “Landlord” means the owner, lessor or sublessor of the dwelling unit or the building or premises of which it is a part. “Landlord” includes a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.

[24] **(25)** “Landlord’s agent” means a person who has oral or written authority, either express or implied, to act for or on behalf of a landlord.

[25] **(26)** “Last month’s rent deposit” means a type of security deposit, however designated, the primary function of which is to secure the payment of rent for the last month of the tenancy.

[26] **(27)** “Manufactured dwelling” means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003 or a prefabricated structure. “Manufactured dwelling” includes an accessory building or structure.

[27] **(28)** “Manufactured dwelling park” means a place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

[28] **(29)** “Marina” means a moorage of contiguous dwelling units that may be legally transferred as a single unit and are owned by one person where four or more floating homes are secured, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

[29] **(30)** “Marina purchase association” means a group of three or more tenants who reside in a marina and have organized for the purpose of eventual purchase of the marina.

[30] **(31)** “Month-to-month tenancy” means a tenancy that automatically renews and continues for successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.

[31] **(32)** “Organization” includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

[32] **(33)** “Owner” includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to property; or

(b) All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

[33] **(34)** “Person” includes an individual or organization.

[34] **(35)** “Prefabricated structure” means a structure that is substantially constructed or assembled using closed construction at an off-site location in compliance with the state building code and that is sited and occupied by the owner in compliance with local codes.

[35] **(36)** “Premises” means:

(a) A dwelling unit and the structure of which it is a part and facilities and appurtenances therein;

(b) Grounds, areas and facilities held out for the use of tenants generally or the use of which is promised to the tenant; and

(c) A facility for manufactured dwellings or floating homes.

[36] **(37)** “Prepaid rent” means any payment of money to the landlord for a rent obligation not yet due. In addition, “prepaid rent” means rent paid for a period extending beyond a termination date.

[37] **(38)** “Recreational vehicle” has the meaning given that term in ORS 174.101.

[38] **(39)** “Rent” means any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others and to use the premises. “Rent” does not include security deposits, fees or utility or service charges as described in ORS 90.315 (4) and 90.562.

[39] **(40)** “Rental agreement” means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. “Rental agreement” includes a lease. A rental agreement is either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

[40] **(41)** “Roomer” means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

[(41)] (42) "Screening or admission criteria" means a written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.

[(42)] (43) "Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

[(43)] (44) "Sexual assault" has the meaning given that term in ORS 147.450.

[(44)] (45) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does not include a tenant who holds over as described in ORS 90.427 (11).

[(45)] (46) "Stalking" means the behavior described in ORS 163.732.

[(46)] (47) "Statement of policy" means the summary explanation of information and facility policies to be provided to prospective and existing tenants under ORS 90.510.

[(47)] (48) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a dwelling unit.

[(48)] (49) "Tenant":

(a) Except as provided in paragraph (b) of this subsection:

(A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority.

(B) Means a minor, as defined and provided for in ORS 109.697.

(b) For purposes of ORS 90.505 to 90.850, means only a person who owns and occupies as a residence a manufactured dwelling or a floating home in a facility and persons residing with that tenant under the terms of the rental agreement.

(c) Does not mean a guest or temporary occupant.

[(49)] (50) "Transient lodging" means a room or a suite of rooms.

[(50)] (51) "Transient occupancy" means occupancy in transient lodging that has all of the following characteristics:

(a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

(b) The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy; and

(c) The period of occupancy does not exceed 30 days.

[(51)] (52) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

(a) The occupant rents the unit for vacation purposes only, not as a principal residence;

(b) The occupant has a principal residence other than at the unit; and

(c) The period of authorized occupancy does not exceed 45 days.

[(52)] (53) "Victim" means:

(a) The person against whom an incident related to domestic violence, sexual assault, **bias crime** or stalking is perpetrated; or

(b) The parent or guardian of a minor household member against whom an incident related to domestic violence, sexual assault, **bias crime** or stalking is perpetrated, unless the parent or guardian is the perpetrator.

[(53)] (54) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

(a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven days;

(b) There is a written rental agreement that defines the landlord's and the tenant's rights and responsibilities under this chapter; and

(c) There are no fees or security deposits, although the landlord may require the payment of an applicant screening charge, as provided in ORS 90.295.

SECTION 1a. ORS 90.325 is amended to read:

90.325. (1) The tenant shall:

(a) Use the parts of the premises including the living room, bedroom, kitchen, bathroom and dining room in a reasonable manner considering the purposes for which they were designed and intended.

(b) Keep all areas of the premises under control of the tenant in every part as clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, as the condition of the premises permits and to the extent that the tenant is responsible for causing the problem. The tenant shall cooperate to a reasonable extent in assisting the landlord in any reasonable effort to remedy the problem.

(c) Dispose from the dwelling unit all ashes, garbage, rubbish and other waste in a clean, safe and legal manner. With regard to needles, syringes and other infectious waste, as defined in ORS 459.386, the tenant may not dispose of these items by placing them in garbage receptacles or in any other place or manner except as authorized by state and local governmental agencies.

(d) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.

(e) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances including elevators in the premises.

(f) Test at least once every six months and replace batteries as needed in any smoke alarm, smoke detector or carbon monoxide alarm provided by the landlord and notify the landlord in writing of any operating deficiencies.

(g) Behave and require other persons on the premises with the consent of the tenant to behave in a manner that will not disturb the peaceful enjoyment of the premises by neighbors.

(2) A tenant may not:

(a) Remove or tamper with a smoke alarm, smoke detector or carbon monoxide alarm as described in ORS 105.842 or 479.300.

(b) Deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so.

(c) Remove, obstruct or tamper with a sprinkler head used for fire suppression.

(3) A tenant is not responsible for damage that results from:

(a) Acts of God; or

(b) Conduct by a perpetrator relating to domestic violence, sexual assault, **bias crime** or stalking.

(4) For damage that results from conduct by a perpetrator relating to domestic violence, sexual assault, **bias crime** or stalking, a landlord may require a tenant to provide verification that the tenant or a member of the tenant's household is a victim of domestic violence, sexual assault, **bias crime** or stalking as provided by ORS 90.453.

SECTION 1b. ORS 90.445 is amended to read:

90.445. (1) If a tenant perpetrates a criminal act of physical violence related to domestic violence, sexual assault, **bias crime** or stalking against a household member who is a tenant, after delivery of at least 24 hours' written notice specifying the act or omission constituting the cause and specifying the date and time of the termination, the landlord may:

(a) Terminate the rental agreement of the perpetrating tenant, but may not terminate the rental agreement of the other tenants; and

(b) If the perpetrator of the criminal act of physical violence related to domestic violence, sexual assault, **bias crime** or stalking continues to occupy the premises after the termination date and time specified in the notice, seek a court order under ORS 105.128 to remove the perpetrator from the premises and terminate the perpetrator's tenancy without seeking a return of possession from the remaining tenants.

