

A-Engrossed

House Bill 411

Ordered by the House February 18
Including House Amendments dated February 18

Sponsored by Representatives CHOTZEN, GRAYBER, PHAM H, ANDERSEN, CHAICHI, FRAGALA, JAVADI, Senators GELSER BLOUIN, PATTERSON, PHAM K, PROZANSKI; Representatives BOWMAN, EVANS, GAMBA, HELM, HUDSON, ISADORE, MARSH, MCDONALD, MCLAIN, MUÑOZ, NATHANSON, NELSON, NGUYEN D, NOSSE, RIEKE SMITH, SOSA, TRAN, WALTERS, WATANABE, WISE, Senators BROADMAN, FREDERICK, GOLDEN, GORSEK, JAMA, NERON MISSLIN, REYNOLDS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act says that data about a party's or a witness's immigration status may not be used in a civil case. The Act makes some exceptions. The Act makes it unlawful for employers to punish employees for taking certain actions after a lawful change in their work authorization documents. The Act makes changes to the definition of "profiling." The Act becomes law 91 days after sine die. (Flesch Readability Score: 60.6).

Provides that evidence of a party's or a witness's immigration status is not admissible as evidence in a civil proceeding. Provides exceptions.

Makes it unlawful for employers to discriminate, retaliate or take other adverse action against an employee because the employee updates, or attempts to update, the employee's personal information based on a lawful change to the employee's employment authorization documentation. **Clarifies what actions constitute an unlawful practice.**

For purposes of law enforcement profiling requirements, modifies the definition of "profiling" to include immigration status.

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

A BILL FOR AN ACT

Relating to immigration-related practices; creating new provisions; amending ORS 131.915, 131.930 and 659A.885; and prescribing an effective date.

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

ADMISSIBILITY OF EVIDENCE IN CIVIL CASES

SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS chapter 40.

SECTION 2. (1) Except as otherwise allowed in this section, evidence of a party's or a witness's immigration status is not admissible in a civil proceeding unless the party's or witness's immigration status is an essential fact to prove an element of a party's cause of action or essential to establish a party's claim for relief.

(2) If a party is awarded damages for future wage loss at trial and is subject to a final order of removal in immigration proceedings, the final order of removal may be submitted to the court through a post-trial motion to be used solely for the purpose of calculating damages.

(3) If a party was awarded reinstatement to a position at trial, the party's federal work authorization information may be submitted to the court through a post-trial motion.

(4)(a) If a party intends to offer evidence under subsections (1) to (3) of this section, the

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.

party shall:

(A) Make a written motion specifically describing the evidence and stating the purpose for which it is to be offered; and

(B) State in the caption of the motion that the motion and attachments are confidential and file the motion confidentially.

(b) If a party intends to offer evidence under subsection (1) of this section, the party shall make the written motion at least 15 days before the proceeding at which the evidence to be offered is scheduled to begin unless the court, for good cause, sets a different time.

(5)(a) If a party makes a motion under subsection (4) of this section, before admitting the evidence, the court shall conduct an in camera hearing, out of the presence of the public and the jury, and give the parties a right to attend and be heard. If the court determines that the moving party has shown that a party's or witness's immigration status is essential to prove an element of a party's cause of action or to establish a party's claim for relief, or that a remedy described in subsection (2) or (3) of this section has been awarded, the court shall make an order regarding the permitted use of the evidence.

(b) The order, motion, related materials and record of the hearing are confidential, exempt from public disclosure under ORS 192.311 to 192.478 and may not be disclosed except:

(A) To a party in the case or the party's attorney; or

(B) To the court.

(6) This section does not prohibit a party or witness, or the party's or witness's attorney, from voluntarily disclosing the party's or witness's immigration status to the court.

EMPLOYMENT PROTECTIONS

SECTION 3. Section 4 of this 2026 Act is added to and made a part of ORS chapter 659A.

SECTION 4. (1) It is an unlawful practice for an employer to discharge an employee or in any manner discriminate, retaliate or otherwise take adverse action against an employee because the employee updates or attempts to update the employee's personal information based on a lawful change in the employee's federal employment authorization documentation.

(2) It is not an unlawful practice under this section for an employer to take actions necessary to comply with federal employment authorization verification requirements.

(3) An employer does not engage in an unlawful practice under this section solely because a third-party benefit administrator independently takes adverse action in response to changes in the employee's personal information or federal employment authorization.

