

## HB 4111 -6 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Meeting Dates:** 2/4, 2/16

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#### WHAT THE MEASURE DOES:

The measure amends the evidence code to state that a witness's immigration status is not admissible in a civil proceeding, unless that status is essential to the party's claim for relief. Provides directions on how to request to introduce evidence regarding immigration status. Requires that the motion to introduce said evidence and related materials filed with the court are confidential, with certain exceptions.

Makes it illegal for an employer to discriminate or retaliate against an employee because they update (or try to update) personal information related to their federal employment records due to a lawful change.

Prohibits law enforcement officers from profiling a person based on immigration status.

Takes effect on the 91st day following adjournment sine die.

#### ISSUES DISCUSSED:

- Access to justice in the workplace
- Concerns about experiencing bias by a jury because of immigration status when it's not relevant to the trial
- Desire for people to feel safe in their communities

#### EFFECT OF AMENDMENT:

-6 States that if a person is awarded damages for future wage loss at trial and that person is subject to removal due to immigration proceedings, the final order of removal may be submitted to the court through a post-trial motion solely to calculate damages. Allows a party to submit federal work authorization to the court through a post-trial motion. Requires the related motions to be filed confidentially. Directs the court to hold a hearing outside the presence of the jury, if a party makes a motion to submit immigration-related evidence at trial.

States that it is legal for an employer to act to comply with federal employment authorization verification requirements. Protects employers if a third-party benefits administrator independently takes adverse action in response to changes in the employee's personal information or federal employment authorizations.

#### BACKGROUND:

Under both the state and federal evidentiary codes, evidence may be excluded from judicial proceedings if its probative value is substantially outweighed by the danger of unfair prejudice. See ORS 40.160 (OEC 403) and FRE 403. In Washington, evidence of immigration status is generally inadmissible in civil cases unless immigration status is an element of a party's cause of action. See *Salas v. Hi-Tech Erectors*, 168 Wn2d 164, 230 P3d 583(2010) and [ER 413](#).

ORS 659A.006 prohibits employment discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability or familial status. Immigrants make up a [12.5%](#) of Oregon's workforce.

ORS 131.920 prohibits profiling by law enforcement. ORS 131.930 defines such profiling as the targeting of an individual based solely on their real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability. Oregon law also establishes associated law enforcement policies, reporting and training requirements.