(2) A landlord that terminates the tenancy of a perpetrator under this section may not require the remaining tenants to pay additional rent or an additional deposit or fee due to exclusion of the perpetrator.

(3) The perpetrator is jointly liable with any other tenants of the dwelling unit for rent or damages to the premises incurred prior to the later of the date the perpetrator vacates the premises or the termination date specified in the notice.

(4) The landlord's burden of proof in a removal action sought under this section is by a preponderance of the evidence.

SECTION 1c. ORS 90.449 is amended to read:

90.449. (1) A landlord may not terminate or fail to renew a tenancy, serve a notice to terminate a tenancy, bring or threaten to bring an action for possession, increase rent, decrease services or refuse to enter into a rental agreement:

(a) Because a tenant or applicant is, or has been, a victim of domestic violence, sexual assault, **bias crime** or stalking.

(b) Because of a violation of the rental agreement or a provision of this chapter, if the violation consists of an incident of domestic violence, sexual assault, **bias crime** or stalking committed against the tenant or applicant.

(c) Because of criminal activity relating to domestic violence, sexual assault, **bias crime** or stalking in which the tenant or applicant is the victim, or of any police or emergency response related to domestic violence, sexual assault, **bias crime** or stalking in which the tenant or applicant is the victim.

(2) A landlord may not impose different rules, conditions or standards or selectively enforce rules, conditions or standards against a tenant or applicant on the basis that the tenant or applicant is or has been a victim of domestic violence, sexual assault, **bias crime** or stalking.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may terminate the tenancy of a victim of domestic violence, sexual assault, **bias crime** or stalking if the landlord has previously given the tenant a written warning regarding the conduct of the perpetrator relating to domestic violence, sexual assault, **bias crime** or stalking and:

(a) The tenant permits or consents to the perpetrator's presence on the premises and the perpetrator is an actual and imminent threat to the safety of persons on the premises other than the victim; or

(b) The perpetrator is an unauthorized occupant and the tenant permits or consents to the perpetrator living in the dwelling unit without the permission of the landlord.

(4) If a landlord violates this section:

(a) A tenant or applicant may recover up to two months' periodic rent or twice the actual damages sustained by the tenant or applicant, whichever is greater;

(b) The tenant has a defense to an action for possession by the landlord; and

(c) The applicant may obtain injunctive relief to gain possession of the dwelling unit.

(5) Notwithstanding ORS 105.137 (4), if a tenant asserts a successful defense under subsection (4) of this section to an action for possession, the tenant is not entitled to prevailing party fees, attorney fees or costs and disbursements if the landlord:

(a) Did not know, and did not have reasonable cause to know, at the time of commencing the action that a violation or incident on which the action was based was related to domestic violence, sexual assault, **bias crime** or stalking; and

(b) Promptly dismissed tenants other than the perpetrator from the action upon becoming aware that the violation or incident on which the action was based was related to domestic violence, sexual assault, **bias crime** or stalking.

SECTION 2. ORS 90.453 is amended to read:

90.453. (1) As used in this section:

(a) "Immediate family member" means, with regard to a tenant who is a victim of domestic violence, sexual assault, **bias crime** or stalking, any of the following who is not a perpetrator of the domestic violence, sexual assault, **bias crime** or stalking against the tenant:

(A) An adult person related by blood, adoption, marriage or domestic partnership, as defined in ORS 106.310, or as defined or described in similar law in another jurisdiction;

(B) A cohabitant in an intimate relationship;

(C) An unmarried parent of a joint child; or

(D) A child, grandchild, foster child, ward or guardian of the victim or of anyone listed in subparagraph (A), (B) or (C) of this paragraph.

(b) "Qualified third party" means a person that has had individual contact with the tenant and is a law enforcement officer, attorney or licensed health professional, **an employee of the Department of Justice division providing victim and survivor services** or [is] a victim's advocate at a victim services provider.

(c) "Verification" means:

(A) A copy of a valid order of protection issued by a court pursuant to ORS 30.866, 107.095 (1)(c), 107.716, 107.718, 107.725, 107.730, 163.738, 163.765, 163.767 or 163.775 or any other federal, state, local or tribal court order that restrains a person from contact with the tenant;

(B) A copy of a federal agency or state, local or tribal police report regarding an act of domestic violence, sexual assault, **bias crime** or stalking against the tenant;

(C) A copy of a conviction of any person for an act of domestic violence, sexual assault, **bias crime** or stalking against the tenant; or

(D) A statement substantially in the form set forth in subsection (3) of this section.

(d) "Victim services provider" means:

(A) A nonprofit agency or program receiving moneys administered by the Department of Human Services or the Department of Justice that offers safety planning, counseling, support or advocacy to victims of domestic violence, sexual assault, **bias crime** or stalking; or

(B) A prosecution-based victim assistance program or unit.

(2)(a) If a tenant gives a landlord at least 14 days' written notice, and the notice so requests, the landlord shall release the tenant and any immediate family member of the tenant from the rental agreement.

(b) The notice given by the tenant must specify the release date and must list the names of any immediate family members to be released in addition to the tenant.

(c) The notice must be accompanied by verification that the tenant:

(A) Is protected by a valid order of protection; or

(B) Has been the victim of domestic violence, sexual assault, **bias crime** or stalking within the 90 days preceding the date of the notice. For purposes of this subparagraph, any time the perpetrator was incarcerated or residing more than 100 miles from the victim's home does not count as part of the 90-day period.

(3) A verification statement must be signed by the tenant and the qualified third party and be in substantially the following form:

QUALIFIED THIRD PARTY
VERIFICATION

Name of qualified third party

Name of tenant

PART 1. STATEMENT BY TENANT

I, _____ (Name of tenant), do hereby state as follows:

(A) I or a minor member of my household have been a victim of domestic violence, sexual assault, **bias crime** or stalking, as those terms are defined in ORS 90.100.

(B) The most recent incident(s) that I rely on in support of this statement occurred on the following date(s): _____.

_____ The time since the most recent incident took place is less than 90 days; or

_____ The time since the most recent incident took place is less than 90 days if periods when the perpetrator was incarcerated or was living more than 100 miles from my home are not counted. The perpetrator was incarcerated from _____ to _____. The perpetrator lived more than 100 miles from my home from _____ to _____.

