

HB 4088 -1, -4, -5 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Amie Fender-Sosa, LPRO Analyst

Meeting Dates: 2/2, 2/9

WHAT THE MEASURE DOES:

The measure creates policies regarding legal protections for legal reproductive or gender affirming healthcare activities that occurred in Oregon, relating to gubernatorial actions, data privacy, court records, public records and midwifery practice.

Detailed Summary:

Prohibits gubernatorial extraditions when the demand for extradition is because the person engaged in legal reproductive or gender affirming healthcare activities unless the governor is otherwise required to surrender the person for treason, felony or other crimes. Directs public bodies to not cooperate with certain investigation or inquiry into a legal reproductive or gender affirming healthcare activity.

Modifies the rules of evidence and protects the Oregon Health Authority (OHA) from being examined in a court or administrative proceeding as to individually identifiable information of a person in certain circumstances related to legal reproductive or gender-affirming healthcare and limits use of that information in most court proceedings. Removes language allowing an applicant for a legal sex change to seal the court record and instead states that a court petition for a legal sex change is confidential, with some exceptions.

Modifies the public records that are exempt from disclosure to include personally identifiable information that relates to application for or receipt of legal reproductive or gender-affirming healthcare activities, paid for in part or in whole by OHA, and applications for legal sex change.

Prevents the Health Licensing Office from suspending or revoking a midwifery license because of a conviction or disciplinary action resulting solely from the person's provision of reproductive or gender-affirming health care services that is lawful in Oregon but not lawful in the state where the person provided the service (as long as that service was provided with the applicable standard of care).

Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Desire to close gaps in existing confidentiality protections
- Acknowledgement of harassment and violence that has been occurring against certain groups of people
- Clinicians have reported they are fearful for their safety
- Currently, name and gender changes are publicly accessible court records
- Concerns about the bill blocking research access for topics like prenatal care and sexually transmitted diseases

EFFECT OF AMENDMENT:

-1 For confidentiality of individually identifiable information, removes requirement that the health care activity was paid for in whole or part by the Oregon Health Authority. Allows individually identifiable information to be shared if the individual consents.

Under public records law, broadens protection from disclosure from a person's name, home address, professional address or location to also include image and home telephone of persons engaged in the provision of reproductive and gender-affirming health care services.

Modifies effective date for applications to the court for name change and /or change to sex to July 1, 2026. The remainder of the measure takes effect on passage.

-4 States that nothing in the measure prohibits disclosing information in response to an investigation if the information is available to the general public, and under the same terms and conditions as the information would be made available to the general public.

For confidentiality of individually identifiable information, removes requirement that the health care activity was paid for in whole or part by the Oregon Health Authority. Allows individually identifiable information to be shared if the individual consents.

Under public records law, broadens protection from disclosure from a person's name, home address, professional address or location to also include image and home telephone of persons engaged in the provision of reproductive and gender-affirming health care services.

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-5 Removes "legally protected reproductive or gender-affirming health care activities" from the defined terms of the Reproductive health rights chapter in ORS.

Regarding cooperation with federal and interstate investigations, removes "private citizen" as an entity that a public body may not cooperate with in an investigation or inquiry. Specifies that an investigation in which a public body may not cooperate with is a federal or interstate investigation. Modifies the section on Confidentiality of individually identifiable information by allowing data related to legally protected reproductive or gender-affirming health care activity to be released without direct identifiers. Specifies the type of information that must be excluded, including name, contact information and other personally identifiable information.

Removes from public records exemptions health information that relates to legally protected reproductive or gender-affirming health care activities and applications for name or sex changes.

Sunsets in 2030 the provisions related to interstate actions, gubernatorial extradition, cooperation with federal or interstate investigations, privilege, and confidentiality of personally identifiable information.

BACKGROUND:

In 2017, the Legislative Assembly passed [House Bill 3391](#), also known as the Reproductive Health Equity Act (RHEA). RHEA sought to solidify access to reproductive health services in several ways, including by requiring health insurance coverage of a wide array of reproductive health services, drugs, and products with no cost-sharing and protecting access to abortion services.

In 2022, the U.S. Supreme Court decided [Dobbs v. Jackson Women's Health Organization](#), holding that the U.S. Constitution does not confer a right to abortion and overturning previous Supreme Court precedent. According to the Kaiser Family Foundation, since the Dobbs decision, 23 states have tried to implement a complete ban or a pre-viability ban on abortion.

In 2023, the Legislative Assembly passed [House Bill 2002](#) (sometimes referred to as a "shield" law) to further assure access to reproductive health services in Oregon, including creating an enforceable right to make decisions about one's own reproductive health. The measure also required coverage of gender-affirming treatments by the

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state's medical assistance program and health insurers. HB 4088 creates privacy protections for persons engaged in healthcare services related to legal reproductive or gender affirming healthcare activities that occurred in Oregon.

PRELIMINARY