SECTION 5. ORS 659A.885 is amended to read:

659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in subsection (2) of this section may file a civil action in circuit court. In any action under this subsection, the court may order injunctive relief and any other equitable relief that may be appropriate, including but not limited to reinstatement or the hiring of employees with or without back pay. A court may order back pay in an action under this subsection only for the two-year period immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-year period immediately preceding the filing of the action. In any action under this subsection, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Except as provided in subsection (3) of this section:

1 (a) The judge shall determine the facts in an action under this subsection; and
2 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
3 review the judgment pursuant to the standard established by ORS 19.415 (3).
4 (2) An action may be brought under subsection (1) of this section alleging a violation of:
5 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 468B.519, 475C.285,
6 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661,
7 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082,
8 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203,
9 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
10 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370
11 or **659A.421 or section 4 of this 2026 Act**; or
12 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.
13 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
14 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043,
15 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230,
16 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or **659A.421 or**
17 **section 4 of this 2026 Act**:
18 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
19 compensatory damages or \$200, whichever is greater, and punitive damages;
20 (b) At the request of any party, the action shall be tried to a jury;
21 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment
22 pursuant to the standard established by ORS 19.415 (1); and
23 (d) Any attorney fee agreement shall be subject to approval by the court.
24 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a violation
25 of ORS 652.220, the court may award punitive damages if:
26 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
27 with malice or acted with willful and wanton misconduct; or
28 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
29 659A.850 for a violation of ORS 652.220.
30 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
31 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section,
32 compensatory damages or \$200, whichever is greater.
33 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
34 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section,
35 compensatory damages or \$250, whichever is greater.
36 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
37 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
38 penalty in the amount of \$720.
39 (8) Any individual against whom any distinction, discrimination or restriction on account of
40 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age,
41 if the individual is 18 years of age or older, has been made by any place of public accommodation,
42 as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any
43 person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action
44 against the operator or manager of the place, the employee or person acting on behalf of the place
45 or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an

1 action under this subsection:

2 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
3 compensatory and punitive damages;

4 (b) The operator or manager of the place of public accommodation, the employee or person
5 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
6 damages awarded in the action;

7 (c) At the request of any party, the action shall be tried to a jury;

8 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

9 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
10 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
11 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
12 and

13 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
14 judgment pursuant to the standard established by ORS 19.415 (1).

15 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
16 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
17 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
18 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
19 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
20 manner as a person or group of persons may file a civil action under this section. In a civil action
21 filed under this subsection, the court may assess against the respondent, in addition to the relief
22 authorized under subsections (1) and (3) of this section, a civil penalty:

23 (a) In an amount not exceeding \$50,000 for a first violation; and

24 (b) In an amount not exceeding \$100,000 for any subsequent violation.

25 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
26 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
27 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
28 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
29 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
30 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
31 appealing an adverse decision of the trial court.

32 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
33 or 659A.421 or discrimination under federal housing law:

34 (a) "Aggrieved person" includes a person who believes that the person:

35 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

36 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
37 occur.

38 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
39 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
40 tifies that the case is of general public importance. The court may allow an intervenor prevailing
41 party costs and reasonable attorney fees at trial and on appeal.

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43 **LAW ENFORCEMENT PROFILING**

44

45 **SECTION 6.** ORS 131.915 is amended to read:

131.915. As used in ORS 131.915 to 131.925:

(1) "Gender identity" has the meaning given that term in ORS 174.100.

(2) "Law enforcement agency" means:

(a) The Department of State Police;

(b) The Department of Justice;

(c) A district attorney's office; and

(d) Any of the following that maintains a law enforcement unit as defined in ORS 181A.355:

(A) A political subdivision or an instrumentality of the State of Oregon.

(B) A municipal corporation of the State of Oregon.

(C) A tribal government.

(D) A university.

(3) "Law enforcement officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.121 or 353.125;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a law enforcement officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice;

(e) A humane special agent as defined in ORS 181A.345;

(f) A judicial marshal of the Marshal's Office of the Judicial Department who is appointed under ORS 1.177 and trained pursuant to ORS 181A.540;

(g) A regulatory specialist exercising authority described in ORS 471.775 (2); or

(h) An authorized tribal police officer as defined in ORS 181A.940.

(4) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based solely on the individual's real or perceived age, race, ethnicity, color, national origin, **immigration status**, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

(5) "Sexual orientation" has the meaning given that term in ORS 174.100.

SECTION 7. ORS 131.930 is amended to read:

131.930. As used in ORS 131.930 to 131.945:

(1) "Gender identity" has the meaning given that term in ORS 174.100.

(2) "Law enforcement agency" means an agency employing law enforcement officers to enforce criminal laws.

(3) "Law enforcement officer" means a member of the Oregon State Police, a sheriff or a municipal police officer.

(4) "Officer-initiated pedestrian stop" means a detention of a pedestrian by a law enforcement officer that is not associated with a call for service. The term does not apply to detentions for routine searches performed at the point of entry to or exit from a controlled area.

(5) "Officer-initiated traffic stop" means a detention of a driver of a motor vehicle by a law enforcement officer, not associated with a call for service, for the purpose of investigating a suspected violation of the Oregon Vehicle Code.

(6) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based solely

1 on the individual's real or perceived age, race, ethnicity, color, national origin, **immigration status**,
2 language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or dis-
3 ability, unless the agency or officer is acting on a suspect description or information related to an
4 identified or suspected violation of a provision of law.

5 (7) "Sexual orientation" has the meaning given that term in ORS 174.100.

6 **SECTION 8.** The unit captions used in this 2026 Act are provided only for the convenience
7 of the reader and do not become part of the statutory law of this state or express any leg-
8 islative intent in the enactment of this 2026 Act.

9 **SECTION 9.** This 2026 Act takes effect on the 91st day after the date on which the 2026
10 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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