(C) I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

(Signature of tenant)
Date: _____

PART 2. STATEMENT BY QUALIFIED THIRD PARTY

I, _____ (Name of qualified third party), do hereby verify as follows:

(A) I am a law enforcement officer, attorney or licensed health professional or a victim's advocate with a victims services provider, as defined in ORS 90.453.

(B) My name, business address and business telephone are as follows:

(C) The person who signed the statement above has informed me that the person or a minor member of the person's household is a victim of domestic violence, sexual assault, **bias crime** or stalking, based on incidents that occurred on the dates listed above.

(D) I reasonably believe the statement of the person above that the person or a minor member of the person's household is a victim of domestic violence, sexual assault, **bias crime** or stalking, as those terms are defined in ORS 90.100. I understand that the person who made the statement may use this document as a basis for gaining a release from the rental agreement with the person's landlord.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

(Signature of qualified third party making this statement)
Date: _____

(4) A tenant and any immediate family member who is released from a rental agreement pursuant to subsection (2) of this section:

- (a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and
- (b) Is not subject to any fee solely because of termination of the rental agreement.

(5) Notwithstanding the release from a rental agreement of a tenant who is a victim of domestic violence, sexual assault, **bias crime** or stalking and any tenant who is an immediate family member of that tenant, other tenants remain subject to the rental agreement.

(6) A landlord may not disclose any information provided by a tenant under this section to a third party unless the disclosure is:

- (a) Consented to in writing by the tenant;
- (b) Required for use in an eviction proceeding;
- (c) Made to a qualified third party; or
- (d) Required by law.

(7) The provision of a verification statement under subsection (2) of this section does not waive the confidential or privileged nature of a communication between the victim of domestic violence, sexual assault, **bias crime** or stalking and a qualified third party.

SECTION 2a. ORS 90.456 is amended to read:

90.456. Notwithstanding the release of a tenant who is a victim of domestic violence, sexual assault, **bias crime** or stalking, and any immediate family members of that tenant, from a rental agreement under ORS 90.453 or the exclusion of a perpetrator of domestic violence, sexual assault, **bias crime** or stalking as provided in ORS 90.459 or 105.128, if there are any remaining tenants of the dwelling unit, the tenancy shall continue for those tenants. Any fee, security deposit or prepaid rent paid by the victim, perpetrator or other tenants shall be applied, accounted for or refunded by the landlord following termination of the tenancy and delivery of possession by the remaining tenants as provided in ORS 90.300 and 90.302.

SECTION 2b. ORS 90.459 is amended to read:

90.459. (1) A tenant may give actual notice to the landlord that the tenant is a victim of domestic violence, sexual assault, **bias crime** or stalking and may request that the locks to the dwelling unit be changed. A tenant is not required to provide verification of the domestic violence, sexual assault, **bias crime** or stalking to initiate the changing of the locks.

(2) A landlord who receives a request under subsection (1) of this section shall promptly change the locks to the tenant's dwelling unit at the tenant's expense or shall give the tenant permission to change the locks. If a landlord fails to promptly act, the tenant may change the locks without the landlord's permission. If the tenant changes the locks, the tenant shall give a key to the new locks to the landlord.

(3) If the perpetrator of the domestic violence, sexual assault, **bias crime** or stalking is a tenant in the same dwelling unit as the victim:

(a) Before the landlord or tenant changes the locks under this section, the tenant must provide the landlord with a copy of an order issued by a court pursuant to ORS 107.716 or 107.718 or any other federal, state, local or tribal court that orders the perpetrator to move out of the dwelling unit.

(b) The landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit or provide keys to the perpetrator, during the term of the court order or after expiration of the court order, or to provide the perpetrator access to the perpetrator's personal property within the dwelling unit. Notwithstanding ORS 90.425, 90.435 or 90.675, if a landlord complies completely and in good faith with this section, the landlord is not liable to a perpetrator excluded from the dwelling unit.

(c) The perpetrator is jointly liable with any other tenant of the dwelling unit for rent or damages to the dwelling unit incurred prior to the date the perpetrator was excluded from the dwelling unit.

(d) Except as provided in subsection (2) of this section, the landlord may not require the tenant to pay additional rent or an additional deposit or fee because of the exclusion of the perpetrator.

(e) The perpetrator's tenancy terminates by operation of law upon an order described in paragraph (a) of this subsection becoming a final order.

SECTION 2c. ORS 90.555 is amended to read:

90.555. (1) As used in this section:

(a) "Actively markets for sale" means that the facility tenant:

(A) Places a for-sale sign on the dwelling or home;

(B) Retains a broker, real estate agent, or manufactured structure dealer to assist in the sale; and

(C) Advertises the dwelling or home for sale in a newspaper or online.

(b) "Facility landlord" means the landlord of the facility.

(c) "Facility tenant" means the owner of the manufactured dwelling or floating home, who is the tenant of the facility landlord under the rental agreement.

(d) "Rental agreement" means the rental agreement between the facility landlord and facility tenant.

(e) "Renter" means a person other than the facility tenant who is lawfully occupying the manufactured dwelling or floating home under a subleasing agreement.

(f) "Subleasing agreement" means the written agreement between the facility landlord, facility tenant, and renter concerning the occupancy of the renter and the rights of the parties.

(2) A facility tenant may not rent the facility tenant's manufactured dwelling or floating home to another person for a period exceeding three days unless the facility landlord, facility tenant and renter enter into a written subleasing agreement specifying the rights and obligations of the facility landlord, facility tenant and renter during the renter's occupancy of the dwelling or home. The subleasing agreement shall require the renter to timely pay to the facility landlord the space rent, any separately assessed fees payable under the rental agreement and any separately billed utility or service charge described in ORS 90.560 to 90.584. The subleasing agreement shall also grant the renter the same rights as the facility tenant to cure a violation of the rental agreement for the facility space, to require the facility landlord to comply with ORS 90.730 and to be protected from retaliatory conduct under ORS 90.765. This subsection does not authorize a facility tenant to sublease to a renter in violation of the rental agreement.

(3) Notwithstanding ORS 90.100 [(48)] (49), a facility tenant who enters into a subleasing agreement remains the tenant of the facility space and retains all rights and obligations under the rental agreement and this chapter. The occupancy by a renter does not constitute abandonment of the dwelling or home by the facility tenant.

(4) The rights and obligations of the renter under a subleasing agreement are in addition to the rights and obligations retained by the facility tenant under subsection (3) of this section and any rights or obligations of the facility tenant and renter under ORS 90.100 to 90.465.

