

Senate Bill 166

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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**.

- Explicitly guarantees electors right to vote and right to secret ballot.
- Establishes that crime of aggravated harassment includes harassment against election worker. Punishes crime of harassment or aggravated harassment against election worker by maximum of five years' imprisonment, \$125,000 fine, or both.
- Alters requirements for annual county elections security plans.
- Removes requirement that name and number of precinct in which elector resides or precinct split of elector be included in lists of electors provided to political parties.

A BILL FOR AN ACT

1
2 Relating to elections; creating new provisions; and amending ORS 166.065, 166.070, 247.005, 247.948
3 and 254.074.

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

5 **SECTION 1.** ORS 247.005 is amended to read:

6 247.005. (1) **Each elector has the right to vote in any election in which the elector:**

7 (a) **Is qualified to vote;**

8 (b) **Has registered to vote in a manner authorized by law; and**

9 (c) **Casts a ballot in a manner authorized by law.**

10 (2) It is the policy of this state that all election laws and procedures shall be established and
11 construed to assist the elector in the exercise of the right of franchise.

12 **SECTION 2.** Section 3 of this 2023 Act is added to and made a part of ORS chapter 254.

13 **SECTION 3.** (1) **In each election, an elector has the right to cast the elector's ballot in
14 a confidential manner, with no other person knowing how the elector voted in the election.**

15 (2)(a) **The Secretary of State or county clerk may not disclose as a public record under
16 ORS 192.311 to 192.478 any information that would reveal how a particular elector voted in
17 an election.**

18 (b) **As used in this subsection, "information" may be defined by the secretary by rule.**

19 **SECTION 4.** ORS 166.065, as amended by section 2, chapter 114, Oregon Laws 2022, is amended
20 to read:

21 166.065. (1) A person commits the crime of harassment if the person intentionally:

22 (a) Harasses or annoys another person by:

23 (A) Subjecting such other person to offensive physical contact; or

24 (B) Publicly insulting such other person by abusive words or gestures in a manner intended and
25 likely to provoke a violent response;

26 (b) Subjects another to alarm by conveying a false report, known by the conveyor to be false,
27 concerning death or serious physical injury to a person, which report reasonably would be expected

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 to cause alarm; or

2 (c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict
3 serious physical injury on that person or to commit a felony involving the person or property of that
4 person or any member of that person's family, which threat reasonably would be expected to cause
5 alarm.

6 (2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone
7 or electronic device under the person's control to be used in violation of subsection (1) of this sec-
8 tion.

9 (b) Harassment that is committed under the circumstances described in subsection (1)(c) of this
10 section is committed in either the county in which the communication originated or the county in
11 which the communication was received.

12 (3) Harassment is a Class B misdemeanor.

13 (4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a
14 person violates:

15 (a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact
16 and:

17 (A) The offensive physical contact consists of touching the sexual or other intimate parts of the
18 other person; or

19 (B)(i) The victim of the offense is a family or household member of the person; and

20 (ii) The offense is committed in the immediate presence of, or is witnessed by, the person's or
21 the victim's minor child or stepchild or a minor child residing within the household of the person
22 or victim; or

23 (b) Subsection (1)(c) of this section and:

24 (A) The person has a previous conviction under subsection (1)(c) of this section and the victim
25 of the current offense was the victim or a member of the family of the victim of the previous offense;

26 (B) At the time the offense was committed, the victim was protected by a stalking protective
27 order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person
28 from contacting the victim;

29 (C) At the time the offense was committed, the person reasonably believed the victim to be un-
30 der 18 years of age and more than three years younger than the person; or

31 (D)(i) The person conveyed a threat to kill the other person or any member of the family of the
32 other person;

33 (ii) The person expressed the intent to carry out the threat; and

34 (iii) A reasonable person would believe that the threat was likely to be followed by action.

35 [(c)] **(5) Notwithstanding subsections (3) and (4) of this section, harassment is a Class C**
36 **felony if a person violates** subsection (1)(a)(A), (b) or (c) of this section by committing the crime
37 of harassment against:

38 [(A)] **(a)** An election worker who is performing the election worker's official duties at the time
39 the harassment occurs; or

40 [(B)] **(b)** An election worker because of an action taken or decision made by the election worker
41 during the performance of the election worker's official duties.

42 [(5)] **(6)** The Oregon Criminal Justice Commission shall classify harassment as described in
43 subsection (4)(a)(B) of this section as a person Class A misdemeanor under the rules of the com-
44 mission.

45 [(6)(a)] **(7)(a)** As used in this section:

(A) “Election worker” has the meaning given that term in ORS 247.965.

(B) “Electronic threat” means a threat conveyed by electronic mail, the Internet, a telephone text message or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.

(C) “Family or household member” has the meaning given that term in ORS 135.230.

(b) For purposes of subsection (4) of this section, an offense is witnessed if the offense is seen or directly perceived in any other manner by the minor child.