(5) Unless otherwise provided in the subleasing agreement, and without regard to whether the facility landlord terminates the rental agreement, a facility landlord may terminate a subleasing agreement:

(a) Without cause by giving the renter written notice not less than 30 days prior to the termination;

(b) If a condition described in ORS 90.380 (5)(b) exists for the facility space, by giving the renter the same notice to which the facility tenant is entitled under ORS 90.380 (5)(b); or

(c) Subject to the right to cure:

(A) For nonpayment of facility space rent under ORS 90.394 or 90.630; or

(B) For any conduct by the renter that would be a violation of the rental agreement under ORS 90.396 or 90.398 if committed by the facility tenant.

(6) Upon termination of a subleasing agreement by the facility landlord, whether with or without cause, the renter and the facility tenant are excused from continued performance under any subleasing agreement.

(7)(a) If, during the term of a subleasing agreement, the facility landlord gives notice to the facility tenant of a rental agreement violation, a law or ordinance violation or the facility's closure,

conversion or sale, the landlord shall also promptly give a copy of the notice to the renter. The giving of notice to the renter does not constitute notice to the facility tenant unless the facility tenant has expressly appointed the renter as the facility tenant's agent for purposes of receiving notice.

(b) If the facility landlord gives notice to the renter that the landlord is terminating the subleasing agreement, the landlord shall also promptly give a copy of the notice to the facility tenant by written notice.

(c) If, during the term of a subleasing agreement, the facility tenant gives notice to the facility landlord of a rental agreement violation, termination of tenancy or sale of the manufactured dwelling or floating home, the facility tenant shall also promptly give a copy of the notice to the renter.

(d) If the renter gives notice to the facility landlord of a violation of ORS 90.730, the renter shall also promptly give a copy of the notice to the facility tenant.

(8) Before entering into a sublease agreement, the facility landlord may screen a renter under ORS 90.303, but may not apply to the renter credit and conduct screening criteria that is more restrictive than the landlord applies to applicants for a tenancy of a dwelling or home that is either owned by the landlord or on consignment with the landlord under ORS 90.680.

(9) Notwithstanding subsection (2) of this section, if a facility landlord rents or has a policy of renting manufactured dwellings or floating homes that are listed for sale by the facility landlord, the facility landlord may not prohibit the facility tenant from entering into a subleasing agreement while the facility tenant actively markets for sale the facility tenant's manufactured dwelling or floating home.

SECTION 3. ORS 90.634 is amended to read:

90.634. (1) A landlord may not assert a lien under ORS 87.162 for dwelling unit rent against a manufactured dwelling or floating home located in a facility. Notwithstanding ORS 90.100 [(48)] (49) and 90.675 and regardless of whether the owner of a manufactured dwelling or floating home occupies the dwelling or home as a residence, a facility landlord that is entitled to unpaid rent and receives possession of the facility space from the sheriff following restitution pursuant to ORS 105.161 may sell or dispose of the dwelling or home as provided in ORS 90.675.

(2) If a manufactured dwelling or floating home was occupied immediately prior to abandonment by a person other than the facility tenant, and the name and address of the person are known to the landlord, a landlord selling or disposing of the dwelling or home under subsection (1) of this section shall promptly send the person a copy of the notice sent to the facility tenant under ORS 90.675 (3). Notwithstanding ORS 90.425, the facility landlord may sell or dispose of goods left in the dwelling or home or upon the dwelling unit by the person in the same manner as if the goods were left by the facility tenant. If the name and address of the person are known to the facility landlord, the landlord shall promptly send the person a copy of the written notice sent to the facility tenant under ORS 90.425 (3) and allow the person the time described in the notice to arrange for removal of the goods.

SECTION 3a. ORS 90.767 is amended to read:

90.767. (1) For disputes subject to mediation under this section, if any party initiates mediation under this section, mediation is mandatory. A landlord of a tenancy subject to ORS 90.505 to 90.850 shall establish a mediation policy to resolve disputes related to:

(a) Landlord or tenant compliance with the rental agreement or with the provisions of this chapter;

(b) Landlord or tenant conduct within the facility; or

(c) The modification of a rule or regulation under ORS 90.610.

(2) A mediation policy under this section must include:

(a) The process and format by which a tenant or landlord may initiate mediation.

(b) The names and contact information, including the phone number and website address, for mediation services available through the referral program provided by the Housing and Community Services Department under ORS 456.403 (2) and any other no-cost mediation service acceptable to the landlord.

(c) Information substantially explaining requirements for mediation under subsections (3) to (7) of this section.

(3) Mediation conducted under this section:

(a) In addition to any process authorized under subsection (2)(a) of this section, may be initiated by the landlord or tenant's contact with the Housing and Community Services Department in a format required by the department.

(b) May not resolve any matters except by the agreement of all parties.

(c) Must require that communications from all parties are held strictly confidential and may not be used in any legal proceedings.

(d) May be used to resolve:

(A) Disputes between the landlord and one or more tenants, initiated by any party; and

(B) Disputes between any two or more tenants, initiated only by the landlord.

(e) Must allow a party to designate any person, including a nonattorney, to represent the interests of the party provided that the person has the authority to bind that party to any resolution of the dispute.

(f) Must comply with any other provisions as the Housing and Community Services Department may require by rule.

(4) Parties must participate in mediation under this section by making a good faith effort to schedule mediation within 30 days after mediation is initiated, attending and participating in mediation and cooperating with reasonable requests of the mediator.

(5) After mediation has been initiated and while it is ongoing under this section:

(a) Any statute of limitations related to the dispute is tolled.

(b) A party may not file an action related to the dispute, including an action for possession under ORS 105.110.

(c)(A) A tenant shall continue paying rent to the landlord.

(B) A landlord receiving rent under this paragraph has not accepted rent for the purposes of ORS 90.412 (2), provided that the landlord refunds the rent within 10 days following the conclusion of mediation.

(6) Unless specifically provided for in a mediation policy established under this section, or agreed to by all parties, no party may initiate mediation for:

(a) Facility closures consistent with ORS 90.645 or 90.671.

(b) Facility sales consistent with ORS 90.842 to 90.850.

(c) Rent increases consistent with ORS 90.600.

(d) Rent payments or amounts owed.

(e) Tenant violations alleged in a termination notice given under ORS 90.394, 90.396 or 90.630 (10).

(f) Violations of an alleged unauthorized person in possession in a notice given under ORS 90.403.

(g) Unless initiated by the victim, a dispute involving allegations of domestic violence, sexual assault, **bias crime** or stalking or a dispute between the victim and the alleged perpetrator.

(h) A dispute arising after the termination of the tenancy, including under ORS 90.425, 90.675 or 105.161.

(7) This section does not require any party to:

(a) Reach an agreement on any or all issues submitted to mediation;

(b) Participate in more than one mediation session or participate for an unreasonable length of time in a session; or

(c) Waive or forgo any rights or remedies or the use of any other available informal dispute resolution process.

(8) A mediator in a mediation under this section shall notify the Housing and Community Services Department as to whether the dispute was resolved through mediation but may not provide the department with the contents of any resolution.

(9) A landlord may unilaterally amend a rental agreement or facility rules and regulations to comply with this section.

(10) If a party refuses to participate in good faith in mediation with another party or uses mediation to harass another party, the other party:

(a) Has a defense to a claim related to the subject of the dispute for which mediation was sought; and

(b) Is entitled to damages of one month's rent against the party.

SECTION 4. ORS 105.137 is amended to read:

105.137. In the case of a dwelling unit to which ORS chapter 90 applies:

(1) If the plaintiff appears and the defendant fails to appear at the first appearance, a default judgment shall be entered in favor of the plaintiff for possession of the premises and costs and disbursements.

(2) If the defendant appears and the plaintiff fails to appear at the first appearance, a default judgment shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and disbursements.

(3) An attorney at law shall be entitled to appear on behalf of any party, but attorney fees may not be awarded to the plaintiff if the defendant does not contest the action.

(4) If the plaintiff dismisses the action before the first appearance, a judgment of dismissal shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and disbursements. The defendant may not recover attorney fees for prejudgment legal services provided after the delivery of written notice of the dismissal by the plaintiff to the defendant, or to an attorney for the defendant, in the manner provided under ORS 90.155.

(5) The plaintiff or an agent of the plaintiff may obtain a continuance of the action for as long as the plaintiff or the agent of the plaintiff deems necessary to obtain the services of an attorney at law.

(6) If both parties appear in court on the date contained in the summons, the court shall set the matter for trial as soon as practicable, unless the court is advised by the parties that the matter has been settled. The trial shall be scheduled no later than 15 days from the date of such appearance. If the matter is not tried within the 15-day period, and the delay in trial is not attributable to the landlord, the court shall order the defendant to pay rent that is accruing into court, provided the court finds after hearing that entry of such an order is just and equitable.

(7)(a) The court shall permit an unrepresented defendant to proceed to trial by directing the defendant to file an answer in writing on a form which shall be available from the court clerk, and to serve a copy upon the plaintiff on the same day as first appearance.

(b) The answer shall be in substantially the following form:

IN THE _____ COURT FOR
THE COUNTY OF _____

(Landlord),)
)
Plaintiff(s),)
)
vs.) No. _____
)
(Tenant),)
)
Defendant(s).)

ANSWER

I (we) deny that the plaintiff(s) is (are) entitled to possession because:

— The landlord did not make repairs.
List any repair problems: _____

— The landlord is attempting to evict me (us) because of my (our) complaints (or the eviction is otherwise retaliatory).

— The landlord is attempting to evict me because of my status as a victim of domestic violence, sexual assault, **bias crime** or stalking.

— The eviction notice is wrong.

— List any other defenses: _____

I (we) may be entitled as the prevailing party to recover attorney fees from plaintiff(s) if I (we) obtain legal services to defend this action pursuant to ORS 90.255.

I (we) ask that the plaintiff(s) not be awarded possession of the premises and that I (we) be awarded my (our) costs and disbursements and attorney fees, if applicable, or a prevailing party fee.

Date

Signature of defendant(s)

(8) If an unrepresented defendant files an answer as provided in subsection (7) of this section, the answer may not limit the defenses available to the defendant at trial under ORS chapter 90. If such a defendant seeks to assert at trial a defense not fairly raised by the answer, the plaintiff shall be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

NO CONTACT ORDERS IN BIAS PROSECUTIONS

SECTION 5. ORS 135.247 is amended to read:

135.247. (1) When a release assistance officer makes a release decision under ORS 135.235 involving a defendant charged with a sex crime, **a crime involving bias** or a crime constituting domestic violence, the release assistance officer shall include in the decision an order that the defendant be prohibited from contacting or attempting to contact the victim, either directly or through a third party, while the defendant is in custody. The release assistance officer shall provide the defendant with a written copy of the order.

(2) When a defendant who is charged with a sex crime, **a crime involving bias** or a crime that constitutes domestic violence is arraigned, the court shall enter an order continuing an order issued under subsection (1) of this section or, if no such order has been entered, enter an order prohibiting the defendant from contacting or attempting to contact the victim, either directly or through a third party, while the defendant is in custody.

(3) Except as provided in subsection (4) of this section, an order described in subsection (1) or (2) of this section:

(a) Shall apply at any time during which the defendant is held in custody on the charge; and

(b) Shall remain valid until the defendant is sentenced for the crime, the charge is dismissed or the defendant is acquitted of the crime.

(4) Upon petition of the victim, the court may enter an order terminating an order entered under subsection (1) or (2) of this section if the court finds, after a hearing on the petition, that terminating the order is in the best interests of the parties and the community.

(5) An order described in subsection (1) or (2) of this section shall not limit contact with the victim by the defense attorney, or an agent of the defense attorney other than the defendant, in the manner prescribed by ORS 135.970 (2).

(6) As used in this section:

(a) **“Crime involving bias” means intimidation by display of a noose under ORS 163.191, bias crime in the second degree under ORS 166.155 or bias crime in the first degree under ORS 166.165.**

[(a)] (b) “Domestic violence” has the meaning given that term in ORS 135.230.

[(b)] (c) “Sex crime” has the meaning given that term in ORS 163A.005.

HOTLINE CONFIDENTIALITY

SECTION 6. ORS 147.380 is amended to read:

147.380. (1) As used in this section:

(a) “Bias crime” means the commission, attempted commission or alleged commission of an offense described in ORS 166.155 or 166.165.

(b) “Bias incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. “Bias incident” does not include any incident in which probable cause of the commission of a crime is established by the investigating law enforcement officer.

(c) “Hate crimes hotline” means the telephone hotline established by the Department of Justice under subsection (3) of this section.

(d) “Local victims’ services” means services provided to a victim of a bias crime or bias incident, including but not limited to safety planning, trauma management and data reporting, by an entity located in the same geographic area as the law enforcement agency that responds to the bias crime or bias incident.

(2)(a) A law enforcement agency that responds to a report of a bias incident shall refer the victim of the bias incident to qualifying local victims’ services.

(b) The Department of Justice shall by rule designate qualifying local victims’ services.

(c) If qualifying local victims’ services are unavailable, the law enforcement agency shall refer the victim of the bias incident to the hate crimes hotline.

(3) The Department of Justice shall establish a staffed hate crimes telephone hotline dedicated to assisting the victims of bias crimes and bias incidents.