SECTION 5. ORS 166.070 is amended to read:

166.070. (1) A person commits the crime of aggravated harassment if the person, knowing that the other person is [a]:

(a) **A** staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member’s official duties;

(b) **A** public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer’s official duties; [or]

(c) **A** public safety officer, intentionally propels saliva at the public safety officer, and the saliva comes into physical contact with the public safety officer, while the public safety officer is acting in the course of official duty or as a result of the public safety officer’s official duties[.]; **or**

(d) An election worker, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the election worker while the election worker is acting in the course of official duty or as a result of the election worker’s official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) “Election worker” has the meaning given that term in ORS 247.965.

[(a)] **(b) “Public safety officer”** means an emergency medical services provider as defined in ORS 682.025, a regulatory specialist as defined in ORS 471.001 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181A.355.

[(b)] **(c) “Staff member”** has the meaning given that term in ORS 163.165.

SECTION 6. ORS 254.074 is amended to read:

254.074. (1)(a) Each county clerk shall file a county elections security plan with the Secretary of State not later than:

(A) [January 31 of each calendar year] **A date established for each calendar year by the Secretary of State by rule;** and

(B) One business day after any revision is made to the county elections security plan.

(b) A county elections security plan shall include, but is not limited to:

(A) A written security agreement entered into with any vendor handling ballots;

(B) Security procedures for transporting ballots;

(C) Security procedures at official places of deposit for ballots;

(D) Security procedures for processing ballots;

(E) Security procedures for ensuring the integrity of printed ballots;

(F) Cybersecurity procedures for the process of casting and tallying ballots that are consistent with best practices recommended by federal authorities such as the Cybersecurity

1 **and Infrastructure Security Agency of the United States Department of Homeland Security**
 2 **or the National Institute of Standards and Technology;**

3 [(E)] (G) Security procedures governing election observers;

4 [(F)] (H) Security procedures for ballots located in county elections work areas, buildings and
 5 storage areas;

6 [(G)] (I) Security procedures for vote tally systems, including computer access to vote tally
 7 systems;

8 [(H)] (J) The number and location of all video surveillance cameras within the elections office;

9 [(I)] (K) Security procedures for scanning ballots into a vote tally system before the date of the
 10 election, if applicable; [and]

11 [(J)] (L) Post-election ballot security[.]; **and**

12 **(M) Any other security measure that the Secretary of State requires by rule.**

13 (2) A security plan, **and all communications relating to the development and review of a**
 14 **security plan**, developed and filed under subsection (1) of this section [is] **are** confidential and not
 15 subject to disclosure under ORS 192.311 to 192.478.

16 (3) For each election, at the time the county clerk certifies the results of an election, the clerk
 17 shall submit to the Secretary of State a record of:

18 (a) The number of ballot envelopes received.

19 (b) The number of ballot envelopes accepted.

20 (c) The number of ballot envelopes not accepted.

21 (d) The number of ballot envelopes rejected.

22 (e) The number of tallied ballots.

23 (4) A county clerk may not scan ballots as described in ORS 254.478 unless the Secretary of
 24 State reviews and approves a security plan described in subsection (1) of this section.

25 **SECTION 7.** ORS 247.948 is amended to read:

26 247.948. (1)(a) Except as set forth in ORS 247.965 or 247.967, or as otherwise prohibited by law,
 27 the following information about an elector contained within an elector's registration file is subject
 28 to inspection as a public record under ORS 192.311 to 192.478 and shall be included in lists delivered
 29 under ORS 247.940 and 247.945:

30 (A) The major political party or minor political party, if any, with which an elector is affiliated;

31 (B) The residence address of an elector;

32 (C) The address where an elector receives a ballot;

33 (D) The year in which an elector was born;

34 [(E)] *The name or number of the precinct in which the elector resides;*

35 [(F)] *The precinct split of an elector;*

36 [(G)] (E) The administrative number for an elector that is used by the Secretary of State to
 37 determine which elections an elector may vote in;

38 [(H)] (F) The telephone number of an elector;

39 [(I)] (G) Whether or not an elector voted in previous elections; and

40 [(J)] (H) During an election period, the ballot status of an elector. In order to comply with this
 41 subparagraph, during the election period, the secretary shall maintain a list of the ballot status of
 42 electors. The secretary shall update the list, and make available an updated version of the list, on
 43 each business day of the election period.

44 (b) As used in this subsection:

45 (A) "Ballot status" means whether or not an elector has cast a ballot in the election; **and**

1 (B) "Election period" means the period of time beginning on the date that ballots for an election
2 are first mailed to electors and ending on the date of the election.[: and]

3 [(C) "Precinct split" means the enhanced precinct name or number used to determine the specific
4 ballot configuration that will be received by an elector who resides in a precinct that:]

5 [(i) Has more than one election district subdivision; and]

6 [(ii) Requires more than one ballot configuration for electors in the precinct.]

7 (2) Except as set forth in ORS 247.973 or as otherwise required by law, the following information
8 about an elector contained within an elector's registration file is not subject to inspection as a
9 public record under ORS 192.311 to 192.478 and may not be disclosed by the Secretary of State or
10 a county clerk:

11 (a) The birth month of an elector;

12 (b) The day of the month on which an elector was born;

13 (c) The Social Security number of an elector;

14 (d) The driver license number of an elector; and

15 (e) The signature of an elector.

16 (3) Nothing in this section is intended to limit or restrict the disclosure of information that is
17 otherwise subject to inspection as a public record under ORS 192.311 to 192.478.

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