(4) There is created in the Department of Justice the position of Hate Crimes Response Coordinator. The Hate Crimes Response Coordinator shall:

(a) Respond to all reports of bias crimes and bias incidents made to the hate crimes hotline.

(b) Provide assistance to victims of bias crimes and bias incidents that is culturally competent and designed to reduce the effects of trauma, prevent further trauma and reach a diverse community.

(c) Assist with safety planning for victims of bias crimes and bias incidents.

(d) Coordinate with local nongovernmental organizations and service providers in assisting victims of bias crimes and bias incidents.

(e) Develop training for nongovernmental organizations and service providers to standardize methods for assisting victims of bias crimes and bias incidents.

(5)(a) The Department of Justice shall:

(A) In coordination with the Oregon Criminal Justice Commission, develop a standardized intake process for all reports of bias crimes and bias incidents made to the department.

(B) Collect all data possible concerning the character, location and impacted protected class of any bias crime or bias incident reported to the department.

(C) Report to the commission continually and at least quarterly all data collected pursuant to this subsection.

(b) The data reported to the commission under this subsection may not contain information that [reveals] **might reveal** the identity of any individual.

(6) Any data collected by the Department of Justice under this section that [reveals] **might reveal** the identity of any individual is exempt from public disclosure.

(7) The Department of Justice may adopt rules to carry out the provisions of this section.

BIAS CRIME VICTIM TO BE CONSULTED DURING PLEA NEGOTIATIONS

SECTION 7. ORS 147.512 is amended to read:

147.512. (1) Notwithstanding ORS 147.510, at the beginning of each judicial settlement conference, plea hearing or sentencing hearing, the prosecuting attorney shall inform the court whether the victim is present. If the victim is not present and the case involves a defendant charged with a violent felony **or bias crime in the first degree under ORS 166.165**, the prosecuting attorney shall inform the court whether the victim was informed of the conference or hearing.

(2) In any case involving a defendant charged with a violent felony **or bias crime in the first degree under ORS 166.165**:

(a) If the victim requests, the prosecuting attorney shall make reasonable efforts to consult the victim before making a plea offer and before entering into a final plea agreement.

(b) Before the court accepts a plea of guilty or no contest:

(A) If the victim is present, the court shall ask whether the victim was consulted regarding plea negotiations, if the victim agrees or disagrees with the plea agreement as presented to the court and whether the victim wishes to be heard regarding the plea agreement.

(B) If the victim is not present, the court shall ask the prosecuting attorney whether the victim requested to be informed and consulted regarding plea negotiations. If the victim made such a request, the court shall ask the prosecuting attorney what reasonable efforts to inform and consult the victim concerning plea negotiations were made and whether the victim agrees or disagrees with the plea agreement.

(c) If the court finds that the victim requested consultation regarding plea negotiations and that the prosecuting attorney failed to make reasonable efforts to consult the victim, the court shall direct the prosecuting attorney to make reasonable efforts to consult the victim and may not accept the plea unless the court makes a finding on the record that the interests of justice require the acceptance of the plea.

(3) Before the court imposes sentence, the court shall ask whether the victim wishes to express the views described in ORS 137.013.

ADDRESS CONFIDENTIALITY PROGRAM

SECTION 8. ORS 192.820 is amended to read:

192.820. As used in ORS 192.820 to 192.868:

(1) "Actual address" means:

(a) A residential, work or school street address of an individual specified on the application of the individual to be a program participant; or

(b) The name of the county in which the program participant resides or the name or number of the election precinct in which the program participant is registered to vote.

(2) "Address Confidentiality Program" means the program established under ORS 192.822.

(3) "Application assistant" means an employee of or a volunteer serving a public or private entity designated by the Attorney General under ORS 192.854 to assist individuals with applications to participate in the Address Confidentiality Program.

(4) "Program participant" means an individual accepted into the Address Confidentiality Program under ORS 192.820 to 192.868.

(5) "Public body" has the meaning given that term in ORS 174.109.

(6) "Public record" has the meaning given that term in ORS 192.311.

(7) "Substitute address" means an address designated by the Attorney General under the Address Confidentiality Program.

(8) "Victim of a sexual offense" means:

(a) An individual against whom a sexual offense has been committed, as described in ORS 163.305 to 163.467, 163.427, 163.466 or 163.525; or

(b) Any other individual designated by the Attorney General by rule.

(9) "**Victim of bias**" means:

(a) **An individual against whom a bias crime or bias incident, as those terms are defined in ORS 147.380, has been committed; or**

(b) **Any other individual designated by the Attorney General by rule.**

[(9)] (10) "Victim of domestic violence" means:

(a) An individual against whom domestic violence has been committed, as defined in ORS 135.230, 181A.355 or 411.117;

(b) An individual who has been a victim of abuse, as defined in ORS 107.705; or

(c) Any other individual designated a victim of domestic violence by the Attorney General by rule.

[(10)] (11) "Victim of human trafficking" means:

(a) An individual against whom an offense described in ORS 163.263, 163.264 or 163.266 has been committed; or

(b) Any other individual designated by the Attorney General by rule. In adopting rules under this subsection, the Attorney General shall consider individuals against whom an act recognized as a severe form of trafficking in persons under 22 U.S.C. 7102 has been committed.

[(11)] (12) "Victim of stalking" means:

(a) An individual against whom stalking has been committed, as described in ORS 163.732; or

(b) Any other individual designated by the Attorney General by rule.

SECTION 9. ORS 192.822 is amended to read:

192.822. (1) The Address Confidentiality Program is established in the Department of Justice to:

(a) Protect the confidentiality of the actual address of a victim of domestic violence, a sexual offense, stalking, **bias** or human trafficking; and

(b) Prevent assailants or potential assailants of the victim from finding the victim through public records.

(2) The Attorney General shall designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of all legal process in this state and receiving and forwarding first-class, certified or registered mail.

(3) The Attorney General is not required to forward any packages or mail other than first-class, certified or registered mail to the program participant.

(4) The Attorney General is not required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered.

SECTION 10. ORS 192.826 is amended to read:

192.826. (1) Any of the following individuals with the assistance of an application assistant may file an application with the Attorney General to participate in the Address Confidentiality Program:

(a) An adult individual.

(b) A parent or guardian acting on behalf of a minor when the minor resides with the parent or guardian.

(c) A guardian acting on behalf of an incapacitated individual.

(2) The application must be dated, signed and verified by the applicant and the application assistant who assisted in the preparation of the application.

(3) The application must contain all of the following:

(a) A statement by the applicant that the applicant or the applicant's child or ward is a victim of domestic violence, a sexual offense, stalking, **bias** or human trafficking and that the applicant fears for the applicant's safety or the safety of the applicant's child or ward.

(b) Evidence that the applicant or the applicant's child or ward is a victim of domestic violence, a sexual offense, stalking, **bias** or human trafficking. This evidence may include any of the following:

(A) Law enforcement, court or other federal, state or local government records or files;

(B) Documentation from a public or private entity that provides assistance to victims of domestic violence, a sexual offense, stalking, **bias** or human trafficking if the applicant or the applicant's child or ward is an alleged victim of domestic violence, a sexual offense, stalking, **bias** or human trafficking;

(C) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, stalking, **bias** or human trafficking; or

(D) Other forms of evidence as determined by the Attorney General by rule.

(c) A statement by the applicant that disclosure of the actual address of the applicant would endanger the safety of the applicant or the safety of the applicant's child or ward.

(d) A statement by the applicant that the applicant:

(A) Resides at a location in this state that is not known by assailants or potential assailants of the applicant or the applicant's child or ward; and

(B) Will not disclose the location to assailants or potential assailants of the applicant or the applicant's child or ward while the applicant is a program participant.

(e) Written consent permitting the Attorney General to act as an agent for the applicant for the service of all legal process in this state and the receipt of first-class, certified or registered mail.

(f) The mailing address and telephone number at which the Attorney General can contact the applicant.

(g) The actual address that the applicant requests not be disclosed by the Attorney General that directly relates to the increased risk of the applicant or the applicant's child or ward as a victim of domestic violence, a sexual offense, stalking, **bias** or human trafficking.

(h) A sworn statement by the applicant that to the best of the applicant's knowledge the information contained in the application is true.

(i) A recommendation by an application assistant that the applicant be a participant in the Address Confidentiality Program.

(4) Upon the filing of a properly completed application and upon approval by the Attorney General, the Attorney General shall certify the applicant as a program participant.

(5) Upon certification, the Attorney General shall issue an Address Confidentiality Program authorization card to the program participant. The Address Confidentiality Program authorization card is valid as long as the program participant remains certified under the program.

(6) The term of certification shall be for a period of time determined by the Attorney General by rule, unless prior to the end of the period one of the following occurs:

(a) The program participant withdraws the certification by filing with the Attorney General a request for withdrawal signed by the program participant and acknowledged in writing by a notary public or an application assistant; or

(b) The Attorney General cancels the certification under ORS 192.834.

(7) A program participant may renew the certification by filing an application for renewal with the Attorney General at least 30 days prior to expiration of the current certification.

EXPANSION OF PROTECTED LEAVE TO BIAS VICTIMS

SECTION 11. ORS 659A.270 is amended to read:

659A.270. As used in ORS 659A.270 to 659A.285:

(1) "Covered employer" means an employer who employs six or more individuals in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault, **bias** or stalking, or in the year immediately preceding the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault, **bias** or stalking.

(2) “Eligible employee” means an employee who is a victim of domestic violence, harassment, sexual assault, **bias** or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault, **bias** or stalking.

(3) “Protective order” means an order authorized by ORS 30.866, 107.095 (1)(c), 107.700 to 107.735, 124.005 to 124.040, 163.730 to 163.750 or 163.760 to 163.777 or any other order that restrains an individual from contact with an eligible employee or the employee’s minor child or dependent.

(4) “Victim of bias” means:

(a) An individual who has been a victim of a bias crime as defined in ORS 147.380; or

(b) Any other individual designated as a victim of bias by rule adopted under ORS 659A.805.

[(4)] (5) “Victim of domestic violence” means:

(a) An individual who has been a victim of abuse, as defined in ORS 107.705; or

(b) Any other individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.

[(5)] (6) “Victim of harassment” means:

(a) An individual against whom harassment has been committed as described in ORS 166.065.

(b) Any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.

[(6)] (7) “Victim of sexual assault” means:

(a) An individual against whom a sexual offense has been committed as described in ORS 163.305 to 163.467, 163.472 or 163.525; or

(b) Any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.

[(7)] (8) “Victim of stalking” means:

(a) An individual against whom stalking has been committed as described in ORS 163.732;

(b) An individual designated as a victim of stalking by rule adopted under ORS 659A.805; or

(c) An individual who has obtained a court’s stalking protective order or a temporary court’s stalking protective order under ORS 30.866.

[(8)] (9) “Victim services provider” means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault, **bias** or stalking.

SECTION 12. ORS 659A.272 is amended to read:

659A.272. Except as provided in ORS 659A.275, a covered employer shall allow an eligible employee to take reasonable leave from employment for any of the following purposes:

(1) To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee’s minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault, **bias** or stalking.

(2) To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to, [or] harassment or stalking of **or the commission of a bias crime against** the eligible employee or the employee’s minor child or dependent.

(3) To obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault, **bias** or stalking.

(4) To obtain services from a victim services provider for the eligible employee or the employee’s minor child or dependent.

(5) To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee’s minor child or dependent.

SECTION 13. ORS 659A.280 is amended to read:

659A.280. (1) An eligible employee shall give the covered employer reasonable advance notice of the employee’s intention to take leave for the purposes identified in ORS 659A.272, unless giving the advance notice is not feasible.

- (2) The covered employer may require the eligible employee to provide certification that:
- (a) The employee or the employee's minor child or dependent is a victim of domestic violence, harassment, sexual assault, **bias** or stalking; and
- (b) The leave taken is for one of the purposes identified in ORS 659A.272.
- (3) The eligible employee shall provide the certification within a reasonable time after receiving the covered employer's request for the certification.
- (4) Any of the following constitutes sufficient certification:
- (a) A copy of a police report indicating that the eligible employee or the employee's minor child or dependent was a victim of domestic violence, harassment, sexual assault, **bias** or stalking.
- (b) A copy of a protective order or other evidence from a court, administrative agency or attorney that the eligible employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, **bias** or stalking.
- (c) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy, **employee of the Department of Justice division providing victim and survivor services** or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, **bias** or stalking.
- (5) All records and information kept by a covered employer regarding an eligible employee's leave under ORS 659A.270 to 659A.285, including the fact that the employee has requested or obtained leave under ORS 659A.272, are confidential and may not be released without the express permission of the employee, unless otherwise required by law.

SECTION 14. ORS 659A.283 is amended to read:

659A.283. (1) As used in this section, "public employer" means the State of Oregon.

(2)(a) Notwithstanding ORS 659A.285, an eligible employee of the public employer who is a victim of domestic violence, a victim of harassment, a victim of sexual assault, **a victim of bias** or a victim of stalking shall be granted leave with pay from employment for the purposes specified in ORS 659A.272.

(b) Leave with pay authorized by this section is in addition to any vacation, sick, personal business or other form of paid or unpaid leave available to the eligible employee. However, an eligible employee must exhaust all other forms of paid leave before the employee may use the paid leave established under this section.

(c) An eligible employee may take up to 160 hours of leave with pay authorized by this section in each calendar year.

(3) If the public employer has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, a victim of harassment, a victim of sexual assault, **a victim of bias** or a victim of stalking and that any direct or indirect communication to the eligible employee related to the victimization of the employee is made or attempted to be made in the workplace, the public employer of the employee shall immediately inform the employee and offer to report the communication to law enforcement.

(4) The public employer shall annually inform all employees of the provisions of ORS 659A.290.

SECTION 15. ORS 659A.290 is amended to read:

659A.290. (1) As used in this section:

(a) "Reasonable safety accommodation" may include, but is not limited to, a transfer, reassignment, modified schedule, use of available paid leave from employment, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, harassment, sexual assault or stalking.

(b) "**Victim of bias**" has the meaning given that term in ORS 659A.270.

[(b)] (c) "Victim of domestic violence" has the meaning given that term in ORS 659A.270.

[(c)] (d) "Victim of harassment" has the meaning given that term in ORS 659A.270.

[(d)] (e) "Victim of sexual assault" has the meaning given that term in ORS 659A.270.

[(e)] (f) "Victim of stalking" has the meaning given that term in ORS 659A.270.

(2) It is an unlawful employment practice for an employer to:

(a) Refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, harassment, sexual assault, **bias** or stalking.

(b) Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, harassment, sexual assault, **bias** or stalking.

(c) Refuse to make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, harassment, sexual assault, **bias** or stalking, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer, as determined under ORS 659A.121.

(3)(a) Prior to making a reasonable safety accommodation, an employer may require an individual to provide certification that the individual is a victim of domestic violence, harassment, sexual assault, **bias** or stalking.

(b) An individual must provide a certification required under paragraph (a) of this subsection within a reasonable time after receiving the employer's request for certification.

(c) Any of the following constitutes sufficient certification:

(A) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault, **bias** or stalking.

(B) A copy of a protective order or other evidence from a court, administrative agency or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, **bias** or stalking.

(C) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy, **employee of the Department of Justice division providing victim and survivor services** or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, **bias** or stalking.

(d) All records and information kept by an employer regarding a reasonable safety accommodation made for an individual are confidential and may not be released without the express permission of the individual, unless otherwise required by law.

ADDRESS CONFIDENTIALITY FOR HOTLINE STAFF

SECTION 16. ORS 802.250 is amended to read:

802.250. (1) An eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the eligible employee's residence address contain instead the address of the public agency employing the eligible employee. A request under this section shall:

(a) Be in a form specified by the department that provides for verification of the eligible employee's employment.

(b) Contain verification by the employing public agency of the eligible employee's employment with the public agency.

(2) Upon receipt of a request and verification under subsection (1) of this section, the department shall remove the eligible employee's residence address from its records, if necessary, and substitute therefor the address of the public agency employing the eligible employee. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the eligible employee may enter the address of the public agency employing the eligible employee on any driver or vehicle form issued by the department that requires an address.

(3) A public agency that verifies an eligible employee's employment under subsection (1) of this section shall notify the department within 30 days if the eligible employee ceases to be employed

by the public agency. The eligible employee shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(4) If an eligible employee is killed in the line of duty, a person who is a household member of the eligible employee may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the eligible employee for up to four years after the date of the death of the eligible employee. On or before the date on which the four-year period ends, the household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department.

(5) As used in this section, "eligible employee" means:

(a) A member of the State Board of Parole and Post-Prison Supervision.

(b) The Director of the Department of Corrections and an employee of an institution defined in ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(c) A parole and probation officer employed by the Department of Corrections and an employee of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Release Center, include the custody of persons committed to the custody of or transferred to the Release Center.

(d) A police officer appointed under ORS 276.021 or 276.023.

(e) An employee of the State Department of Agriculture who is classified as a brand inspector by the Director of Agriculture.

(f) An investigator of the Criminal Justice Division of the Department of Justice.

(g) A corrections officer as defined in ORS 181A.355.

(h) A federal officer. As used in this paragraph, "federal officer" means a special agent or law enforcement officer employed by:

(A) The Federal Bureau of Investigation;

(B) The United States Secret Service;

(C) The United States Citizenship and Immigration Services;

(D) The United States Marshals Service;

(E) The Drug Enforcement Administration;

(F) The United States Postal Service;

(G) The United States Customs and Border Protection;

(H) The United States General Services Administration;

(I) The United States Department of Agriculture;

(J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

(K) The Internal Revenue Service;

(L) The United States Department of the Interior; or

(M) Any federal agency if the person is empowered to effect an arrest with or without warrant for violations of the United States Code and is authorized to carry firearms in the performance of duty.

(i) An employee of the Department of Human Services or the Oregon Health Authority whose duties include personal contact with clients or patients of the department or the authority.

(j) Any judge of a court of this state.

(k) An employee of the Oregon Youth Authority or of a county juvenile department whose duties include personal contact with persons committed to the legal or physical custody of the authority or of the county juvenile department.

(L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

(m) An employee who provides educational services to persons who are clients or patients of the Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of the Psychiatric Security Review Board or who are under the custody or supervision of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, a community cor-

rections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, “employee who provides educational services” means a person who provides instruction, or services related to the instruction, of a subject usually taught in an elementary school, a secondary school or a community college or who provides special education and related services in other than a school setting and who works for:

- (A) An education service district or a community college district; or
- (B) A state officer, board, commission, bureau, department or division in the executive branch of state government that provides educational services.
- (n) An employee of the Oregon Liquor and Cannabis Commission who is:
 - (A) A regulatory specialist; or
 - (B) A regulatory manager.
- (o) A police officer as defined in ORS 801.395.
- (p) An employee whose duties include personal contact with criminal offenders and who is employed by a law enforcement unit, as defined in ORS 181A.355.
- (q) A civil code enforcement officer, as defined in ORS 192.345.
- (r) An assistant attorney general whose duties include the representation of the Department of Human Services in child welfare matters.
- (s) An employee of the Department of Justice who staffs the hate crimes hotline described in ORS 147.380.**

TRAINING PROGRAM FOR VICTIM ASSISTANCE PROGRAMS

SECTION 17. No later than January 1, 2025, the Department of Justice shall develop and begin delivering a training program for employees of district attorney victim assistance programs to assist the employees with providing services to victims of bias crimes as defined in ORS 147.380.

CAPTIONS

SECTION 18. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

Passed by House April 10, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 22, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State